A. John C. Williamson, 1825 K Street NW., Suite 604, Washington, D.C.
B. Mortgage Insurance Co. of America, 1825 K Street NW., Suite 604, Washington, D.C. 20006.
D. (6) $6,000. E. (9) $126.40.

A. John C. Williamson, 1825 K Street NW., Suite 604, Washington, D.C. 20006.
B. National Apartment Association, 1825 K Street NW., Suite 604, Washington, D.C. 20006.
D. (6) $6,000.

A. Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.
B. Dealer Bank Association, P.O. Box 8796, St. Louis, Mo. 63102.
D. (6) 305. E. (9) $12.

A. Kenneth D. Wollack, 1341 G Street, No. 908, Washington, D.C. 20005.
B. American Israel Public Affairs Committee, 1341 G Street, No. 908, Washington, D.C. 20005.
D. (6) $5,625.

A. Women's International League for Peace & Freedom, 1213 Race Street, Philadelphia, Pa. 19107.
D. (6) $3,246.88. E. (9) $1,527.08.

A. Burton C. Wood, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $6,374.99. E. (9) $458.73.

A. William E. Woods, 440 National Press Building, Washington, D.C. 20045.
B. National Association of Retail Druggists, 1 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $750. E. (9) $150.

A. Wyatt & Saltzstein, 1300 Wyatt Building, Washington, D.C. 20005.
B. American Business Press, Inc., 205 East 42d Street, New York, N.Y. 10017.
D. (6) $2,250. E. (9) $100.

A. Young, Kaplan & Edelstein, 277 Park Avenue, New York, N.Y. 10017.
B. Fallek Chemical Corp., 460 Park Avenue, New York, N.Y. 10022.

A. Young, Kaplan & Edelstein, 277 Park Avenue, New York, N.Y. 10017.
B. Glick Affiliates, 3000 Marcus Avenue, Lake Success, N.Y. 11040.

A. Young, Kaplan & Edelstein, 277 Park Avenue, New York, N.Y. 10017.
B. Madison Equities, 115 East 57th Street, New York, N.Y. 10022.

A. Robert Zacharias, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Confederated Tribes of the Colville Indian Reservation, P.O. Box 150, Nespelem, Wash. 99155.
D. (6) $1,275. E. (9) $265.02.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Lummi Tribe of Indians, P.O. Box 309, Marietta, Wash. 98268.
D. (6) $1,145. E. (9) $285.86.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Makah Indian Tribe, P.O. Box 115, Neah Bay, Wash. 98357.
D. (6) $1,703. E. (9) $340.68.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Metlakatla Indian Community, P.O. Box 8, Annette Islands Reserve, Alaska 99926.
D. (6) $1,035. E. (9) $119.80.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Northern Cheyenne Indian Tribe, P.O. Box 128, Lame Deer, Mont. 59043.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Suquamish Indian Tribe, P.O. Box 556, Suquamish, Wash. 98392.

A. Zoological Action Committee, Inc., 1225 19th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $17,835. E. (9) $16,686.32.

A. John L. Zorack, Suite 900, 1800 K Street NW., Washington, D.C. 20006.
B. Pan American World Airways, 1800 K Street NW., No. 900, Washington, D.C. 20006.
E. (9) $329.95.

SENATE—*Wednesday, May 19, 1976*

The Senate met at 10 a.m. 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:

Thy Word is a lamp unto my feet, and a light unto my pathway.—Psalms 119: 105.

I am the Light of the World; he that followeth Me shall not walk in darkness, but shall have the light of life.—John 8: 12.

O God of infinite wisdom and love, Thou knowest and we know that the words we speak and the actions we take here affects the life of the people and the destiny of the Nation for generations to come. Guide us by the light of Thy Word. Give us courage to make brave choices and wisdom to make right ones; and grant us faith, having made our choices in the fear of God, to dismiss all doubts and regrets.

Through Jesus Christ, our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 18, 1976, be dispensed with.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

The 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 12 o'clock noon today.

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 calendar under New Reports.

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

The PRESIDENT pro tempore. The nomination will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of James C. Hill, of Georgia, to be U.S. circuit judge for the fifth circuit.

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

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of John A. Field III, to be U.S. attorney for the southern district of West Virginia.

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

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 788, 805, 811, 817, 819, 821, 824, and 855.

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

COURT LEAVE TO FEDERAL EMPLOYEES

The Senate proceeded to consider the bill (H.R. 11438) to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes which had been reported from the Committee on Post Office and Civil Service with an amendment on page 2, in line 5, strike out "130(b)" and insert in lieu thereof "130b".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

FEDERAL AGENCY RULES AND RECODIFICATION ACT OF 1976

The Senate proceeded to consider the bill (S. 3308) to improve the regulation of commerce by requiring certain Federal agencies to recodify the rules promulgated by such agencies which had been reported from the Committee on Commerce, with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Interim Regulatory Reform Act of 1976".

SEC. 2. FINDINGS.

The Congress finds that the public interest—

(1) requires the periodic review, updating, and systematic recodification of the rules promulgated by certain regulatory agencies which are required by law to be "independent";

(2) would be served by directing each such agency to prepare and submit to the Congress a proposed modernization, revision, and codification of the laws and other authorities administered by it;

(3) would be served by assuring that such agencies in fact consider, in a timely manner, certain petitions;

(4) requires that the Congress, in the execution of its constitutional responsibility, have access to certain materials and documents;

(5) would be advanced by authorizing such agencies to develop and apply, in cooperation with the Department of Justice, direct litigating capability in certain cases;

(6) would be furthered by extending Federal protection to officers of such agencies;

(7) requires that former Commissioners members of such agencies avoid the appearance of conflict of interest; and

(8) would be furthered by making such agencies more fully accountable for their actions and inactions.

The Congress further finds and declares that the authorities described in paragraphs (2) through (8) have already been granted or provided for, by statute, with respect to one or more of such agencies. Rights and duties of such character should apply equally with respect to each independent regulatory agency which is authorized and directed to regulate one or more facets of interstate and foreign commerce.

SEC. 3. DEFINITION.

As used in this Act, the term "independent regulatory agency" means each of the following:

(1) The Interstate Commerce Commission.
(2) The Federal Trade Commission.
(3) The Federal Power Commission.
(4) The Federal Communications Commission.
(5) The Civil Aeronautics Board.
(6) The Federal Maritime Commission.
(7) The Consumer Product Safety Commission.

SEC. 4. RULES RECODIFICATION.

(a) Within 360 days after the date of enactment of this Act, the Chairman of each independent regulatory agency shall develop, prepare, and submit to the Congress and to the Administrative Conference of the United States an initial proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable—

(1) recommend the transfer, consolidation, modification, and/or deletion of particular rules and portions thereof, including reasons therefor;

(2) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

(3) recommend the deletion or merger of unnecessary, redundant, overlapping, or conflicting provisions or requirements; and

(4) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof.

Each such submission shall include the text of such rules, as proposed to be recodified, in their entirety; a comparative text of the proposed changes in existing rules; and explanatory and supporting statements and materials. The rules, as proposed to be recodified, shall not be at variance, in any substantive respect, with the text of the rules of the agency involved which are in effect or proposed as of the date of such submission.

(b) Within 480 days after the date of enactment of this Act, the Administrative Conference of the United States shall submit to the Congress, and to the independent regulatory agency involved, its comments on each initial proposal submitted under subsection (a), together with any recommendations and other material which it considers appropriate.

(c) Within 570 days after the date of enactment of this Act, the Chairman of each independent regulatory agency shall develop, prepare, and submit to the Congress, in accordance with the requirements described in subsection (a), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (1) evaluation of the recommendations and comments received under subsection (b) and from any other source; and (2) the results of additional study and review by such agency and its employees and consultants. Such rules shall take effect 90 days after the date of submission of such final proposal.

(d) Each duly authorized committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final proposal submitted to the Congress and referred to such committee.

(e) The text of each initial proposal submitted under subsection (a), and of each final proposal submitted under subsection (c), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by an independent regulatory agency which is not included in the recodified rules which take effect pursuant to subsection (c), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this section.

(f) As used in this section, the term "rule" means the whole or a part of a statement of general or particular applicability which is issued or promulgated by an independent regulatory agency for future effect and which is designed to implement, interpret, or prescribe law or policy or which describes the organization, procedure, or practice requirements of any such agency, including, but not limited to, regulations, the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor, or valuations, costs, or accounting, any general statement of policy, and any determination, directive, authorization, requirement, designation, or similar such action. The term does not include any order, as such term is defined in section 551(6) of title 5, United States Code.

(g) There are authorized to be appropriated to the Administrative Conference of the United States, for purposes of carrying out the provisions of this section, not to exceed $100,000, such sum to remain available until expended.

SEC. 5. LAW REVISION

(a) Each independent regulatory agency shall make a full and complete review and study of the statutory and case law of the United States relating to such agency and its powers, duties, functions, and responsibilities, for the purpose of formulating and recommending to the Congress legislation which would better achieve the purposes for which such agency was established. It shall be the further duty of each independent regulatory agency to make recommendations for revision and codification of the statutes and other lawful authorities administered by, or applicable to, such agency, including the repeal of unnecessary or undesirable provisions and such changes in the authorities delegated, the functions prescribed, or the structure and procedures mandated, as such agency feels may better serve to enhance commerce and protect consumers.

(b) The Chairman of each independent regulatory agency, upon the approval of a majority of the members thereof, shall appoint and compensate a qualified individual to serve as the director of such agency's law revision activity under this section. Such person shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and general schedule pay rates, but at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. The director shall serve as the agency's reporter and shall, subject to the direction of the agency, supervise the preparation of reports and the activities of appropriate personnel. Within the limits of funds appropriated for such law revision activity, individuals may be employed by each independent regulatory agency for service on its law revision staff. The Chairman of each independent regulatory agency is authorized, for purposes of this section, to employ experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) Each independent regulatory agency shall establish an Advisory Committee on Law Revision to advise and consult with the Chairman and members of such agency and with its law revision staff. The members of each such Advisory Committee shall be ap-

pointed by the Chairman of the applicable such agency, upon the approval of a majority of the members thereof. Each such Advisory Committee shall include individuals who by reason of knowledge, experience, or training are especially qualified to assist in such law revision.

(d) Each independent regulatory agency is authorized and encouraged to request any information, assistance, or recommendations which it deems necessary or appropriate to carry out its functions under this section. Each department, agency, and independent instrumentality of the Federal Government is authorized to cooperate with, assist, and make appropriate presentations to, each such agency.

(e) The Chairman of each independent regulatory agency shall submit to the Congress and the President—

(1) a preliminary report on law revision, not later than 1 year after the date of enactment of this Act;

(2) an interim report on law revision, not later than 2 years after the date of enactment of this Act; and

(3) a final report on law revision, not later than 3 years after the date of enactment of this Act.

Each such interim and final report shall include the text of the proposed revision and codification; an explanation of each significant provision proposed for inclusion therein; an analysis of the economic and other consequences of such revision and codification; a discussion of significant alternatives considered but not recommended; and such other information as may be useful to the Congress. Each such report shall be designed to facilitate congressional consideration of matters relating to regulatory reform, and each proposed revision and codification shall be designed to clarify, simplify, and improve the applicable law, both substantively and technically.

(f) Each duly authorized committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action wtih respect to each preliminary, interim, and final report which is submitted to the Congress under subsection (e) and referred to such committee.

SEC. 6. TIMELY CONSIDERATION OF PETITIONS.

(a)(1) Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 570(b)) is amended (1) by inserting "(1)" immediately after "(b)" and (2) by inserting at the end thereof the following new paragraph:

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(B) If the Commission denies a petition under subparagraph (A) (or if it fails to act thereon within the 120-day period established by such subparagraph), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(C) If the petitioner, in a civil action commenced under subparagraph (B), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court) (i) that the failure of the Commission to grant a petition submitted under subparagraph (A) is arbitrary and capricious; (ii) that the action requested in such petition is necessary; and (iii) that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission, such court shall order the Commission to initiate such action.

"(D) A court shall have no authority under this paragraph to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(E) As used in this paragraph, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

(b) Section 406 of the Communications Act of 1934 (47 U.S.C. 406 et seq.) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(2) If the Commission denies a petition under paragraph (1) (or if it fails to act thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court) (A) that the failure of the Commission to grant a petition submitted under paragraph (1) is arbitrary and capricious; (B) that the action requested in such petition is necessary; and (C) that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission, such court shall order the Commission to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(5) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

(c) Section 309 of the Federal Power Act (16 U.S.C. 825h) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(2) If the Commission denies a petition under paragraph (1) (or if it fails to act thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court) (A) that the failure of the Commission to grant a petition submitted under paragraph (1) is arbitrary and capricious; (B) that the action requested in such petition is necessary; and (C) that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission, such court shall order the Commission to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(5) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

SEC. 7. CONGRESSIONAL ACCESS TO INFORMATION.

(a) Section 1 of the Federal Trade Commission Act (45 U.S.C. 1) is amended (1) by striking out "That a" in the first sentence thereof and inserting in lieu thereof "(a) A"; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Commission submits any budget estimate, request, or infor-

mation to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has the responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.".

(b) Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by inserting immediately after subsection (c) thereof the following new subsection:

"(d)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.".

(c) Section 1 of the Federal Power Act (16 U.S.C. 792) is amended (1) by designating the four paragraphs thereof as subsections (a), (b), (c), and (d), respectively; (2) by striking out "That a" in subsection (a) as so designated and inserting in lieu thereof "A"; and (3) by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.".

(d) Section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) is amended by adding at the end thereof the following new paragraph:

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.".

SEC. 8. REPRESENTATION IN CIVIL ACTIONS.

(a) Section 401 of the Communications Act of 1934 (47 U.S.C. 401) is amended by adding at the end thereof the following new subsection:

"(e)(1) If—

"(A) before commencing, defending, or intervening in, any civil action involving any statute administered by the Commission (including an action for a forfeiture), which the Commission or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(B) the Attorney General fails, within 45 days after receipt of such notification, to commence, defend, or intervene in, such action;

the Commission shall have authority to commence, defend, or intervene in, and to supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose.

"(2) Notwithstanding paragraph (1), the Commission shall have authority (in its own name, by any of its own attorneys designated by it for such purpose) to seek temporary or preliminary injunctive relief in, or to initiate the defense of, any action in which the Commission has given written notification to the Attorney General under paragraph (1)(A). Such authority shall continue so long as the Attorney General fails, within the time specified in paragraph (1)(B), to assume the prosecution or defense of such action.

"(3) The Commission shall exercise the authority granted by this subsection for the purpose of promoting, and in a manner which will promote, the effective enforcement of any statute administered by the Commission. The Department of Justice shall, to the extent practicable provide the Commission with such assistance as will promote the successful and economical resolution of any civil action with respect to which the Commission exercises the authority granted by this subsection, and the Commission shall cooperate with such department in all other actions.

"(4) The provisions of this subsection shall not apply to any civil action commenced before the date of enactment of this subsection.".

(b) Section 314 of the Federal Power Act (16 U.S.C. 825m) is amended by adding at the end thereof the following new subsection:

"(d)(1) If—

"(A) before commencing, defending, or intervening in, any civil action involving any statute administered by the Commission (including an action for a forfeiture), which the Commission or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(B) the Attorney General fails, within 45 days after receipt of such notification, to commence, defend, or intervene in, such action;

the Commission shall have authority to commence, defend, or intervene in, and to super-

vise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose.

"(2) Notwithstanding paragraph (1), the Commission shall have authority (in its own name, by any of its own attorneys designated by it for such purpose) to seek temporary or preliminary injunctive relief in, or to initiate the defense of, any action in which the Commission has given written notification to the Attorney General under paragraph (1)(A). Such authority shall continue so long as the Attorney General fails, within the time specified in paragraph (1)(B), to assume the prosecution or defense of such action.

"(3) The Commission shall exercise the authority granted by this subsection for the purpose of promoting, and in a manner which will promote, the effective enforcement of any statute administered by the Commission. The Department of Justice shall, to the extent practicable, provide the Commission with such assistance as will promote the successful and economical resolution of any civil action with respect to which the Commission exercises the authority granted by this subsection, and the Commission shall cooperate with such department in all other actions.

"(4) The provisions of this subsection shall not apply to any civil action commenced before the date of enactment of this subsection.".

SEC. 9. PROTECTION OF OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting immediately after "Consumer Product Safety Commission," the following: "the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Federal Maritime Commission,".

SEC. 10. AVOIDANCE OF CONFLICT OF INTEREST.

(a) Section 1(a) of the Federal Trade Commission Act (15 U.S.C. 41(a)), as amended by this Act, is amended by striking out "No Commissioner shall engage in any other business, vocation, or employment." and inserting in lieu thereof "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is, on or after May 11, 1976, a Commissioner shall, for a period of 2 years following the termination of service as a Commissioner, represent any person before the Commission in a professional capacity.".

(b) Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended by striking out "Such commissioners shall not" and all that follows through "term for which he was appointed." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a commissioner, and no person who is, on or before May 11, 1976, a Commissioner shall, for a period of 2 years following the termination of service as a commissioner, represent any person before the Commission in a professional capacity.".

(c) Section 1(b) of the Federal Power Act (16 U.S.C. 792(b)) as amended by this Act, is further amended by striking out "Said commissioners shall not engage in any other business, vocation, or employment." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is, on or after May 11, 1976, a Commissioner shall, for a period of 2 years following the termination of service as a commissioner, represent any person before the Commission in a professional capacity.".

(d) Section 4(c) of the Consumer Product Safety Act (15 U.S.C. 2053(c)) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is, on or after May 11, 1976, a Commissioner shall, for a period of 2 years following the termination of service as a Commissioner, represent any person before the Commission in a professional capacity.".

SEC. 11. ACCOUNTABILITY.

(a)(1) Section 1 of the Federal Trade Commission Act (45 U.S.C. 1), as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(c) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1979, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.".

(2) Section 20 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended (1) by inserting "(a)" immediately before "There are" in the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b) No funds appropriated under subsection (a) may be used to pay any claim described in section 1(c) whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

(b) Section 2 of the Comunications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following new subsection:

"(p) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1979, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable. No funds appropriated for salaries and expenses of the Commission may be used to pay any claim described in this subsection, whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

(c) Section 1 of the Federal Power Act (16 U.S.C. 792), as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(f) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1979, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable. No funds appropriated for expenditures of the Commission may be used to pay any claim described in this subsection, whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

SEC. 12. CIVIL AERONAUTICS BOARD.

(a) Title II of the Federal Aviation Act of 1958 is amended by adding immediately after section 205 thereof (49 U.S.C. 1324) the following new section:

"MISCELLANEOUS PROVISIONS

"SEC. 206. (a) PETITIONS.—(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) petitions the Board for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act, the Board shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Board grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Board denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(2) If the Board denies a petition under paragraph (1) (or it fails to act thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Board to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record be-

fore the Board or, in an action based on a petition on which the Board failed to act, in a new proceeding before such court) (A) that the failure of the Commission to grant a petition submitted under paragraph (1) is arbitrary and capricious; (B) that the action requested in such petition is necessary; and (C) that the failure of the Board to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act, such court shall order the Board to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Board to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act.

"(5) As used in this subsection, the term 'Board' includes any division, individual member, administrative law judge, or any other person authorized to act on behalf of the Board in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under this Act.

"(b) CONGRESSIONAL ACCESS TO INFORMATION.—(1) Whenever the Board submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Board submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Board to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congres.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Board makes a written request for documents in the possession or subject to the control of the Board, the Board shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Board does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Board transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Board so that the Board can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(c) REPRESENTATION.—(1) If—

"(A) before commencing, defending, or intervening in, any civil action involving this Act (including an action to collect a civil penalty) which the Board or the Attorney General on behalf of the Board, is authorized to commence, defend, or intervene in, the Board gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(B) the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in, such action;

the Board shall have authority to commence, defend, or intervene in, and supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose.

"(2) Notwithstanding paragraph (1), the Board shall have authority (in its own name, by any of its own attorneys designated by it for such purpose) to seek temporary or preliminary injunctive relief in, or to initiate the defense of, any action in which the Board has given written notification to the Attorney General under paragraph (1)(A). Such authority shall continue so long as the Attorney General fails, within the time specified in paragraph (1)(B), to assume the prosecution or defense of such action.

"(3) The Board shall exercise the authority granted by this subsection for the purpose of promoting, and in a manner which will promote, the effective enforcement of this Act. The Department of Justice shall, to the extent practicable, provide the Board with such assistance as will promote the successful and economical resolution of any civil action with respect to which the Board exercises the authority granted by this subsection, and the Board shall cooperate with such department in all other actions.

"(4) The provisions of this subsection shall not apply to any civil action commenced before the date of enactment of this subsection.

"(d) ACCOUNTABILITY.—Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1979, on the part of the Board or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Board or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Board and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.".

(c) Section 203(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1323(a)) is amended by adding at the end thereof the following new sentence: "No funds appropriated under this subsection may be used to pay any claim described in section 206(a), whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

(d) Section 201(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1321(b)) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "No member of the Board shall engage in any other business, vocation, profession, or employment while serving as a member of the Board, and no person who is, on or after May 11, 1976, a member of the Board shall, for a period of 2 years following the termination of service as a member of the Board, represent any person before the Board in a professional capacity.".

SEC. 13. INTERSTATE COMMERCE COMMISSION.

(a) Section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976 is repealed.

(b) Section 13(6) of the Interstate Commerce Act (49 U.S.C. 13(6)) is amended (1) in subdivision (a) thereof by striking out in the first sentence thereof "relating to common carriers by railroads"; and (2) in subdivision (e) thereof by striking out "relating to common carriers by railroad".

(c) Section 17(15) of the Interstate Commerce Act (49 U.S.C. 17(15)) is amended (1) by stirking out "the Committee on" and all that follows through "of the Senate" in the first sentence thereof and inserting in lieu thereof "a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission"; (2) by striking out "and which relate" and all that follows through "common carrier by railroad subject to this part" in the first sentence thereof; (3) by striking out "to such committee," and all that follows through the end of the first sentence thereof, and inserting in lieu thereof "to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee."; (4) by striking out "the preceding sentence" in the second sentence thereof, and inserting in lieu thereof "this paragraph"; and (5) by striking out the third sentence thereof.

(c) Section 16 of the Interstate Commerce Act (49 U.S.C. 16) is amended by adding at the end thereof the following new paragraph:

"(14)(a) Except as otherwise provided in subdivision (b) or (c), if—

"(i) before commencing, defending, or intervening in, any civil action involving this Act (including an action to collect a civil penalty) which the Commision, or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commision gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(ii) the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in, such action;

the Commisison may commence, defend, or intervene in, and supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose.

"(b) Except as otherwise provided in subdivision (c), in any civil action (i) relating to injunctive relief; (ii) relating to any consumer redress; (iii) to obtain judicial review of a rule, regulation, or order issued by the Commission; (iv) relating to enforcement of a subpena pursuant to, or relating to compliance with, an order under this Act; or (v) brought pursuant to section 222(b)(1) of this Act; the Commission shall have exclusive authority to commence or defend, and to supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose, unless the Commission authorizes the Attorney General to do so. The Commission shall inform the Attorney General of the exercise of such authority. The exercise of such authority shall not preclude the Attorney General from intervening, to the extent authorized by other law, in such an action (or in any appeal of such an action) on behalf of the United States.

"(c) (i) If the Commission makes a written request to the Attorney General, within the 30-day period which begins on the date of the entry of the judgment in any civil action in which the Commission represented itself pursuant to subdivision (a) or (b), to represent itself before the Supreme Court in such action (through any of its attorneys designated by it for such purpose), it may do so, if—

"(I) the Attorney General concurs with such request; or

"(II) the Attorney General, within the 60-day period which begins on the date of the entry of such judgment, refuses to appeal or file a petition for a writ of certiorari, with respect to such civil action, or fails to take any action with respect to the Commission's request. If the Attorney General refuses so to appeal or file, he shall notify the Commission in writing of the refusal and of the reasons for such refused, within such 60-day period.

"(ii) Whenever the Attorney General represents the Commission before the Supreme Court in any civil action in which the Commission represented itself pursuant to subdivision (a) or (b), the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to such action, unless the Commission concurs.

"(iii) For purposes of this paragraph (with respect to representation before the Supreme Court), the term 'Attorney General' includes the Solicitor General.

"(d) If, prior to the expiration of the 45-day period specified in subdivision (a) or the 60-day period specified in subdivision (c), any applicable right of the Commission may be extinguished, due to any procedural requirement of any court with respect to the time within which any pleadings, notice of appeal, or other pertinent acts must be completed, the Attorney General shall have one-half of the time prescribed in such subdivisions to comply with any such procedural requirement of such court (including any extension of such time granted by such court) (i) for the purpose of commencing, defending, or intervening in a civil action, pursuant to subdivision (a), or (ii) for the purpose of refusing to appeal or file a petition for a writ of certiorari with written notification or of failing to take any action, pursuant to subdivision (c)(i)(II).

"(e) The provisions of this paragraph shall apply notwithstanding chapter 31 of title 28, United States Code, or any other provision of law.

"(f) Whenever the Commission has reason to believe that any person is liable for a criminal penalty under this Act, the Commission shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate criminal proceedings to be brought.

"(g) The provisions of this paragraph shall not apply to any civil action commenced before the date of enactment of this paragraph.".

(e)(1) Section 2321 of title 28, United States Code, is amended in the first paragraph thereof by striking out the period at the end thereof and inserting in lieu thereof the following: ", except as otherwise provided in section 16(14) of the Interstate Commerce Act (49 U.S.C. 16 (14)).".

(2) Section 2323 of title 28, United States Code, is amended (1) by striking out, in the second paragraph thereof, "The Interstate Commerce Commission and any" and inserting in lieu thereof "Any"; (2) by inserting "Interstate Commerce" immediately before "Commission, in which" in the second paragraph thereof; and (3) by striking out the first and fourth paragraphs thereof and designating the remaining two paragraphs as subsections (a) and (b), respectively.

(f) Section 11 of the Interstate Commerce Act (49 U.S.C. 11) is amended by striking out "Said Commissioners shall not engage in any other business, vocation, or employment." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a commissioner, and no person who is, on or after May 11, 1976, a commissioner shall, for a period of 2 years following the termination of service as a commissioner, represent any person before the Commission in a professional capacity.".

(g) Section 11 of the Interstate Commerce Act (49 U.S.C. 11) is further amended (1) by inserting "(1)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new paragraph:

"(2) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(a) is based upon—

"(i) misrepresentation or deceit before January 1, 1979, on the part of the Commission or any employee thereof, or

"(ii) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(b) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable. No funds appropriated for the use of the Commission may be used to pay any claim described in this paragraph, whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

SEC. 14. FEDERAL MARITIME COMMISSION

(a) Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end of part I thereof the following new section:

"MISCELLANEOUS PROVISIONS

"SEC. 106. (a) PETITIONS.—(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(2) If the Commission denies a petition under paragraph (1) (or if it fails to act thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court) (A) that the failure of the Commission to grant a petition submitted under paragraph (1) is arbitrary and capricious; (B) that the action requested in such petition is necessary; and (C) that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with the responsibilities of the Commission, such court shall order the Commission to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission.

"(5) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under any lawful authority granted to the Commission.

"(b) CONGRESSIONAL ACCESS TO INFORMATION.—(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee. Whenever the Commission transfers any document in its possession or subject to its control to any person or any other governmental entity, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission so that the Commission can comply with the requirement of this paragraph. This paragraph shall not be deemed to restrict any other authority of either House of Congress or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.

"(c) REPRESENTATION.—(1) If—

"(A) before commencing, defending, or intervening in, any civil action involving any lawful authority granted to the Commission (including an action to collect a civil penalty) which the Commission or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action; and

"(B) the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in, such action;

the Commission shall have authority to com-

mence, defend, or intervene in, and supervise the litigation of, such action (and any appeal of such action) in its own name by any of its attorneys designated by it for such purpose.

"(2) Notwithstanding paragraph (1), the Commission shall have authority (in its own name, by any of its own attorneys designated by it for such purpose) to seek temporary or preliminary injunctive relief in, or to initiate the defense of, any action in which the Commission has given written notification to the Attorney General under paragraph (1)(A). Such authority shall continue so long as the Attorney General fails, within the time specified in paragraph (1)(B), to assume the prosecution or defense of such action.

"(3) The Commission shall exercise the authority granted by this subsection for the purpose of promoting, and in a manner which will promote, the effective enforcement of the authorities granted to the Commission. The Department of Justice shall, to the extent practicable, provide the Commission with such assistance as will promote the successful and economical resolution of any civil action with respect to which the Commission exercises the authority granted by this subsection, and the Commission shall cooperate with such department in all other actions.

"(4) The provisions of this subsection shall not apply to any civil action commenced before the date of enactment of this subsection.

"(d) ACCOUNTABILITY.—Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1979, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1979, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable. No funds appropriated for the use of the Commission may be used to pay any claim described in this subsection, whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

(b) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end thereof the following new subsection:

"(e) No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is, on or after May 11, 1976, a Commissioner shall, for a period of 2 years following the termination of service as a Commissioner, represent any person before the Commission in a professional capacity.".

The amendment was agreed to.

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

The title was amended so as to read: "A bill to provide for interim regulatory reform as to certain independent regulatory agencies."

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2991) to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes which had been reported from the Committee on Commerce, with amendments:

On page 2, beginning at the end of line 6, strike out "for the Materials Transportation Bureau, United States Department of Transportation," and insert "to the Secretary".

On page 2, in line 10, strike out "for the Secretary".

On page 2, in line 11, after "exceed", insert "$1,750,000 for the transition period of July 1, 1976, through September 30, 1976, not to exceed", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1976".

SEC. 2. Section 106(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1805(c)) is amended by striking out "extremely" each time it appears.

SEC. 3. Section 107(a) of the Hazardous Materials Transportation Act (49 U.S.C. 1806(a)) is amended by striking out the phrase "transports or causes to be transported or shipped hazardous materials in a manner so as to achieve" and insert in lieu thereof "will provide for".

SEC. 4. The text of section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended to read as follows: "There are authorized to be appropriated to the Secretary to carry out programs relating to the transportation of hazardous materials and for other activities carried out pursuant to this Act not to exceed $1,700,000 for the transition period of July 1, 1976, through September 30, 1976, not to exceed $7,000,000 for the fiscal year year ending September 30, 1977, and not to exceed $7,000,000 for the fiscal year ending September 30, 1978.".

The amendments were agreed to.

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

NATIONAL WEATHER MODIFICATION POLICY ACT OF 1976

The Senate proceeded to consider the bill (S. 3383) to authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes which had been reported from the Committee on Commerce, with amendments as follows:

On page 2, in line 4, strike out "projects have" and insert in lieu thereof "technology has".

On page 2, at the end of line 19, strike out "experimentation" and insert in lieu thereof "development".

On page 4, in line 7, strike out "the degree of development of".

On page 5, in line 25, strike out "statement of".

On page 6, in line 1, strike out "description of a"

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Weather Modification Policy Act of 1976".

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Weather-related disasters and hazards, including drought, hurricanes, tornadoes, hail, lightning, fog, floods, and frost, result in substantial human suffering and loss of life, billions of dollars of annual economic losses to owners of crops and other property, and substantial financial loss to the United States Treasury;

(2) Weather modification technology has significant potential for preventing, diverting, moderating, or ameliorating the adverse effects of such disasters and hazards and enhancing crop production and the availability of water; and

(3) The interstate nature of climatic and related phenomena, the severe economic hardships experienced as the result of occasional drought and other adverse meteorological conditions, and the existing role and responsibilities of the Federal Government with respect to disaster relief, require appropriate Federal action to prevent or alleviate such disasters and hazards.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to develop a comprehensive and coordinated national weather modification policy and a national program of weather modification research and development—

(1) to determine the means by which deliberate weather modification can be used at the present time to decrease the adverse impact of weather on agriculture, economic growth, and the general public welfare, and to determine the potential for weather modification;

(2) to conduct research into those scientific areas considered most likely to lead to practical techniques for drought prevention or alleviation and other forms of deliberate weather modification;

(3) to develop practical methods and devices for weather modification;

(4) to make weather modification research findings available to interested parties; and

(5) to assess the economic, social, environmental, and legal impact of an operational weather modification program.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "State" means any State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

(3) The term "weather modification" means any activity performed with the intention and expectation of producing changes in precipitation, wind, fog, lightning, and other atmospheric phenomena.

SEC. 4. STUDY.

The Secretary shall conduct a comprehensive investigation and study of the state of scientific knowledge concerning weather modification, the present state of development of weather modification technology, the problems impeding effective implementation of weather modification technology, and other related matters. Such study shall include—

(1) a review and analysis of the present and past research efforts to establish practical weather modification technology, particularly as it relates to reducing loss of life and crop and property destruction;

(2) a review and analysis of research needs in weather modification to establish areas in which more research could be expected to yield the greatest return in terms of practical weather modification technology;

(3) a review and analysis of existing

studies to establish the probable economic importance to the United States in terms of agricultural production, energy, and related economic factors if the present weather modification technology were to be effectively implemented;

(4) an assessment of the legal, social, and ecological implications of expanded and effective research and operational weather modification projects;

(5) recommendations concerning legislation desirable at all levels of government to implement a national weather modification policy and program;

(6) a review of the international importance and implications of weather modification activities by the United States;

(7) a review and analysis of present and past funding for weather modification from all sources to determine the sources and adequacy of funding in the light of the need of the Nation; and

(8) a review and analysis of the purpose, policy, methods, and funding of the Federal departments and agencies involved in weather modification and of the existing interagency coordination of weather modification research efforts.

SEC. 5. REPORT.

(a) IN GENERAL.—The Secretary shall prepare and submit to the President and the Congress, within 1 year after the date of enactment of this Act, a final report on the findings, conclusions, and recommendations of the study conducted pursuant to section 4. Such report shall include:

(1) a summary of the findings made with respect to each of the areas of investigation specified in section 4;

(2) other findings which are pertinent to the determination and implementation of a national policy on weather modifications;

(3) a recommended national policy on weather modification and a recommended national weather modification research and development program which is consistent with, and likely to contribute to, achieving the objectives of such policy;

(4) recommendations for levels of Federal funding sufficient to support adequately a national weather modification research and development program;

(5) recommendations for any changes in the organization and involvement of Federal departments and agencies in weather modification which may be needed to implement effectively the recommended national policy on weather modification and the recommended research and development program; and

(6) recommendations for any legislation which may be required to implement such policy and program.

Each department, agency, and other instrumentality of the Federal Government is authorized and directed to furnish the Secretary any information which the Secretary deems necessary to carry out his functions under this Act.

(b) OPERATION AND CONSULTATION.—The Secretary shall solicit and consider the views of State agencies, private firms, institutions of higher learning, and other interested persons and governmental entities in the conduct of the study required by section 4, and in the preparation of the report required by subsection (a).

SEC. 6. AUTHORIZATION FOR APPROPRIATIONS

There is authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act not to exceeed $1,000,000.

The amendments were agreed to.

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

ORDER VITIATING SENATE ACTION ON S. 3383

(Later in the day the following proceedings occurred:)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the action taken earlier in the passage of Calendar No. 817, S. 3383, be vitiated, and that Calendar No. 817 be returned to the active calendar.

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

PRIVACY PROTECTION STUDY COMMISSION AUTHORIZATION

The bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission and to remove the fiscal year expenditure limitation was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision of law referred to in the note immediately preceding section 553 of title 5, United States Code, is amended to read as follows:

"SEC. 9. There is authorized to be appropriated, without fiscal year limitation only to such extent or in such amounts as are provided in appropriation Acts, the sum of $2,000,000 to carry out the provisions of section 5 of this Act for the period beginning July 1, 1975, and ending on September 30, 1977.".

FEDERAL FIRE PREVENTION AND CONTROL AUTHORIZATION

The Senate proceeded to consider the bill (S. 2862) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 which had been reported from the Committee on Commerce, with an amendment to strike out all after the enacting clause and insert:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. There are authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, not to exceed $3,750,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed $15,000,000 for the fiscal year ending September 30, 1977, and not to exceed $20,000,000 for the fiscal year ending September 30, 1978.".

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $1,275,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed $5,500,000 for the fiscal year ending September 30, 1977, and not to exceed $6,000,000 for the fiscal year ending September 30, 1978.".

The amendment was agreed to.

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

FEDERAL BOAT SAFETY AUTHORIZATION

The Senate proceeded to consider the bill (H.R. 5630) to amend the Federal Boat Safety Act of 1971 in order to increase the Federal Government's share of the costs of State boat safety programs, and to increase the authorization for appropriations for such programs which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.) is amended as follows—

(1) Section 27 is amended by adding a new subsection (e) as follows:

"(e) The Secretary may expend funds appropriated for the program of financial assistance to the States under this Act for audit expenses incurred by him in the administration of that program. Expenditures made in any fiscal year under this subsection shall not exceed 1¼ per centum of the total funds appropriated for such fiscal year.".

(2) Section 28(a) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", the fiscal transition period of July 1, 1976, to September 30, 1976, and each of the two succeeding fiscal years.".

(3) Section 30 is amended by striking out "for the fiscal year ending June 30, 1972, and $7,500,000 for each of the four succeeding fiscal years," and inserting in lieu thereof the following: "for each of the fiscal years beginning with fiscal year 1972 through fiscal year 1976; $2,500,000 for the fiscal transition period of July 1, 1976, through September 30, 1976; and $10,000,000 for each of the fiscal years 1977 and 1978,".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

FEDERAL MINE SAFETY INSPECTORS

The bill (S. 3070) a bill to amend section 1114, title 18, United States Code, so that Federal mine safety inspectors will be protected by criminal statutes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1114, title 18, United States Code, is amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

A VISIT BY A GOOD FRIEND—PRESIDENT VALERY GISCARD D'ESTAING OF FRANCE

Mr. MANSFIELD. Mr. President, on yesterday the Congress of the United States was honored to have the President of France, Valery Giscard d'Estaing, address a joint session. His address was most impressive. His delivery was superb, and the philosophy behind his thinking was, I think, excellent. I was impressed not only by what he said in substance but through the use of the phrase "détente and dialog." I agree with the interpretation of the President of France of just what those words mean and what they imply in the area of foreign policy, not only between his own country and other countries, but between this Nation and other nations.

Last night, Mrs. Mansfield and I were given the opportunity to attend a dinner given by the President of France in honor of the President of the United States. I think it might be well at this

time to point out that as far as the relations between the two countries are concerned, they are excellent and while they may not be intimate, they are very good.

I think, also, we ought to recall that we have not forgotten what France did in our own War for Independence, and I think it should be reiterated—too many of us do not know this for a fact—that there were more French troops at Yorktown, 8,000 Frenchmen, than there were Continentals, who numbered 6,000.

Behind that Franco-American Army was the French Fleet under deGrasse, and behind that was the French Treasury, although Admiral deGrasse paid a large part of the funds needed for the French naval expeditionary force in that crucial year. But the battle which marked the end of the Revolution and the beginning of the real independence of this Nation was participated in by Frenchmen, both on land and sea, and again, I want to reiterate that there were more Frenchmen at Yorktown than there were Continentals. So we not only will not forget, but we will always remember.

Mr. President, I ask unanimous consent that the remarks of President Valery Giscard d'Estaing and our own President, Gerald Ford, made at the dinner given by the President of France last night, be printed at this point in the RECORD.

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

[Diner a l'Ambassade de France, 18 Mai 1976]

REMARKS OF PRESIDENT VALERY GISCARD D'ESTAING

Mr. President, it is a great pleasure for Madame Giscard d'Estaing and me to welcome you and Mrs. Ford this evening here in the French Embassy and to offer you in return a little of the warm hospitality that you and the American people have extended to me since the start of my visit.

This is the fifth time we have met in eighteen months and during the past two days we have had useful and trusting talks together. We are getting to know each other rather well and I would like to take this opportunity to tell you how much I have enjoyed the contacts and, if I may say so, the friendship that has been established between us.

A few weeks ago, Mr. President, you said that French-American relations were better today than they had ever been. I share your view wholeheartedly. But I would like to add that we owe this state of affairs largely to you, to your personal conviction and your breadth of vision. I hope that I will not be accused of interfering in your country's domestic affairs if I testify to this here.

I agreed to make this visit for obvious reasons. Given the role France played two centuries ago, it was only fitting for France to be first in joining in the celebrations for the Bicentennial of the United States and sharing with special feeling the joy of the American people.

But something else has struck me. Although our two countries are linked by so many memories, share the same values, belong to the same alliance and are so often led by major world affairs to exchange views and pool their efforts, our countries' knowledge and understanding of each other is too often insufficient and superficial. Even their trade relations are not commensurate with the place each one holds in the world economy.

Such a situation is paradoxical. It is also detrimental and should be corrected.

For this reason I am pleased at the renewed interest on both sides that my visit has generated in our two countries. For the people of France, it has been an occasion to discover the realities of present-day America, as they have been presented, on this occasion, by our combined information services. I would like to think that it has also helped the American people become better acquainted with the France of today, the France that is changing by virtue of her younger outlook and own efforts.

For this reason I also set great value, as I know you do Mr. President, on the cooperation that we have decided to implement in an area that is limited but full of human implications: I am referring to the war on cancer. I shall follow its development personally.

For this reason, lastly, I hope that the contacts and meetings between our two countries will multiply. That, in fact, will be the aim of the two Foundations which have just been established, one in New York and the other in Paris, to promote relations between the United States and France. Under the guidance of well-known figures, they will work together closely to further exchanges and dialogue between our two countries.

One of the objectives of my visit to which I am most attached will thus be achieved and I know, Mr. President, that it meets your wishes too, that is, that France and the United States should know each other better in order to understand each other better.

Our two countries will be able to sail in company just as they did when the first French fleet came to fight by your side; and in fact the arrangement of the tables for this dinner is symbolic in that it reproduces the battle order.

The names of these ships that made up this fleet call to mind the diversity of the relations between our two countries. There is the *Sensible* and even the *Fantasque*. And by a strange intuition I also see the *Concorde*. But more to the point, I think you'll agree, is the fact that the *Victoire* is there.

I raise my glass in honor of the President of the United States and Mrs. Ford and all the distinguished Americans who did us the honor and pleasure of accepting our invitation, in honor of the great American people to whom I say on their birthday "Many Happy Returns of the day".

REMARKS BY PRESIDENT FORD

Mr. President, Madame Giscard d'Estaing, distinguished guests, ladies and gentlemen, thank you, Mr. President, for your very thoughtful remarks. Mrs. Ford and I are honored and very pleased to join you here tonight. Once again I have the welcome opportunity to enjoy firsthand the incomparable hospitality and cuisine of France.

France's reputation for its hospitality is just one dimension of French contributions to the world. Frequent mention has been made during your visit—and appropriately so—of France's role in our struggle for independence.

Yet the French influence in America long preceded 1776. Much of the new world was opened by French explorers such as Marquette and La Salle. Their influence is apparent in the names of American towns and cities north and south, from Detroit to Joliet to New Orleans. French influence is still vivid in Louisiana, which you, Mr. President will visit later this week.

Closer to home, we enjoy the superb artistry of L'Enfant in the design of this beautiful capital city. It was he who selected the sites for the Capitol building and for the White House, creating for the latter a beautiful President's Park where your helicopter landed yesterday, Mr. President.

French philosophers have profoundly influenced and inspired the nature of our democracy and the spirit of our laws. Thanks in large measure to the writings of Montesquieu and Rousseau our nations share a heritage of humane values. These values are today the very basis of our philosophy of freedom, justice and equality. America remains inspired by the wisdom and vision of France.

It is especially gratifying to celebrate the bicentennial of our independence with the distinguished President of our country's oldest friend and ally. Ours is a partnership and alliance unique in history, a relationship in which each has extended the hand of friendship and assistance in the other's hour of maximum peril.

As in the past, our security and our prosperity still depend on our willingness to work together, to cooperate in meeting common problems and challenges.

We meet tonight at a time of peace. Continued peace requires that every democracy remain strong and prepared to defend its liberty. As Washington said, "To be prepared for war is one of the most effectual means of preserving peace."

In a gesture symbolic of the commitment of both our Nations to safeguarding the security of our peoples, Madame Giscard D'Estaing will travel to Mississippi this Saturday to christen the United States Navy's newest destroyer—the *De Grasse*.

This ship, named for the French admiral whose fleet made possible the decisive victory at Yorktown, will contribute to the strength and capability of our Navy. The *De Grasse* will also contribute to the objectives and goals we share with France—to preserve the peace, protect our freedom and keep the sea lanes of the world fully open to the democratic nations.

Mr. President, for 200 years, France and the United States have shared dreams, challenges and victories in every sphere of human endeavor. The mutual esteem and inspiration which mark our relationship today flow from common ideals, determination and mutual reinforcement. I foresee a vital partnership for generations to come.

It is altogether fitting that the Nations which two centuries ago gave the world two fundamental charters of liberty—the Declaration of Independence and the Declaration of the Rights of Man—should still stand together for freedom and justice for all.

Let us toast that partnership on the eve of its third century to the health of the President of the French Republic and to the liberty, equality, and fraternity of the people of France and of the United States.

Mr. MANSFIELD. I yield the remainder of my time to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I should like first to commend our distinguished majority leader for the comments he has just made and to indicate my own great pleasure at the warm welcome that this country has extended to the President of France.

In his address yesterday to the joint session, President Giscard d'Estaing appealed to the United States on behalf of Western Europe to "show the same con-

fidence in us that we have in you." I think the expression of confidence by the President of the Republic of France in the United States has come at an extraordinarily good time. He stated that the policy of detente and cooperation is a policy that must and should be followed, and is a policy that had actually been pioneered by France. I do believe, as I have said a number of times before, that there is truly no alternative to a policy of lessening tensions with our adversaries. None of us would wish to go back to the cold war and the hot war, and I think in this regard, France and the United States stand closely together.

The President of France pointed out:

Diversity and change are our work and the consequences of our principles—they are the children of liberty.

Certainly those words could be used to exemplify what the U.S. policy now is on the continent of Africa, that we who gained our liberty 200 years ago will not be content until we see that all people have a chance, whatever their race, color or creed, to have their own independence and their own liberty. Again, I believe France and the United States will stand solidly together in this regard.

President Giscard d'Estaing said:

You do not fear freedom for yourself, do not then fear it for your friends and allies.

An American President said many years ago:

The only thing to fear is fear itself.

And we must not be fearful of doing the right thing, saying the right thing, and fighting for the right thing when we believe our cause is just and right.

Mr. President, I join with all of my colleagues in extending the warmest greetings of all of our fellow Americans to the President of the Republic of France. We have had differences through the years, but we still stand together as allies.

May the rest of his visit to the United States be as successful as his visit here in the Nation's Capital.

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.

THE B–1: A LOOK AT THE FACTS—PART VI

Mr. PROXMIRE. Mr. President, I have noticed that in his rebuttals to my prior five speeches on the B–1 bomber, my friend and colleague from Arizona (Mr. GOLDWATER) has expressed some perplexity as to my position. Today, therefore, I will summarize the conclusions I have reached during this debate and point out the facts that support those conclusions.

Let me be as clear as possible at the beginning. I am completely opposed to the B–1 bomber. I will vote for the McGovern amendment to delete all production funding for that aircraft.

Why? Because I have concluded that the $21 billion B–1 is a national disaster. It will rob funding from other essential defense programs and squander it on an obsolete military concept. Instead of the B–1, we should re-engine the B–52 fleet as an interim measure and proceed with plans for a stand-off bomber platform. Surely there can be no confusion about this position.

Now, what are the facts, the evidence that backs up this stance? I hope my worthy adversary from Arizona will examine the following six critical points of fact.

1. COST

The most dramatic issue is that of cost. The Selected Acquisition Reports from the Department of Defense place the cost of the B–1 program at $21.6 billion. As a matter of fact, it went up $200 million just in the last 3 years. That represents $88.6 million each for 244 airplanes. You can think of each plane as a flying Rayburn Office Building in terms of cost. And there is every indication that each plane eventually will cost $100 million each.

When Congress first was briefed on the B–1 bomber and its planning estimate was set forth in June of 1969, the total program costs were $8.8 billion. No provision was made for inflation or logistic support and additional procurement costs. The quantity was 246 for a program unit price of $35.8 million and a procurement unit price of $29 million.

By June of 1971, the development estimate for the B–1 program, including inflation, had risen to $12 billion with the quantity staying the same. This made for a procurement unit cost of $35.4 million and a program unit cost of $45.6 million. At the present time, the B–1 program is estimated to cost $21.6 billion for 244 aircraft and a program unit cost of $88.6 million.

Mr. President I ask unanimous consent that a table of B–1 costs be printed in the RECORD at this point.

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

TABLE 1.—B–1 SAR COST ESTIMATES

[Dollar amounts in millions]

Description	Planning estimate, June 1969 [1]	Development estimate, June 1971 [2]	Current estimate [3] September 1974	Current estimate [3] September 1975	Net change
Development	$1,800.0	$2,685.0	$3,615.6	$3,884.0	+$268.4
Procurement	7,000.0	8,533.8	15,017.0	17,312.0	+2,295.0
Subtotal	8,800.0	11,218.8	18,632.6	[3] 21,196.0	+2,563.4
Logistic support and additional procurement costs	(4)	829.5	388.7	(4)	−388.7
Total	8,800.0	12,048.3	19,021.3	21,196.0	+2,174.7
Escalation included above	0	1,499.9	6,422.8	10,172.4	+3,749.6

Description	Planning estimate, June 1969 [1]	Development estimate, June 1971 [2]	Current estimate [3] September 1974	Current estimate [3] September 1975	Net change
Quantity:					
Development	5	5	5	4	−1
Production	241	241	239	240	+1
Total	246	246	244	244	0
Procurement unit cost	$29.0	$35.4	$62.8	$72.1	+$9.3
Procurement unit cost (development and procurement)	35.8	45.6	76.4	86.9	+10.5

[1] Stated in 1968 dollars.
[2] Estimates are in then year dollars.
[3] As of Dec. 31, 1975, program costs had increased to $21,419,000,000 and the Air Force advised us that it is expected to increase an additional $200,000,000. They stated these increases were due to reductions in requested funding.
[4] Not reported.

Mr. PROXMIRE. Of course this $21.6 billion does not include the full costs of the B–1 program. Additional costs such as weapons payloads, operation and maintenance, tankers, if necessary, and upgraded avionics. Examining the full life cycle costs of the B–1 results in a $91 billion total in current dollars by the Brookings Institution and a similar figure by the Center for Defense Analysis. The Air Force has not provided as its own life cycle costs in this debate although I have asked for it in two prior speeches. I think the Senate is entitled to know what we are buying when we move ahead with this program, and I think the Air Force has an obligation to provide it.

Mr. President, I ask unanimous consent that various tables from the Brookings Institution study called Modernizing the Strategic Bomber Force be printed in the RECORD at this point as tables II, III, and IV.

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

TABLE II.—PROJECTED COSTS OF THE BOMBER AND TANKER PROGRAM, FISCAL YEARS 1976–85

Category	Fiscal year— 1976	197T [1]	1977	1978	1979	1980	1981	1982	1983	1984	1985
	Millions of constant 1976 dollars										
Major system acquisition:											
B–1	750	200	1,650	2,020	2,170	2,370	2,040	1,850	1,100	0	0
Advanced tanker	5	2	50	100	570	520	1,040	1,040	1,040	1,040	1,040
SRAM	3	2	35	210	210	210	210	420	420	420	420
ALCM	50	10	75	100	100	210	210	210	210	210	210
Other investment	1,260	320	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260
Direct operating	1,600	400	1,600	1,600	1,600	1,600	1,610	1,640	1,700	1,780	1,940
Indirect operating	1,790	450	1,790	1,790	1,790	1,790	1,800	1,820	1,840	1,890	1,980
Total	5,460	1,380	6,460	7,080	7,700	7,960	8,170	8,240	7,570	6,600	6,850
	Millions of current dollars										
Total [2]	5,460	1,380	6,910	7,950	9,100	9,740	10,360	10,840	10,330	9,340	10,050

[1] 197T is the designation for the 3-mo transition period from the end of fiscal 1976 on June 30, 1976, to the start of fiscal 1977 on Oct. 1, 1976.
[2] Figures are rounded.

Sources: Authors' estimates based on data in various Department of Defense publications, in "The Budget of the United States Government, Fiscal Year 1976" (1975), and in testimony from hearings on the fiscal 1975 Defense Department budget before the Senate Armed Services and Appropriations Committees. (See app. A for a description of the costing methods.)

TABLE III.—PROJECTED SYSTEMS AND COSTS, FORCE 2, FISCAL YEARS 1976–85

[Total obligational authority in millions of fiscal 1976 dollars]

Category	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	Average annual costs
Unit equipment:											
B–52 [1]	335	255	255	255	255	240	225	195	105	0	----------
FB–111	66	0	0	0	0	0	0	0	0	0	----------
B–1 [1]	0	0	0	0	0	15	30	90	150	200	----------
Tanker	610	255	255	255	255	255	255	255	255	200	----------
SRAM	1,140	1,140	1,140	1,540	1,940	2,340	2,740	3,140	3,200	3,200	----------
ALCM	0	0	0	0	400	800	1,200	1,600	1,600	1,600	----------
Costs:											
Major system acquisition	810	2,295	2,770	3,450	3,600	3,790	3,600	2,030	1,170	1,040	2,456
Other investment	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260	1,260
Direct operating	1,975	1,385	1,435	1,490	1,545	1,595	1,660	1,715	1,775	1,560	1,614
Indirect operating	2,015	1,660	1,690	1,720	1,760	1,790	1,830	1,860	1,900	1,750	1,798
Total	6,060	6,600	7,155	7,920	8,165	8,435	8,350	6,865	6,105	5,610	7,128

[1] Bombers are dispersed on 100 interior bases.

TABLE IV.—ESTIMATED PROCUREMENT COSTS FOR THE B–1 BOMBER, 1976–83

[Total obligational authority in millions of fiscal 1976 dollars]

Item	1976	1977	1978	1979	1980	1981	1982	1983
Number procured	0	8	22	31	48	48	48	34
Cost of procurement	150	1,200	1,800	2,000	2,250	1,980	1,850	1,100

Source: "Fiscal Year 1975 Authorization for Military Procurement, Research and Development, and Active Duty, Selected Reserve and Civilian Personnel Strengths," Hearings before the Senate Armed Services Committee, 93 Cong. 2d sess. (1974), pt. 7, p. 4000.

Mr. PROXMIRE. Consider what we could purchase with the same amount of money. For the $21 billion direct costs of the B–1 program, the Nation could fund 10 invulnerable Trident submarines which would carry about 2,000 warheads. It would also pay for reenginging the B–52 fleet and pay for the annual costs of an Army armored division for 5 years.

Looking at the problem from the perspective of this year's request for the B–1 program of $1.5 billion, the same amount of money would build 1 Trident submarine with almost 200 warheads or over 100 F–15 fighters or 10 destroyers of the DD–963 class or 6 attack submarines of the SSN–688 class.

Or for the price of the B–1 this year alone the United States could pay the annual recurring costs of five Army armored divisions including procurement, military pay, and operation and maintenance.

At a time when there is a national debate about defense programs there should be a different method of judging relative need. Each program should be measured against competing programs from the other services. Only with this type of internal competition will the most efficient alternatives be selected.

2. PERFORMANCE

By any standard, the B–1 is not the plane the Air Force told Congress it wanted in 1969. In almost every major category of performance, B–1 characteristics have slipped.

In 1969, its takeoff distance was estimated to be 6,000 feet. By the development estimate in June 1970, it had slipped to 6,500 feet. And now, based on the September 1975 estimate, it is 7,500 feet. This means that the takeoff distance has degraded by 15 percent under the development estimate and 25 percent under the planning estimate.

The takeoff gross weight has increased 11 percent over the development estimate from 356,000 pounds to 395,000 pounds. The number of short range attack missiles carried by the B–1 was estimated to be 32 in the planning estimate. The development estimate dropped that number to 24, the current figure.

Supersonic penetration speed has been cut drastically even though the B–1 has been sold to Congress on its supersonic capability. The planning and development estimate for supersonic penetration speed was mach 2.2. Now the Air Force has reduced that capability to mach 1.6.

In my speeches I have challenged the Air Force to declassify the data about other performance characteristics. Their answers have strongly suggested that the B–1's subsonic range, supersonic range, and maximum speed at sea level also have been degraded. Mr. President, I ask unanimous consent that table V showing changes in the estimate of B–1 bomber performance be printed in the RECORD at this point.

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

TABLE V.—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	395,080	7,500
Degradation—development estimate to September 1975 estimate				.6	0	39,000	1,000
				(27%)		(11%)	(15%)

3. DELIVERY SCHEDULES HAVE SLIPPED

Mr. PROXMIRE. In addition to the degredation in performance of the B–1, the entire program is behind schedule. Delivery of the first B–1 has been delayed 6 months until late 1979. The initial operational capability of the aircraft has been delayed 14 months until mid-1982. These delays are an economic impact in that generally they represent increased costs to the Government. Mr. President, I ask unanimous consent that table VI be printed in the RECORD at this point showing the B–1 schedule slippages.

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

TABLE VI.—B–1 SCHEDULE, PLANNING ESTIMATE, DEVELOPMENT ESTIMATE, AND RECENT ESTIMATES

	Planning estimate, June 1969	Development estimate, June 1970	Current estimates		
			September 1974	September 1975	Delay (months)
Production decision	April 1972	September 1974	November 1976	November 1976	0
Complete product verification tests of engine [1]	February 1974	December 1974	do	do	0
Delivery of the first production aircraft	April 1974	February 1977	February 1979	August 1979	6
Initial operational capability (IOC) [2]	May 1976	March 1979	March 1981	May 1982	14

[1] The product verification test replaced the originally planned qualification test.

[2] The program schedule defines IOC as delivery of 65 aircraft to SAC.

4. FLY-BEFORE-YOU-BUY VIOLATED

Mr. PROXMIRE. The B–1 program is violating the fly-before-you-buy philosophy. The B–1 go ahead decision in November of 1976 will be made without testing of a number of critical capabilities of that aircraft including all weather capability, weapons delivery and defensive avionic. The Senator from Arizona (Mr. GOLDWATER) has indicated that he does not have full faith in the missile fleet because it has not been tested with a live warhead. It should be pointed out that the B–1 weapons delivery will not be tested before the approval decision is given to the Department of Defense.

The failure to have a rigid and thorough testing program before a production decision is made by the Congress encourages concurrency—the simultaneous production and testing of equipment. In the past this has led to cost overruns since production models have to be refitted or modified to adapt to changes required by the testing program.

The most important argument here is that Congress should not give its approval to a $21 billion program that has not been adequately tested first. We have been told that, Mr. President, over and over again and we should pay attention to it. For example the automatic terrain-following radar in the B–1 is its most critical navigational component. Without the ability to hug the ground while it penetrates Soviet airspace, the B–1 would be a sitting duck. The General Accounting Office has noted that the terrain-following radar has only been installed in aircraft No. 3 and that 400 feet is the lowest clearance altitude to be tested before the production decision. In other words, the B–1 will not have a test of this system at its operational altitude before November. Furthermore, the production decision will be made without testing of the automatic terrain-following radar at night, in bad weather, or in extremely mountainous terrain.

The GAO also points out that the entire airplane will not undergo electromagnetic pulse testing before the production decision. This type of testing is designed to see how well the aircraft survives in a nuclear blast environment. Although various components will be tested, if the entire aircraft is in any way deficient, there could be large redesign costs associated with any required fix. It would be much wiser to have the results of the full test before moving to production.

5. AIRCRAFT DEFICIENCIES

Testing to date has revealed a number of problems with the B–1. Power sources to start the engines have failed in cold weather. According to the GAO, there is a mechanical breakdown in the coupling of gearboxes and auxiliary power units at a rate of 25 percent. Furthermore starting the engines takes longer than estimated. This is a particularly crucial failure since it makes the B–1 more vulnerable on the ground. The GAO states that the Air Force and Rockwell agree that this problem will not be fixed before a production decision is made.

Reference also needs to be made to the unexpected buffering and vibration of the B–1 test aircraft. Severe buffeting could interfere with he operation of offensive avionics equipment. The severity of the current problem is difficult to assess at present.

6. THE SUPERSONIC SPEED ISSUE

Although it may be startling to most Americans who have heard about the supersonic capabilities of the B–1 bomber, this speed is not likely to be used on many missions. Although a supersonic capability has been built into the B–1 at a cost of $3 billion, there are very few situations where it can be used.

The B–1 flies to and from the U.S.S.R. at high altitudes and subsonic speeds to conserve fuel. Before it penetrates hostile airspace, it dips down close to the Earth to avoid identification by radar. However, since the B–1 cannot fly at supersonic speeds at low altitudes, again this capability will not be used.

Only immediately before or after bombing run would the plane use its supersonic speed to any extent and then it is severely limited for two reasons. First, using the afterburners on the B–1 will create an observable heat source that could bring destruction from heat seeking missiles. Second, supersonic speed consumes so much fuel that it cannot be used for long periods of time.

The lack of importance of supersonic speed is indicated by the Air Force decision to cut it in half from mach 2.2 to mach 1.6. This means that at the lower speed of mach 1.6, the B–1 could not outrun many of the Soviet Union's modern fighters.

If the Air Force had recognized the lack of value in supersonic capability earlier, they could have avoided building the B–1 around that requirement. The result would have been an aircraft designed with better range and payload capacity than the existing B–1.

The Air Force argues that the supersonic capability should be retained for the high altitude, high speed penetration option—exactly the same mission that was the death of the B–70 program. High-speed, high-altitude penetration of the U.S.S.R. would be a military catastrophe.

Mr. President, the irony in the B–1 debate this year is that we can safely afford to wait before committing the Nation to a $21 billion program. Alternatives are available at far less cost. For example:

Reengining the B–52 G and H fleet at a cost of $2.1 billion, which will give

them longer life, improved range, take-off distance, and payload capacity.

Equip the newly engined B–52's with long-range cruise missiles. This would allow the B–52 to stand off, away from the U.S.S.R. air defenses—the best in the world with 10,000 SAM sites, 2,600 interceptors and 5,500 radars—and launch thousands of cruise missiles toward Soviet targets.

Purchase new wide-bodied jets for use as stand-off bombers. This alternative could cost one-half to one-third the cost of the B–1. Carrying up to 60 cruise missiles each, these bomber platforms could circle above friendly or neutral territory and still be in range of most all Soviet targets. Cruise missiles offer accuracy, numbers, and low cost.

Since the B–1 bomber force will be an addition to rather than a replacement for the B–52 fleet, there is ample time to wait before making a major new bomber decision. The B–1 will overlap the B–52's by 10 to 15 years. In the meantime, there are promising new technologies that could be incorporated into a new bomber design later if necessary.

The age of the manned strategic penetrating bomber is over. Flying missions into the heart of the U.S.S.R. with gravity bombs is virtually a suicidal flight.

Think of it. The Soviet Union has devoted more resources for defensive purposes than any nation in the history of the world. Our B–1's would have to take off from U.S. bases, where they are observable to Soviet satellites; fly toward the U.S.S.R. where they could be picked up by Soviet over-the-horizon radar and long-range acquisition radar; then find a hole in the Soviet radar net consisting of 5,500 radar sites; fly around the 10,000 surface-to-air missiles deployed on the perimeter of the U.S.S.R. and clustered around specific targets; avoid being detected and shot down by the 2,600 Soviet interceptors; elude conventional ground-to-air munitions around terminally defended targets; blast entrance and escape paths with SRAM missiles without giving away its position; bomb the targets; escape the nuclear blast; and find a way home through the hundreds if not thousands of other nuclear blasts going off in the atmosphere. That is about as close to a suicide kamikaze mission as I can envision.

It may be a glamorous mission but it is an unnecessary one. Modern technology can supply us with enough cruise missiles to saturate any known Soviet targets on the bomber target list. And this can be accomplished without risking the lives of the pilots by dashing inside the U.S.S.R.

But just as the Navy could not give up its battleships, the Air Force refuses to recognize the end of the World War II bomber mission. It almost makes me think that if the Air Force had a ground force mission, we still would be breeding cavalry horses.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Arizona is recognized for 15 minutes.

THE B–1 BOMBER

Mr. GOLDWATER. Mr. President, five times previously my friend and colleague from Wisconsin has taken the floor to speak against the B–1. Each time he failed to bring out a single criticism that has not been thoroughly and adequately addressed before. Now this time, the sixth time, he has merely repeated those criticisms covered in the previous five speeches.

All we have learned from his speeches is that the distinguished Senator from Wisconsin still does not like the B–1. Neither he nor any of his associates who are anti-B–1, have come up with any factual, sensible, or workable alternatives. All have been thoroughly refuted by acknowledged experts. I am reminded of a poem written by Tom Brown that goes like this:

> I do not like thee Dr. Fell
> The reason why I cannot tell
> But this I know, I know darn well
> I do not like thee Dr. Fell.

Now everyone who has been seriously trying to make up his or her mind about the B–1 must be aware of the Joint Strategic Bomber Study and its conclusions. They should also be aware that the General Accounting Office in commenting on the study said the B–1 is the most cost-effective bomber. But more importantly the GAO did not say any of the other alternatives were a better choice than the B–1.

Mr. President, since the Senator continues to suggest that a reengined B–52 force is the way we should structure our future strategic bomber force, let me address that point. It is important to touch on this because I believe it demonstrates a serious flaw in the way the Senator from Wisconsin views the strategic problem and, in particular, it demonstrates his lack of understanding of what is required for a future strategic bomber force.

First, it is difficult to determine the Senator's fascination for reengining the B–52. There is no relationship between the estimated penetration problem of the mid-1980's and beyond, and how new engines would help the B–52 make that penetration. As I said in previous speeches, there would be no appreciable increase in the speed of the B–52, but even if it was possible to make the low level penetration speed equal to the B–1, the airplane, the B–52, would never stand the punishment of such a high speed and low level flight.

All a reengined B–52 gives is an old airplane with new engines. None of the requirements needed for the mid-1980's and beyond, that the Senator has been told about, will have been met with a reengined B–52. Most importantly, the airplane's penetration capability will not have been measurably improved. Second, the takeoff and escape capability will not meet requirements. Third, you still have a soft airplane in terms of being able to withstand a nuclear shockwave. Now all of these points have been made to my friend from Wisconsin before, but he seems to pay no attention.

These requirements are things that will be incorporated into the B–1 but they cannot be incorporated into the B–52. So, I wonder if the Senator from Wisconsin would ask our Strategic Air Command combat crews to attempt to strike those targets, now planned for the B–1, in an aircraft that has the shortcomings of the reengined B–52. If the Senator believes he has some special military expertise and insight, I suggest he publicly ask that each SAC B–52 combat crew member that believes the reengined version of the B–52 would be adequate for the strategic mission of the mid-1980's and beyond, write him and tell him so.

If the Senator will agree to do that, I will ask those same SAC B–52 combat crews that believe the B–1 is required and that a reengined B–52 will not be adequate to write to me. Obviously, I believe there would be overwhelming support for the B–1, but, more importantly, I think such a poll might give my friend from Wisconsin a better understanding of what SAC combat crews know is going to be required to guarantee mission success.

It is also disturbing to me that Senator PROXMIRE continues to want to equip the B–52 as a stand-off missile platform when it appears the B–52 would no longer be able to penetrate. The problem here is that the reason he has to equip the B–52 as a cruise missile carrier is the same reason the cruise missiles can no longer be assured of reaching their targets. The reason, of course, is the heavy Soviet air defense system which, with little effort, is liable to make mincemeat of incoming cruise missiles.

The Senator apparently fails to realize that this is what the B–1 is all about, the ability to penetrate through the toughest Soviet air defenses and destroy its assigned targets.

If we followed the strategic guidance of the good Senator from Wisconsin, we would subject the United States to a real national disaster—not from the B–1 expenditures—but from a weakened strategic capability that could invite a miscalculation by the Soviet Union leading to all-out nuclear war.

If we followed the strategic guidance of the good Senator from Wisconsin, we would also be disregarding the recommendations of the very military experts the Nation has charged with protecting our national security.

So much for my reply to the Senator's concept of strategic systems. Now, as I said earlier, all of these charges and assertions have been answered before but, there are a few that I garnered from his press release today that require further response.

The statement is made, in referring to performance, that penetration speed is 27 percent below that planned.

That is just not a correct statement. It is completely in error.

The planned primary penetration is at a high subsonic speed and at a very low altitude. The sustained maximum speed at sea level has not changed and is published in the Selected Acquisition Report—SAR—where the Senator will find the development estimate and the current estimate to be identical.

The high altitude supersonic speed,

originally established at mach 2.2 was consciously reduced to mach 1.6 and the Senator has had that point explained by me before. However, it is disturbing that he would imply in his press release that penetration speed is 27 percent below that planned. That is just not true.

Mr. President, the Senator also makes the statement that the B–1 will carry eight fewer missiles than planned for in 1969. Again, the Senator is in error and does not have his facts straight. The base year for the B–1 program is 1970, not 1969, so anything related to 1969 is not even relevant. However, the 1970 figure is in the SAR and I suggest he acquaint himself with the document. Referring to the SAR and the payload and internal air to ground missiles, which are the SRAM's, the development estimate in 1970 was 24 and the current estimate is still 24. The payloads in pounds for the subsonic and supersonic missions are classified but I can tell my friend from Wisconsin that they have not changed from the development estimate.

So, I do not know where the reduction of 8 missiles comes from but, it is not from the B–1 program.

Now again, the Senator is critical of the B–1 range. However, I have not heard the Senator complain about the range of the B–52. Yet, the range of the B–1, even reduced slightly from original specifications is greater than the B–52G, which represents two-thirds of the B–52 force. The B–52H goes only slightly further but it must be remembered it does so at a much slower speed and with much greater radar cross section.

These comparisons are based on refueling each aircraft once at comparable points with each aircraft carrying a normal mission load, which means the B–1 has more target destruction capability.

So, I ask the question, how can the range of the B–1 be a legitimate issue?

Mr. President, there is another point that requires a comment because it also indicates the Senator from Wisconsin's lack of understanding of aircraft dynamics. The Senator complains that the supersonic speed will not be needed and that this capability was built at a cost of $3 billion. I do not know where that figure came from or its validity but, I do not see how it can possibly be correct. The problem here is that the Senator fails to realize that by designing the B–1 to be able to achieve high subsonic speeds at very low altitude, the aircraft, almost as a bonus, gains the capability of supersonic flight above 10,000 feet.

I would like to repeat that the important part of this whole debate hinges on the B–1's ability to penetrate at low altitudes from 200 feet to 500 feet, and at well over 200 miles an hour above the present B–52.

Any expense comes from insuring that the aircraft is structurally sound enough to stand up to the tremendous stresses encountered at low level during high subsonic speeds and to insure that the engines will provide adequate thrust to overcome the high drag of low level flight.

Mr. President, time precludes my rehashing numerous other errors I believe the Senator has made in his remarks but, I am sure the Air Force will provide a detailed response.

In closing, I say to my good friend from Wisconsin that if this concludes his speeches on the B–1, at least prior to the Defense bill debate, I think they have served a very useful purpose. If the Senator plans more speeches on the B–1, I will be happy to continue replying as best I can.

I might note that our debate, so to speak, does not seem to have drawn a great deal of attention, either from our colleagues or the press. However, there was one exception, an article by James J. Kilpatrick, entitled "Two Senators and the B–1," which appeared in the Washington Star last night. I call that article to the attention of the Senator from Wisconsin and I ask unanimous consent that the article be printed at this point in my remarks.

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

TWO SENATORS AND THE B–1

(By James J. Kilpatrick)

It doesn't happen often but now and then the United States Senate provides a forum for debate in the grand manner. We have been hearing such a debate off and on for the past three weeks. The question is: Resolved, that further funding of the B–1 bomber should be suspended.

Two of the Senate's old warlords are locked in this debate. Both William Proxmire of Wisconsin and Barry Goldwater of Arizona have spent 19 years in the upper chamber. Proxmire is chairman of Senate Banking. Goldwater is ranking minority member of Senate Aeronautics. The gentlemanly foes are worthy of each other's steel.

Proxmire has the affirmative side. After reading a couple of his speeches against the B–1, I was ready to agree: Funding should stop. But it is a measure of the antagonists' skill in advocacy that after reading Goldwater's rebuttals, I thought he had the better arguments: Press on!

It is a pity that the two senators are debating in a virtual vacuum. This is the kind of story that TV cannot possibly cover. Even the largest newspapers can barely nibble at the edge of the senators' give-and-take. Proxmire and Goldwater are speaking to a handful of colleagues who show up for the morning hour, and they are making their cases in the Congressional Record. The matter is much too important to be left at that.

The argument goes back six years, to the time that Congress first authorized the Air Force to proceed with design and testing of a new bomber to replace the B–52. Pursuant to that authorization, one prototype plane has been tested extensively at Edwards Air Force Base in California. A second prototype has made three flights. A third plane will arrive for testing this summer.

The argument for replacement goes to this effect—that the existing B–52s are from 14 to 23 years old that while they performed excellently in Vietnam, they are too slow for the missions that can be imagined in the future; and that so long as the manned bomber figures significantly in our deterrent strategy, we should not settle for a second-best aircraft. We must have the best we can afford.

Proxmire contends that the price is too high for the benefits that would be gained. Largely by reason of inflation, the cost per bomber has soared from $35 to $40 million, as of 1970, to an estimated $84.3 million today. This puts the projected cost of a fleet of 243 bombers somewhere between $20 and $25 billion.

The price would be much higher, as Proxmire sees it, the Air Force had not kept reducing its design standards in an effort to keep the lid on. The prototypes now being tested will not fly as far, nor as fast, nor have the elaborate "avionics" first contemplated. Proxmire argues that these multiple billions will not buy much of a bomber. He urges that alternatives be considered—refitting the B–52s with more powerful engines, or putting our reliance in cruise missiles.

Goldwater disagrees totally. It is true, he concedes, that specifications for the B–1 have been somewhat reduced, but the new bomber still will perform every conceivable mission. Thus far, the plane's test performance has exceeded expectations. A few weeks ago, it reached a speed of 2.1 Mach, about 1,350 miles per hour. Goldwater argues that refitting the present fleet of B–52s would be a waste of money, even if new engines were available—and he says they are not. The B–1, in Goldwater's view, is a superlative aircraft, worth every penny of its cost.

Well, you pays your money and you takes your choice. A third participant in the debate, Senator Robert Byrd of West Virginia, says the $20-odd billion could be better spent on naval vessels, land forces, or other armaments. The immediate question is whether the first eight of the new fleet should be funded now.

My own feeling is that Goldwater has prevailed in this debate. If the basic premise is accepted, that a wise deterrent strategy demands a missile capability on land, sea, and in the air, the B–1 strikes me as a prudent investment. But Proxmire is performing an admirable service in raising questions and in forcing a fine, old-fashioned debate.

Mr. GOLDWATER. Again, I say to my good friend that I am always happy to repeat these various points about the B–1 as often as the Senator may desire. As I have said in my previous remarks, I hope he will find my arguments persuasive.

SENATE MAGNA CARTA DELEGATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a list of those who will comprise the Senate delegation going to London this Sunday, May 23, in connection with the loan of the Magna Carta to the Congress of the United States by the British Government. I wish to inform the Senate that all matters relative to Senate participation in the Magna Carta ceremonies under Senate Concurrent Resolution 98 will be entered into the RECORD by me as they develop.

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

SENATE MAGNA CARTA DELEGATION

Senator and Mrs. Mike Mansfield.
Senator and Mrs. Hugh Scott.
Senator and Mrs. James B. Pearson.
Senator and Mrs. George McGovern.
Senator Edward Brooke.
Senator and Mrs. Bob Packwood.
Senator and Mrs. Robert Morgan.

STAFF

Mr. Francis Valeo.
Mr. Stanley Kimmitt.
Mr. Darrell St. Claire.
Mr. Robert Barton.
Ms. Vivian Ronca.

AIDES

Mr. John Warner.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes.

THE B–1 BOMBER

Mr. PROXMIRE. Mr. President, in response to my friend from Arizona, first, let me say that I welcome his coming to the Chamber six times to respond to my arguments on the B–1 and the good temper and good sense that he has demonstrated in the course of his remarks.

As is clear, we vigorously and strongly disagree on this matter. I think he is wrong and he thinks I am wrong.

Let me review briefly the points he made today.

The distinguished Senator from Arizona insisted over and over again that the great weight of judgment on this matter of defense expert judgment is on the side of going ahead with the B–1 bomber.

I strongly dispute that. He gets very strong support, as would be expected, from within the Air Force and from within the Defense Establishment. That is natural. They will defend their program with the unanimity of military discipline. But virtually every expert on the outside who has spoken out on this is opposed to the B–1.

Last night, the former distinguished Secretary of Defense, Clark Clifford, made a devastating attack against our going ahead and spending this money on the B–1. Nineteen former top Defense officials, representing every President from Truman through Nixon, have spoken out in detail, specifying why they think this is not only a bad investment for the country but would not provide a significant improvement in the defense of our country.

Mr. President, the distinguished Senator from Arizona talked about how the B–52 would not be able to penetrate the Soviet air space. Of course, I agree on that. I am proposing the B–52 as a stand-off platform to launch cruise missiles.

The Senator talked about how the cruise missile would not be able to penetrate.

The fact is that the cruise missile, in the first place, has various improvements in it which would enable it to evade radar and evade hostile attacks; but in addition, the cruise missile is a relatively very cheap weapon system, that can saturate the area and on that basis be able to come in. Further, the cruise missile, of course, is not manned, as the B–1 bomber would be, so that when one is shot down you do not lose American lives.

The Senator from Arizona has argued that my facts were wrong. Virtually every fact he disputes was asserted on the basis of a report from the General Accounting Office, a report which the Senator from Arizona has praised. I call the attention of the Senator from Arizona to that report.

Also, I point out that, in challenging my $3 billion cost for developing a capability for the B–1 bomber, he asked, "Where did that come from?" I am happy to tell him where it came from. It came from the Air Force. We will be happy to put into the RECORD the Air Force admission that it would cost $3 billion.

This comes down, I think, to an exchange we had after the fourth speech, or rather a statement the Senator made after my fourth speech. He agreed with me that we can build a better bomber than the B–1 if we wait 5 years or 10 years from now, that we will be able to build a bomber that will be faster, that will be more economical, that will have greater range and penetration ability, and that would be a better weapons system in every way.

He says we cannot wait that long. I point out to him that during the 1980's we will continue to have superiority over the Soviet Union in long-range bombers. Today we have substantial superiority over the Soviet Union; some say four times as many. Whether it is four times or two times as many, we do have more.

It is true they are developing the so-called Backfire bomber, but there are many questions about that Backfire bomber, about its range and whether it would qualify as a long-range bomber, capable of attacking this country.

Therefore, I think the argument that we should postpone the B–1 makes sense from every standpoint. Ten years from now, if we feel the need for a better long-range bomber, we can build a better, more efficient one. In the meantime, we will continue to have superiority over the Soviet Union; if there is a gap, it will be on their side.

I congratulate the Senator from Arizona on his initiative. I took the initiative in making these speeches, and he took the initiative in making the debate. Although Mr. Kilpatrick said the Senator from Arizona had the better of the argument, and that that is one I lost, I have great respect for Mr. Kilpatrick; I believe this debate has been very constructive and helpful, as he pointed out in his article, and I hope it will be of help to the Senate in reaching a decision on the B–1 bomber when the vote comes up in a few days.

The PRESIDENT pro tempore. Is there morning business?

Mr. GOLDWATER. Mr. President, under morning business, just a few remarks in response to my friend from Wisconsin.

He talks about experts opposed to the B–1. Looking over that list of experts, they all appear to belong to what I call the McNamara School. I have known the attitude of those gentlemen for many years, not just on the B–1 bomber but on practically every advanced weapons system we have had. I would much rather take the views of military professionals who had spent 30 or 40 years of their lives in the study of the strategic problems of this country, relative to the strategic ability of our potential enemies, the Soviet and, yes, the growing strategic ability of the Red Chinese.

My friend talks about the cruise missile. I will agree with him that the cruise missile will be welcomed with open arms into the inventory of the Air Force and the Navy when that time comes. But we are not very close to reaching the point with the cruise missile that the Senator is talking about. Because the material I would like to speak about is highly classified, I will have to refrain from it, but I will say that when the cruise missile has reached the point that we can mount it in our inventory, and it certainly eventually will be there, it will be a very great and valued addition to the weapons we are presently carrying.

The Senator has mentioned the $3 billion needed, or which has been spent, to make this B–1 capable of flying at the speeds at which it flies. Again, we get into aerodynamics. It is one thing to design an airplane to cruise at subsonic speeds, regardless of altitudes. It is another thing to design an airplane that will fly supersonically. We have to deal, for example, with what is known as the "coke bottle" effect. Senators will notice that all supersonic airplanes are shaped something like a Coca-Cola bottle. Building an airplane like that costs money. We do not get those things for nothing.

The Senator mentions waiting 10 years. I wish we could wait 10 years, but I am afraid that 10 years from now an airplane which will meet the strategic needs of this country will cost, not $85 million, but as much as $200 million or $300 million. We are not showing any inclination in Congress to control inflation. The Metro system is costing four times the original estimate. The Kennedy Center is costing twice as much as we thought it would. A pair of shoes now costs me at least twice as much as it did when I was a younger man.

So I am afraid we cannot afford to wait. To people who say we are so superior to the Soviets that we need not worry, I say we are really not. Look at the Soviet bomber forces. We should count their midrange bombers. We put our midrange bombers in mothballs, or in retirement, out in Arizona, with the agreement that the Russians would do the same; but they never did. When you add their midrange fleet to their long-range fleet, they have about the same bomber strength we have. It is true that they will not get here and back, but they can get to Cuba, or land out in the ocean someplace and be picked up, or perhaps they do not even care.

Mr. President, I again compliment my friend from Wisconsin. I think he has done remarkable research; I think in the wrong fields, but he has presented his case well, and when we go into debate on the military authorization bill, which I understand might be tomorrow, I think the remarks that can be found in the RECORD will certainly cover the B–1 from its nose to its tail, and our colleagues will have the benefit of being able to read it instead of listening to it.

ORDER FOR ADJOURNMENT UNTIL 12 NOON TOMORROW

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

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

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after orders for the recognition of any Senators have been completed on tomorrow, there 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.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate the nomination of Wade Choate, of Texas, to be a member of the National Credit Union Board, which was referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE NATIONAL HEART AND LUNG ADVISORY COUNCIL—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

Enclosed is the "Third Report of the National Heart and Lung Advisory Council," prepared in accordance with the requirement of section 418(b)(2) of the Public Health Service Act.

The National Heart and Lung Advisory Council has again prepared a thoughtful Report that addresses a number of important research policy questions. With regard to the recommendations and conclusions in the Council's Report, some recommendations are in accord with the Administration's views (e.g., the need for evaluation of pilot programs) and other recommendations are at variance with Administration policy (e.g., the budget recommendation and recommendations dependent on the Council's recommended budget).

The Council recommended funding levels without full knowledge of the competing needs of other high priority programs. Therefore, it is not surprising that the budget recommendations of the Council considerably exceed those of the President's 1977 Budget, which must take fiscal constraints and competing national needs into consideration. It should be noted that the budget for the National Heart and Lung Institute has increased greatly in recent years: from $195 million in 1971 to a potential of $370 million in 1976.

In addition, these fiscal concerns were recognized in H.R. 7988, "Health Research and Health Services Amendments of 1976", which I recently signed into law. The Congress authorized appropriations at a considerably lower level for FY 1977 than was recommended by the Council.

The Administration recognizes the accomplishments of the National Program as outlined in the Council's Report, and continues to view the heart, blood vessel, lung, and blood program as an area of high priority. The Report of the Council is being carefully studied and evaluated. I am forwarding the Report so that it is available to the Congress for its deliberations.

GERALD R. FORD.

THE WHITE HOUSE, May 19, 1976.

MESSAGES FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13172) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 16, 19, 20, 21, 22, 23, 27, 30, 35, 43, 50, 52, 67, 70, 61, 76, 90 through 115, inclusive, 116, 122, 123, 124, 128, 130, 140, 141, 158, 159, 176, 177, 179, 181, 182, 185, 194, 195, 206, 209 through 214 inclusive, 229 through 235 inclusive, 244, and 245 and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 29, 61, 75, 80, 81, 83, 87, 126, 127, 171, 178, 184, 187, 196, and 197 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MEEDS, Mr. MELCHER, Mr. STEPHENS, and Mr. YOUNG of Alaska were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 8089) to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business.

The message also announced that the House has passed the bill (S. 3161) to authorize the Secretary of the Interior, with the approval of the Architect of the Capitol, to locate flagpoles on the U.S. Capitol Grounds in order to fly the flag of each of the States of the United States, and its territories and possessions, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2679) to establish a Commission on Security and Cooperation in Europe, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the Speaker has appointed Mr. MOORE and Mr. VAN DEERLIN as managers on the part of the House in the conference on the disagreeing votes of the two Houses to the bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games; Mrs. Esther Mae Henke of Oklahoma City as a member from private life to fill the existing vacancy on the Advisory Committee of the White House Conference on Library and Information Services; and Representative RHODES as a member of the U.S group of the North Atlantic Assembly on the part of the House.

The message also announced that the House has passed without amendment the bill (S. 1494) for the relief of Paul W. Williams.

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

H.R. 1386. An act for the relief of Smith College, Northampton, Mass.;

H.R. 2181. An act to amend the tariff schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation;

H.R. 2749. An act to name a portion of the site of the Anthony J. Celebrezze Federal Building in Cleveland, Ohio, the "George Washington Square";

H.R. 4047. An act for the relief of Jack R. Misner;

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact;

H.R. 9401. An act to continue to suspend for a temporary period the import duty on certain horses;

H.R. 11259. An act to lower the duty on levulose until the close of June 30, 1978;

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions;

H.R. 11605. An act to suspend for a temporary period the rate of duty on mattress blanks of rubber latex;

H.R. 12033. An act to continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products;

H.R. 12118. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations and for other purposes;

H.R. 12527. An act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal years 1976 and 1977, and for other purposes;

H.R. 12545. An act authorizing additional appropriations for prosecution of projects in

certain comprehensive river basin plans for flood control, navigation, and for other purposes; and

H.R. 12851. An act to extend and amend the Higher Education Act of 1965, as amended, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 11619) to authorize further appropriations for the Council on Environmental Quality.

The enrolled bill was subsequently signed by the President pro tempore.

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the following bills with amendments in which it requests the concurrence of the Senate:

S. 223. An act for the relief of Angela Garza;

S. 2529. An act to amend chapter 37 of title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes; and

S. 2129. An act to provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders.

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

H.R. 5682. An act to extend the boundary of the Tinicum National Environmental Center, and for other purposes;

H.R. 10192. An act to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy;

H.R. 12735. An act to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State of any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans;

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance; and

H.R. 13380. An act to amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 2279. An act for the relief of Mrs. Louise G. Whalen.

H.R. 8089. An act to amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business.

S. 1494. An act for the relief of Paul W. Williams.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:35 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2984. An act to amend section 4941(d)(2)(G) of the Internal Revenue Code of 1954;

H.R. 7685. An act for the relief of Mildred N. Crumley;

H.R. 8471. An act to authorize the President to prescribe regulations relating to the purchase, possession, consumption, use, and transportation of alcoholic beverages in the Canal Zone;

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy;

H.R. 13272. An act to amend section 407 of the Social Security Act to eliminate the present prohibition against payment of aid in the case of a family with an unemployed father who receives unemployment compensation, and, where possible, to eliminate the necessity of more than one registration for employment by an unemployed person; and

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the Home to collect a fee from the members of the Home; by appropriating nonjudicial forfeitures for support of the Home; and by increasing the deductions from pay of enlisted men and warrant officers.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, the necessity for a supplemental appropriation for the U.S. Information Agency; to the Committee on Appropriations.

PROPOSED LEGISLATION BY THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting a draft of proposed legislation to amend the Bank Holding Company Act Amendments of 1970 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY THE MARINE MAMMAL COMMISSION

A letter from the Chairman of the Marine Mammal Commission transmitting a draft of proposed legislation to amend the Marine Mammal Protection Act (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION BY THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting a draft of proposed legislation to amend the Merchant Marine Act (with accompanying papers); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting pursuant to law, a report entitled "Examination of Financial Statements of Federal Prison Industries, Inc., Fiscal Year 1975" (with an accompanying report); to the Committee on Government Operations.

EXPROPRIATION OF THE POTASH INDUSTRY

A letter from the Staff Economist of the Department of Agriculture commending the Senate on its adoption of Senate Resolution 403, relating to expropriation by Saskatchewan Province of the potash industry; ordered to lie on the table.

AMENDMENT TO APPROPRIATIONS REQUEST FOR THE NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS—(S. Doc. No. 94-195)*

A communication from the President of the United States transmitting an amendment to the request for appropriations for the National Study Commission on Records and Documents of Federal Officials in the amount of $445,000 for the fiscal year 1977 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION—(S. Doc. No. 94-196)*

A communication from the President of the United States transmitting a request for supplemental appropriations for the Department of Transportation for the fiscal year 1977 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PETITIONS

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

House Resolution No. 578 adopted by the House of Representatives of the State of Illinois; to the Committee on Armed Services:

"HOUSE RESOLUTION No. 578

"Whereas, The United States Senate has voted to reject the House-Senate Conference Committee Report which would authorize the Department of Defense to update our Nation's defenses through weapons research and procurement and to establish new armed forces manpower levels; and

"Whereas, When this important House-Senate Conference Committee Report came before the Senate on August 1, 1975, there were only 90 members present and voting and the rejection was by a vote of 48 to 42; and

"Whereas, It is vital to the well-being of every citizen of this great Nation that our defensive strength not be allowed to deteriorate to a point below that of other nations but rather than our defense establishment be second to none; and

"Whereas, The strength of our Nation's defenses deserves the time and attention of our elected officials in Washington and must not be neglected because of apathy or political maneuvering; therefore, be it

"Resolved, By the House of Representatives of the Seventy-ninth General Assembly of the State of Illinois, That this House supports granting authority to the Department of Defense to update our Nation's defenses through weapons research and procurement and to establish new armed forces manpower levels; and, be it further

"Resolved, That this House urges all members of the United States Congress to give close attention to matters concerning our national defense and to support those proposals that will maintain a defense structure second to none."

Resolution No. 102—1976 adopted by the Legislature of the Northern Mariana Islands; ordered to lie on the table:

"RESOLUTION No. 102—1976

"A resolution relative to expressing sincere appreciation and gratitude to the Honorable Gerald R. Ford, President of the United States of America and the Congress of the United States of America for acting favorably on the covenant to establish a Commonwealth of the Northern Mariana Islands

"Whereas, subsequent to the conclusion of negotiations between representatives of the government of the United States and the people of the Northern Mariana Islands, the

signed agreement reached during the negotiation—A Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America—was transmitted to the Congress of the United States by President Gerald R. Ford and urged speedy action by the Congress in reviewing and approving the Covenant; and

"Whereas, on July 24, 1975, the United States House of Representatives after extensive hearings and ample opportunity for all concerned to make known their views relative to the Covenant to Establish the Commonwealth of the Northern Mariana Islands, passed by unanimous consent and without any objection House Joint Resolution 549; and

"Whereas, the Senate Interior Committee, as well as the Senate Foreign Relations Committee and the Senate Armed Services Committee held extensive hearings on the proposed Covenant to Establish the Commonwealth of the Northern Mariana Islands, and again giving full opportunity for all those individuals, groups and other interested persons to make known their views relative to the proposed Covenant; and

"Whereas, after extensive hearings and full debate, the Senate, on February 24, 1976, passed House Joint Resolution 549 that authorized the establishment of the Northern Mariana Islands in Political Union with the United States of America; and

"Whereas, minor amendments to House Joint Resolution 549 were concurred on by the United States House of Representatives on March 11, 1976; and

"Whereas, on March 24, 1976, President Gerald R. Ford, in a ceremony held at the White House, signed House Joint Resolution 549 which became P.L. 94–241, established the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and

"Whereas, this final act culminates more than a quarter of a century of requests by the people of the Northern Mariana Islands to become a part of the American political family; and

"Whereas, on for and on behalf of all the people of the Northern Mariana Islands, we, the elected leaders, wish to go on record of expressing our deep and sincere appreciation and gratitude to the people of the United States of America through the President and their elected representatives for the privilege of being allowed to become a part of the American political family;

"Now, therefore, be it resolved by the Fourth Northern Mariana Islands Legislature, Eighth Regular Session, 1976, that sincere appreciation and gratitude of the people of the Northern Mariana Islands be and hereby are expressed to the people of the United States of America for the approval of the Convenant to Establish a Commonwealth of the Northern Mariana Islands;

"And be it further resolved that the Speaker certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to the President of the United States, President Gerald R. Ford, Honorable Nelson A. Rockefeller, Vice-President of the United States and President of the Senate, Carl Albert, Speaker of the House of Representatives, Phillip Burton, Chairman, Subcommittee on Territorial and Insular Affairs, United States House of Representatives; Henry A. Jackson, Chairman, Senate Committee on Interior and Insular Affairs, John Sparkman, Chairman Foreign Relations; John C. Stennis, Chairman, Senate Committee on Armed Services and Ambassador Franklin Hadyn Williams, the President's Personal Representative for the Micronesian Status Negotiations."

A resolution adopted by the Republican County Committee of Hilo, Hawaii, regarding the Panama Canal; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. METCALF, from the Committee on Interior and Insular Affairs, without amendment:

S. 3091. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) and the act of June 4, 1897 (30 Stat. 35) (together with additional views) (Rept. No. 94–905).

By Mr. ABOUREZK, from the Committee on Interior and Insular Affairs, with amendments:

S. 1068. A bill to designate certain lands in the Badlands National Monument, South Dakota, as wilderness (Rept. No. 94–906).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 3422. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes (together with minority views) (Rept. No. 94–907).

Mr. MAGNUSON. Mr. President, on behalf of the Committee on Commerce I submit S. 3422, a bill favorably ordered reported by the Senate Commerce Committee on Tuesday, May 18, 1976. I ask unanimous consent that the committee have until midnight May 21, 1976, to file the written report on S. 3422.

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

Mr. MAGNUSON. I also ask unanimous consent that the bill as reported and a summary description of the reported bill be printed at this point in the RECORD.

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

S. 3422

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 "Natural Gas Act Amendments of 1976".

SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This Act may be cited as the 'Natural Gas Act'.".

SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1976 (hereinafter referred to as the 1976 Amendments) (15 U.S.C. 717 (b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after the date of enactment of the 1976 Amendments, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided,* That sales or purchases of new natural gas by any natural-gas company from other than offshore Federal lands during the period that begins on the date of enactment of the 1976 Amendments and ends 7 years from such date of enactment shall be subject to the onshore price limitation established in sections 4 and 5 of this Act and adjusted pursuant to section 31 of this Act: *Provided, however,* That such sales shall not be subject to the provisions of section 7 of this Act (15 U.S.C. 717f). Nothing contained in the 1976 Amendments shall modify or affect the authority of the Commission in effect prior to the date of enactment of such 1976 Amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas except as provided in section 30 of this Act, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce."

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by striking paragraph (5) thereof and by redesignating paragraph (6) through (9) as paragraphs (13) through (16), and by inserting the following new paragraphs:

"(5) 'Natural gas' means natural gas or synthetic natural gas unmixed, or any mixture of natural and synthetic natural gas.

"(6) 'Synthetic natural gas' means gas manufactured from coal or other hydrocarbon-containing materials which is sold or transported in interstate commerce.

"(7) 'New natural gas' means natural gas sold or delivered in interstate commerce (except synthetic natural gas or liquefied natural gas) (A) which is dedicated to interstate commerce for the first time on or after January 1, 1976: *Provided,* That natural gas so sold or delivered from offshore Federal lands shall be dedicated for the life of the reservoir and committted for an initial contract term of not less than 15 years or for the life of the reservoir if less than 15 years: *Provided further,* That any natural gas sold by a producer in interstate commerce prior to the date of enactment of the 1976 Amendments pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a reservoir discovered on or after January 1, 1976, as determined by rule by the Commission, or produced from wells initiated and completed in an extension on or after January 1, 1976 of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered or extended reservoir were theretofore committed by contract or otherwise dedicated to the interstate market.

"(8) 'Old natural gas' means natural gas except (A) new natural gas or (B) synthetic natural gas sold or delivered on or after January 1, 1976.

"(9) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity in the previous quarter, or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts in the previous quarter, for the purpose of generating electricity and the use of natural gas as the source of fuel for generating industrial steam and/or industrial space heat in an amount that exceeds 3,000 Mcf on any day per plant in the previous quarter as determined by rule by the Commission, following the date of enactment of the 1976 Amendments.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by rule by the Commission.

"(11) 'Offshore Federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"(12) 'Mcf' means 1,000 cubic feet of natural gas containing one million British thermal units of energy at 60 degrees Fahrenheit and 14.73 pounds per square inch absolute pressure.".

SEC. 5. (a) Section 4(a) of the Natural Gas

Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore Federal lands shall be deemed to be just and reasonable, if such rates and charges do not exceed the applicable ceiling price, established by the Commission, pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural-gas company. The rates and charges made, demanded, or received by any natural-gas company for, or in connection with a contract for the sale of new natural gas produced from lands other than offshore Federal lands shall be deemed just and reasonable, if such rates and charges do not exceed, during the period that begins on the date of enactment of the 1976 Amendments and ends 7 years after such date of enactment, an amount (hereinafter referred to as the "onshore price") equal in any State to the lesser of either (A) $1.60 per Mcf as adjusted pursuant to subsections (a), (b), and (c) of section 31 of this Act; or (B) a rate established by any such State for first sales or purchases of natural gas produced in such State for consumption in such State, as determined by the Commission.

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power—

"(1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the applicable ceiling price, established by the Commission pursuant to section 24 of this Act, or (B) to the extent that such rates or charges exceed, during the period that begins on the date of enactment of the 1976 Amendments and ends 7 years afer such date of enactment, an onshore price equal to the lesser of either (i) $1.60 per Mcf as adjusted pursuant to subsections (a), (b), and (c) of section 31 of this Act; or (ii) a ceiling rate established by any State for sales of natural gas produced in such State for consumption in such State, or (c) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or

"(2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act by the Commission and finally affirmed by judicial review, if such review is sought by any party."

SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ": *Provided further*, That the Commission shall have no power—

"(1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the ceiling price, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) to the extent that such rates or charges exceed, during the period that begins on the date of enactment of the 1976 Amendments and ends 7 years after such date of enactment, an onshore price equal to the lesser of either (i) $1.60 per Mcf as adjusted pursuant to subsection (a), (b), and (c) of section 31 of this Act; or (ii) exceeds an amount established by any State for sales of natural gas produced in such State for consumption in such State; or (C) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or

"(2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable by the Commission and finally affirmed by judicial review, if such review is sought by any party, pursuant to this Act.".

SEC. 7. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following two new subsections:

"(h) The Commission is further authorized and directed to conduct studies of the exploration, development, production, gathering, storage, transportation, distribution, consumption, and sale of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, including the exploration, development, production, gathering, storage, transportation, distribution, consumption and sale of natural gas by any agency or other instrumentality of the United States or of any State or political subdivision thereof and to make an annual independent estimate of proved and potential natural-gas reserves. It shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, development, production, gathering, storage, transportation, distribution, consumption, and sale; (2) the Commission's independent estimate of total proved and potential natural-gas reserves in the United States by fields or reservoirs, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall annually report to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum practical extent to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.".

SEC. 8. The Natural Gas Act (15 U.S.C. 717 et seq.), as amended by the 1976 Amendments, is further amended by adding at the end thereof the following eight new sections:

"CEILING PRICE FOR NEW NATURAL GAS PRODUCED FROM OFFSHORE FEDERAL LANDS

"SEC. 24. (a) Rates and charges for first sales of new natural gas produced from offshore Federal lands shall be deemed just and reasonable only if the aggregate of such rates and charges do not exceed a ceiling price equal to the sum of—

"(1) a base price as determined in accordance with subsection (b) of this section or a special price as determined in accordance with subsection (c) of this section;

"(2) any adjustment of the base price or special price in accordance with subsection (d) of this section (relating to inflation or deflation) applicable at the time of the initial dedication of such natural gas; and

"(3) any additional amounts authorized to be paid under subsection (e) of this section (relating to quality and other adjustments) and subsection (f) of this section (relating to contract escalations).

"(b) The base price—

"(1) from January 1, 1976 until a new base price is established pursuant to paragraph (2) of this subsection shall be equivalent on a British thermal unit (Btu) basis to the maximum weighted average first sale price for crude oil produced in the United States in effect on the date of enactment of the 1976 Amendments as determined by the Federal Energy Administration pursuant to title IV of the Energy Policy and Conservation Act (15 U.S.C. 753–757). The Commission shall express such base price in cents per Mcf by dividing such maximum weighted average first sale price for crude oil by a factor of 5.8.

"(2) on January 1, 1981 for the following 5 years shall be established by the Commission by rule and be effective on January 1, 1981, and such base price shall be revised thereafter by rule at 5-year intervals. In establishing such base price the Commission shall consider the following factors and only these factors:

"(A) the experience in the previous 5 years with respect to whether the prevailing prices have been at excessive or inadequate levels for attracting capital for the exploration, development and production of new natural gas from offshore Federal lands;

"(B) the prospective costs, without regard to prospective levels of general inflation or deflation, attributable to the exploration, development, production, gathering, and sale of the new natural gas from offshore Federal lands;

"(C) the base price necessary to encourage the optimum levels of (i) the exploration for natural gas produced from offshore Federal lands, (ii) the development, production and gathering of natural gas produced from offshore Federal lands, and (iii) the maintenance of proved reserves of natural gas in the offshore Federal lands; and

"(D) the base price that will protect consumers of natural gas from prices that, in the absence of such a base price, would be higher than necessary to satisfy the criteria of subparagraphs (A) through (C) of this paragraph.

"(c) The Commission may by rule establish one or more special prices or authorize a person to charge or receive for new natural gas an amount in excess of the base price authorized in subsection (b) of this section,

in any high-cost production area or vertical drilling depth in any offshore Federal lands designated by the Commission. The Commission may designate high-cost production areas or vertical drilling depths, and, pursuant to the factors for revising the base rate in paragraph (2) of subsection (b) of this section, may establish such special prices if the Commission finds—

"(1) that the current and prospective costs, without regard to prospective levels of general inflation or deflation, of production in such high-cost production area or vertical drilling depth designated by the Commission are substantially above the adjusted base price authorized under subsection (a) of this section; and

"(2) the production of new natural gas in such designated high-cost production area or vertical drilling depth is required by the public convenience and necessity.

"(d) (1) The base price established or revised pursuant to subsection (b) (1) or (2) of this section or any special price established or revised pursuant to subsection (c) of this section shall, commencing with the quarter following the date of enactment of the 1976 Amendments, and at quarterly intervals thereafter, be adjusted by the Commission for any inflation or deflation by multiplying it by a number whose numerator is the latest available quarterly implicit price deflator for Gross National Product and whose denominator is the implicit price deflator for Gross National Product for the corresponding quarter of the base year 1976, as compiled by the Bureau of Economic Analysis as initially published by the Department of Commerce.

"(2) The Bureau of Economic Analysis or a successor agency shall continue to compile, and the Department of Commerce shall continue to publish, the implicit price deflator for Gross National Product, in accordance with procedures consistent with those in effect on January 1, 1976, in order to carry out the purposes of this Act.

"(e) The Commission shall, by rule, permit variations from the adjusted base price or any special price during the term of the contract for new natural gas sold pursuant to this section to reflect the Btu content of the natural gas, an allowance for gathering actually performed by the producer, the cost of removing impurities, changes in severence taxes or similar taxes, the value of any compensation advanced to the producer, and other such cost-oriented adjustments.

"(f) A producer may, at the time of dedication of new natural gas subject to this section, provide by contract for a specified annual increase in the price of such natural gas above the applicable adjusted base price in effect at the time the natural gas was initially dedicated to compensate for increased costs in the production of such natural gas, not in excess of an amount to be determined by the Commission by rule.

"(g) Upon the expiration of the minimum initial contract term of 15 years for the sale of new natural gas subject to this section, such natural gas shall continue to be sold or transferred at a price mutually acceptable to the seller and the purchaser, not in excess of the then applicable ceiling price. Any contract entered into upon the expiration of the initial contract or any sales or transfers upon the expiration of the initial contract shall be for a term equal to the remaining life of the dedicated reservoir.

"ADVANCE PAYMENTS

"SEC. 25. Notwithstanding the provisions of section 1 of this Act, if the Commission, pursuant to its authority to regulate natural-gas companies under sections 4, 5, and 7 of this Act (15 U.S.C. 717c, 717d and 717f), authorizes any such company to advance funds to any person prior to production of the natural gas, the contract covering such sale shall be filed with the Commission at least 60 days in advance of payments thereunder. The Commission thereafter may require, after notice and opportunity for hearing, that the sales rate be reduced or modified from an amount that equals the current rates and charges for comparable sales by other persons as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"SEC. 26. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, use as a raw material feedstock, or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, and food packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall assist the Commission in determining the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall assure, to the maximum extent feasible, the maintenance of natural-gas service to persons using natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"COMMISSION JURISDICTION OVER SYNTHETIC NATURAL GAS

"SEC. 27. The provisions of this Act shall apply to any plant (except to any proposed plant that proposes to use, in whole or in part, crude oil, residual fuel oil, refined petroleum products, natural gas liquids or condensate, or natural gas liquid products as a feedstock) for the manufacture of synthetic natural gas, to any sales or transportation of such synthetic natural gas, and to any person owning or operating such plant: *Provided*, That such jurisdiction shall not, as a result of the operation of this section, include the feedstock of such plant: *Provided further*, That if any such person or predecessor in interest was bona fide engaged in the production, transportation or sale of synthetic natural gas, subject to the jurisdiction of the Commission on the date of enactment of the 1976 Amendments, the Commission shall issue a certificate required under section 7 of this Act without requiring further proof that the public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission within 90 days after the date of enactment of the 1976 Amendments. Pending the determination of any such appplication, the continuance of such operation shall be lawful: *And provided further*, That such jurisdiction shall not preempt State laws, rules, and regulations regarding natural resource development, conservation, and environmental protection, or any other proper exercise of State police powers.

"NATURAL-GAS CONSERVATION

"SEC. 28. (a) Except as provided in subsections (c) and (e) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce supplied pursuant to any delivery araringement in effect or contract initially executed after May 12, 1976, unless, upon petition by the user, the Commission determines for the subsequent 12 month period that—

"(1) alternative fuels, other than propane, are not available to such user; or

"(2) it is not practicable or feasible to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsections (c) and (e) of this section, boiler fuel use of natural gas supplied pursuant to any delivery arrangement in effect or contract initially executed prior to May 12, 1976, for the purpose of generating electricity shall be terminated by the user of such natural gas at the expiration of such contract or 10 years after the date of enactment of the 1976 Amendments whichever is earlier, unless, upon petition of such user, the Commission determines for the subsequent 12 months period that—

(1) alternative fuels, other than propane (and, other than crude oil, residual fuel oil refined petroleum products until May 10, 1986), are not available to such user, or—

(2) it is not practicable or feasible to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) The Commission shall exempt from any rule under this section the boiler fuel use of natural gas by powerplants or industrial facilities for the purpose of operating pollution abatement systems to the extent natural gas is required for the efficient operation of such pollution abatement systems.

"(d) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining practicability where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law.

"(e) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term or seasonal air quality emergencies or any other significant risk to the public health or safety.

"(f) Except as expressly provided in subsection (b) of this section, the Commission under the authority of the Natural Gas Act, shall not (1) modify, amend, or abrogate contracts entered into prior to May 10, 1976, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act: *Provided, however*, That the provisions of this subsection shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas sold by a natural-gas company to its customers.

"(g) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act (15 U.S.C. 717p). Notwithstanding the provisions of section 1 of the Act (15 U.S.C. 717), the provisions of

sections 20, 21, and 22 (15 U.S.C. 717s, 717t and 717u) shall be applicable for the enforcement of this section.

"INCREMENTAL PRICING FOR BOILER FUEL USERS

"SEC. 29. (a) Within 120 days after the date of enactment of the 1976 Amendments, the Commission shall by rule require all natural-gas companies which transport natural gas in interstate commerce making sales for the boiler fuel use of natural gas to charge all such users a rate the purchase gas component of which, as determined by rule by the Commission, is equal to—

(1) the average price of purchased natural gas of such company exclusive of any amounts paid in excess of the then applicable adjusted base price for new natural gas produced from offshore Federal lands, and

(2) a surcharge computed by dividing the total amount paid in excess of the applicable adjusted base price for new natural gas produced from offshore Federal lands at the time of computation by the total volume for all the boiler fuel use of natural gas in such company's system, including sales for resale to boiler fuel users.

(b) Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717). All natural-gas companies shall condition, pursuant to rules promulgated by the Commission within 120 days after the date of enactment of the 1976 Amendments, all sales for resale for the boiler fuel use of natural gas to require that such boiler fuel users are charged a rate for purchased natural gas that is not less than the rate computed pursuant to subsection (a) of this section.

(c) In conditioning such sales, the Commission shall by rule limit such charges so that the total purchased gas portion of the rate for the boiler fuel use of natural gas does not exceed an amount equal to 120 percent of the equivalent (on a Btu basis) of the national average cost of heating oil as reported by the Federal Energy Administration (or a successor agency) in the previous year.

(d) The Commission shall promulgate rules to govern sales, exchanges or transfers among natural-gas companies and sales, exchanges or transfers to natural-gas distributing companies or other customers served by multiple natural-gas companies the extent necessary to achieve the purpose of this section. Such rules shall supersede the law or regulations of any State that are inconsistent with such Commission rules unless such State laws or regulations are approved by the Commission.

(e) Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717(a) to 717 (d)), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable for the enforcement of this section.

"RATES AND CHARGES FOR OLD NATURAL GAS

"SEC. 30. The Commission shall, as soon as practicable after the date of enactment of the 1976 Amendments, pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish, and every 2 years shall, modify a national ceiling for rates and charges for the sale in interstate commerce for resale of old natural gas, after the expiration of a contract by its own terms (and not through the exercise of any power to renegotiate contained therein or to terminate whether express or implied) for the continued sale or delivery of such natural gas. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"(1) the cost attributable to the exploration, development, production, gathering, and sale of old natural gas;

"(2) the prospective costs of operation, reworking, installation of additional compression, and similar expenses, which costs are necessary to prevent abandonment in place of reserves of old natural gas otherwise recoverable;

"(3) the reimbursement to the seller of (a) any severance, production, or other tax payable by the seller and levied on the value of production at the wellhead; and (b) any royalty or royalties on natural gas which a producer is required to pay to a royalty owner under applicable State law;

"(4) the rate of return on seller's original capital investment which is sufficient to encourage the optimum level of investment in exploration, development and production of old natural gas; and

"(5) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraph (4) of this subsection.

ADJUSTMENTS TO THE PRICE FOR NEW NATURAL GAS PRODUCED FROM LANDS OTHER THAN OFFSHORE FEDERAL LANDS

SEC. 31. (a) During the period that begins on the date of enactment of the 1976 Amendments and ends seven years from such date, the Commission may by rule establish one or more special prices or authorize a natural gas company which transports natural gas in interstate commerce to purchase new natural gas produced from lands other than offshore Federal lands at a special price in excess of the applicable onshore price under sections 4 and 5 of this Act (15 U.S.C. 717c, 717d) in any high cost production area or vertical drilling depth designated by the Commission. The Commission may designate high-cost production areas or vertical drilling depths, and may establish such special prices if the Commission finds—

"(1) that the current and prospective costs without regard to prospective levels of general inflation or deflation of production in such high-cost production area or vertical drilling depth designated by the Commission are substantially above the onshore price authorized under sections 4 and 5 of this Act; and

"(2) the production of new natural gas in such designated high-cost production area or vertical drilling depth required is by the public convenience and necessity.

"(b)(1) The onshore price established or revised pursuant to sections 4 and 5 of this Act or any special price established or revised pursuant to subsection (a) of this section shall, commencing with the quarter following the date of enactment of the 1976 Amendments, and at quarterly intervals thereafter, be adjusted by the Commission for any inflation or deflation by multiplying it by a number whose numerator is the latest available quarterly implicit price deflator for Gross National Product and whose denominator is the implicit price deflator for Gross National Product for the corresponding quarter of the base year 1976, as compiled by the Bureau of Economic Analysis as initially published by the Department of Commerce.

"(2) The Bureau of Economic Analysis or a successor agency shall continue to compile, and the Department of Commerce shall continue to publish, the implicit price deflator for Gross National Product, in accordance with procedures consistent with those in effect on January 1, 1976, in order to carry out the purposes of this Act.

"(c) The Commission shall, by rule, permit variations from the onshore price or any onshore special price established under sections 4 and 5 of this Act during the term of the contract for new natural gas sold pursuant to this section to reflect the Btu content of the natural gas, an allowance for gathering actually performed by the producer, the cost of removing impurities, severance taxes or similar taxes, the value of any compensation advanced to the producer, and other such cost-oriented adjustments.".

SUMMARY OF S. 3422 AS REPORTED BY THE COMMITTEE ON COMMERCE

The Natural Gas Act Amendments of 1976 (S. 3422) propose a fundamental restructuring of the Federal Power Commission (FPC) regulatory authority over natural gas production and sales, and seek to balance the consumer's interest in low-cost energy against the consumer's interest in adequate supplies of clean, efficient energy to meet his needs. S. 3422 resembles S. 2310 as passed by the Senate on October 22, 1975 by a rollcall vote of 58–32.

Following are the principal features of S. 3422:

I. NEW NATURAL GAS DEFINITION

"New natural gas" is defined as natural gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available after the expiration of short term or emergency contracts is defined as "new natural gas." This definition is virtually the same as that contained in S. 2310 except under S. 2310 the effective date was January 1, 1975. (Under S. 2310, the effective date was January 1, 1975.)

II. ON-SHORE NATURAL GAS PRICING

Producer regulation under the Natural Gas Act is terminated for new natural gas sales. That is, the requirements for producer certification, dedication, rate filing and abandonment of new natural gas produced and sold from on-shore lands will no longer apply. Producers are, however, prohibited from charging directly or indirectly more for natural gas than the applicable ceiling prices. The 1976 Amendments' treatment of new on-shore natural gas pricing is based upon S. 2310. However, the 1976 Amendments incorporate an "onshore price" concept which was not included in S. 2310.

During the period from the date of enactment of S. 3422 to seven years from such date of enactment, interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from on-shore lands. Such purchases will be just and reasonable, under sections 4 and 5 of the Natural Gas Act, only if they do not exceed the "onshore price" which is statutorily established at $1.60, as adjusted quarterly for inflation or deflation, Btu content, and other specified customary and necessary adjustments. Authority is extended to the FPC to authorize special on-shore prices, during the seven year transition period, to accommodate special high cost of production conditions.

III. OFF-SHORE NATURAL GAS PRICING

Under S. 3422, a permanent system of FPC ceiling price authority is established for new natural gas produced from off-shore federal lands. Initially, the FPC would establish a "base price" for sales of new natural gas from off-shore federal lands equal to the average price of domestic oil, on an energy equivalent basis, in effect on the date of enactment.

This initial base price, to be effective for five years (January 1, 1976 through December 31, 1980), would be about $1.35 per Mcf (compared to 52c per Mcf under current law). On January 1, 1981, and thereafter at five year intervals, the FPC would be required to revise its base price to reflect certain criteria enumerated in the bill.

The total price, or "ceiling price" for new natural gas initially produced from off-shore federal lands would include the base price, plus an adjustment made quarterly for inflation (or deflation), plus other specified necessary, proper and customary adjustments.

Under S. 2310, new natural gas produced from off-shore federal lands would have been subject to FPC price ceilings only for five years (through December 31, 1980). S. 2310 contained criteria for the FPC to consider

in establishing such ceiling prices which are similar to those in S. 3422.

In addition, initial contracts for the sale of new natural gas from off-shore federal lands would be for a minimum term of 15 years, as in S. 2310. Successor contracts would be for the life of the reservoir.

IV. OLD NATURAL GAS

S. 3422. continues cost-based regulation under the existing Natural Gas Act for all old gas, which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas. However, old natural gas pricing would be subject to revised criteria, as in S. 2310, upon the expiration of contracts by their own terms (and not through any express or implied power to terminate or power of renegotiation contained in such contracts). The FPC would establish a national ceiling price for old natural gas available upon the expiration of contracts, and this ceiling price would be revised every two years.

V. ADVANCE PAYMENTS

The 1976 Amendments retain language contained in S. 2310 relating to the regulation of contracts, which provide for advance payments by purchasers to producers. The FPC is authorized to require full repayment of any advance payments, plus interest for the use of the purchaser's capital. (Current FPC practice is to prohibit advance payments.)

VI. CURTAILMENT PRIORITIES

The 1976 Amendments contain provisions for service priority during curtailments to residential users, small users, hospitals and other users providing services vital to the health and safety of the public, agricultural producers, food processors and food packagers (both for current and expanded capacity), and for priority industrial users. These provisions are virtually the same as those contained in S. 2310.

VII. SYNTHETIC NATURAL GAS

S. 3422 retains the provision of S. 2310, with technical redrafting, which establishes FPC jurisdiction over synthetic natural gas (SNG) production from coal, and interstate transportation and sales. Unlike S. 2310, the 1976 Amendments assure a certificate without hearing to existing SNG plants.

VIII. BOILER FUEL USE OF NATURAL GAS

The 1976 Amendments contain language from S. 2310 which requires electrical utilities (above a certain rated capacity) to convert to alternate fuels. The period for conversion, however, is shortened from 12 years to 10 years. Electrical utilities would be required to convert to available alternative fuels within the specified time period, or upon expiration of existing service contracts, whichever is sooner.

The term "boiler fuel use of natural gas" is expanded for future application to include not only large electrical utilities, but industrial facilities which use natural gas for space heating and/or steam generation in excess of 3000 Mcf per day. Both electrical utilities and large industrial boiler fuel users would be prohibited from using natural gas as a boiler fuel unless initially contracted for prior to May 12, 1976.

The 1976 Amendments retain those exceptions contained in S. 2310 that relate to protection of the environment, including the use of natural gas for pollution abatement equipment and, if necessary, to meet air quality standards.

Whether served by an interstate pipeline or an intra-state pipeline, all large, electrical utilities would be required to convert subject to the provisions of the 1976 Amendments. The prohibition on future boiler fuel use would also apply to interstate and intrastate consumption.

Under S. 3422, incremental pricing is limited to boiler fuel users, as defined. No boiler fuel user, however, could be required to pay *more* for natural gas service than 120 per cent of the average price of heating oil (as determined by FEA) in the preceeding calendar year, plus transporting and distribution costs.

Only that portion of a pipeline's cost for natural gas which exceeds the applicable offshore ceiling price could be assigned for incremental pricing, as a surcharge, to boiler fuel users.

IX. INCREMENTAL PRICING

Under S. 2310, *all* industrial users would have paid, on an incremental basis, for high cost natural gas supplies entering the interstate pipeline system. There was no distinction, under S. 2310, between essential and non-essential industrial uses. All users, whether or not they could convert, were subject to the incremental pricing scheme.

X. FPC INFORMATION COLLECTION

Under both S. 2310 and S. 3422, the FPC is granted new authority to gather information, conduct studies and report to Congress on matters relating to natural gas reserves, supplies, production, sales, transportation and consumption.

The FPC currently lacks a clear mandate to engage in comprehensive data collection. The bill so reported would grant such authority and require independent estimates of natural gas reserves by the FPC.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Rosemary L. Ginn, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rosemary L. Ginn.

Contributions, amount, date, and donee:

1. Self: Misc. fund raising dinners total not to exceed $800.

2. Spouse: M. Stanley Ginn, $500, 1972, Gene Taylor, Congressman.

3. Children and spouses: Carl and Nancy Almond and Mike and Sally Hood, not more than $100.

4. Parents: Deceased.

5. Grandparents: Deceased.

6. Brothers and spouses: R. E. and Gwendolyn Lucas and William and Martha Lucas, not more than $500.

7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ROSEMARY L. GINN.

ENROLLED BILL PRESENTED

The Secretatry of the Senate reported that today, May 19, 1976, he presented to the President of the United States the enrolled bill (S. 1494) for the relief of Paul W. Williams.

HOUSE BILLS REFERRED

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

H.R. 1386. An act for the relief of Smith College, Northampton, Mass.; to the Committee on Finance.

H.R. 2181. An act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation; to the Committee on Finance.

H.R. 2749. An act to name a portion of the site of the Anthony J. Celebrezze Federal Building in Cleveland, Ohio, the "George Washington Square"; to the Committee on Public Works.

H.R. 4047. An act for the relief of Jack R. Misner; to the Committee on Finance.

H.R. 9153. An act granting the consent of Congress to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact; to the Committee on the Judiciary.

H.R. 9401. An act to continue to suspend for a temporary period the import duty on certain horses; to the Committee on Finance.

H.R. 11259. An act to lower the duty on levulose until the close of June 30, 1978; to the Committee on Finance.

H.R. 11321. An act to suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions; to the Committee on Finance.

H.R. 11605. An act to suspend for a temporary period the rate of duty on mattress blanks of rubber latex; to the Committee on Finance.

H.R. 12033. An act to continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products; to the Committee on Finance.

H.R. 12118. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations and for other purposes; to the Committee on Commerce.

H.R. 12545. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes; to the Committee on Public Works.

H.R. 12851. An act to extend and amend the Higher Education Act of 1965, as amended, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 5682. An act to extend the boundary of the Tinicum National Environmental Center, and for other purposes; to the Committee on Commerce.

H.R. 10192. An act to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy; to the Committee on Commerce.

H.R. 12735. An act to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans; to the Committee on Veterans' Affairs.

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance; to the Committee on Commerce.

H.R. 13380. An act to amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for

other purposes; to the Committee on Commerce.

H.R. 2984. An act to amend section 4941 (d) (2) (G) of the Internal Revenue Code of 1954; to the Committee on Finance.

H.R. 7685. An act for the relief of Mildred N. Crumley; to the Committee on the Judiciary.

H.R. 11407. An act to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy; to the Committee on Commerce.

H.R. 13272. An act to amend section 407 of the Social Security Act to eliminate the present prohibition against payment of aid in the case of a family with an unemployed father who receives unemployment compensation, and, where possible, to eliminate the necessity of more than one registration for employment by an unemployed person; to the Committee on Finance.

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the home to collect a fee from the members of the home; by appropriating nonjudicial forfeitures for support of the home; and by increasing the deductions from pay of enlisted men and warrant officers; to the Committee on Armed Services.

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. SPARKMAN (by request):

S. 3450. A bill to provide emergency relief, rehabilitation, and humanitarian assistance to the people of Lebanon, to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.,

By Mr. MOSS (for himself, Mr. MUSKIE, Mr. BELLMON, Mr. METCALF, and Mr. BUMPERS):

S. 3451. A bill to amend the Internal Revenue Code of 1954 to require the Secretary of the Treasury to provide taxpayers with an annual accounting of Federal expenditures. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 3452. A bill to modify the project for the Cochiti Reservoir, New Mexico, in order to provide for a public access road to such reservoir. Referred to the Committee on Public Works.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3453. A bill to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on Commerce.

By Mr. SPARKMAN (by request):

S. 3454. A bill to provide for amendment of the Breton Woods Agreement Act, and for other purposes. Referred, by unanimous consent, to the Committee on Foreign Relations; and, if and when reported, to the Committee on Banking, Housing and Urban Affairs for not to exceed 30 days.

By Mr. GOLDWATER:

S. 3455. A bill for the relief of Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung. Referred to the Committee on the Judiciary.

By Mr. BROCK:

S. 3456. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S.J. Res. 197. A joint resolution requesting the Secretary of the Interior to take certain action to honor and recognize the role played by James Larkin White in connection with the establishment of Carlsbad Caverns National Park, N. Mex. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPARKMAN (by request):

S. 3450. A bill to provide emergency relief, rehabilitation and humanitarian assistance to the people of Lebanon, to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to provide emergency relief, rehabilitation and humanitarian assistance to the people of Lebanon, to amend the Foreign Assistance Act of 1961, and for other purposes.

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

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

I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD at this point, together with the letter from the Administrator of the Agency for International Development to the President of the Senate dated May 11, 1976.

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

S. 3450

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 "Special Lebanon Relief Act."

SEC. 2. LEBANON RELIEF AND REHABILITATION.—The Foreign Assistance Act of 1961, as amended, is further amended by adding at the end of Chapter 9 of Part I, relating to international disaster assistance, a new section as follows:

"SEC. 495C. LEBANON RELIEF AND REHABILITATION.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, hereby authorizes the President to furnish assistance, on such terms and conditions as he may determine including the issuance of housing guaranties in accordance with the authority and within the limitation of Section 221 of this Act, for the relief and rehabilitation of refugees and other needy people in Lebanon.

"(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000 which amount is authorized to remain available until expended.

DEPARTMENT OF STATE,
AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., May 11, 1976.

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

DEAR MR. PRESIDENT: The President has authorized transmittal of the enclosed proposal which would provide urgent and specific action for assistance to Lebanon.

For more than a year the people of Lebanon have been victims of tragic civil strife, which has left more than 15,000 dead and an ever-increasing number of injured and homeless. This situation has evoked expressions of sympathy and a desire to help from the Congress collectively, by individual members, and by the people of the United States.

The Agency for International Development has already extended immediate aid, including both medical supplies distributed through the American University Hospital in Beirut and financial support to the activities of the International Committee of Red Cross in Lebanon. Substantial additional funds are required, however, if the United States is to carry out adequately its traditional humanitarian role in this situation.

We believe the time has now come when additional, larger scale U.S. assistance is necessary. Although the primary purpose of this assistance is to alleviate the human suffering resulting from the civil strife, this proposed assistance can also help to restore confidence in Lebanon's future and encourage other interested governments to follow our example.

The proposed Special Lebanon Relief Act would authorize 20 million dollars to provide relief and rehabilitation assistance for the Lebanese people, tens of thousands of whom have been injured or have lost their homes, their possessions and in many cases their very means of survival.

These funds would be used in part to respond to the UN Secretary General's worldwide appeal for $50 million for immediate needs in Lebanon, as well as to support the International Committee of the Red Cross and other public and private institutions providing urgent relief and rehabilitation assistance. United States leadership in responding to the UN appeal, for which we would use $12.5 million of the proposed funds, representing 25% of the total appeal, will encourage other countries to be forthcoming. In any event, the passage of this legislation together with an appropriation, will be a tangible sign of our desire to respond positively to the people of Lebanon in their hour of need.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

DANIEL PARKER.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED SPECIAL LEBANON RELIEF ACT

The major purpose of the proposed Special Lebanon Relief Act is to provide authorization for appropriations for disaster relief and rehabilitation activities necessitated by the civil strife in Lebanon. The bill would amend the Foreign Assistance Act of 1961 (the Act) for that purpose and would also authorize the issuance of housing guaranties in conjunction with rehabilitation efforts.

Section 2 would add a new Section 495B to Chapter 9 of Part I of the Act, relating to international disaster assistance. The provisions of that section would provide as follows:

Subsection (a) contains a finding by the Congress that United States assistance is necessary to alleviate human suffering arising from the civil strife in Lebanon and to restore the confidence of its people and to that end authorizes the President to furnish assistance for the relief and rehabilitation of refugees and other needy people in that country. The section explicitly authorizes the issuance of housing guaranties in conjunction with rehabilitation efforts. Such guaranties would be issued in accordance with the authority of and subject to the

limitation contained in Section 221 of the Act. These include a worldwide ceiling on the face amount of guaranties outstanding at any one time and requirements as to eligible investors. It is not contemplated, however, that the guaranties would be subject to the requirement contained in subsection 223(j) which limits the issuance of guaranties to countries in which A.I.D. is conducting development assistance programs and which requires that the housing projects guaranteed be coordinated with development assistance programs. On the other hand, the issuance of guaranties would be subject to the policy provisions of section 491 which require that to the greatest extent possible U.S. aid reach those most in need of relief and rehabilitation as a result of natural or man-made disasters.

Subsection (b) authorizes the appropriation of $20 million to carry out the purposes of the section. Amounts made available would be authorized to remain available until expended.

Subsection (c) provides that assistance under the section must be provided in accordance with the policies and the general authority contained in section 491. As noted above, that section requires that to the greatest extent possible assistance reach those most in need. The authority also permits the furnishing of assistance without regard to other requirements of law, such as procurement and U.S. shipping requirements, which might impair the relief and rehabilitation efforts.

Subsection (d) provides that obligations previously incurred for the purposes of providing relief and rehabilitation assistance to the people of Lebanon as a result of the recent civil strife are authorized to be transferred to the appropriation account established by the section.

Subsection (e) requires that the President report to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives regarding the programming and obligation of funds authorized by the section. The first report would fall due 60 days after enactment of appropriations to carry out the section and subsequent reports would be required on a quarterly basis thereafter until the program has been completed.

By Mr. MOSS (for himself, Mr. MUSKIE, Mr. BELLMON, Mr. METCALF, and Mr. BUMPERS):

S. 3451. A bill to amend the Internal Revenue Code of 1954 to require the Secretary of the Treasury to provide taxpayers with an annual accounting of Federal expenditures. Referred to the Committee on Finance.

ANNUAL REPORT TO TAXPAYERS ON FEDERAL SPENDING

Mr. MOSS. Mr. President, today I am introducing on behalf of myself, Senators MUSKIE, BELLMON, METCALF, and BUMPERS, legislation to provide American taxpayers with a direct annual accounting of Federal expenditures.

Each January, as my colleagues know, the Internal Revenue Service mails to each taxpayer a substantial tax information packet. This packet includes the required forms and other materials needed to file the Federal income tax return. Included with each of these packets is a substantial instruction booklet—this past year's numbered some 40 pages—which contains the various tax tables and schedules.

The legislation I am introducing today will require that, beginning in 1977, these Federal tax instruction booklets also contain a brief additional table dealing with the other side of the Federal finance ledger: Government expenditures.

As prescribed in the legislation, this table would list Federal outlays for the most recent fiscal year by functional categories: national defense, agriculture, health, et cetera. For purposes of further illustration, it would provide a percentage allocation for each category as well as a listing of all subfunctional totals where outlays exceed 1 percent of the overall budget.

To provide my colleagues with an example of such a table, I have assembled the appropriate information for fiscal year 1975. This is the expenditures report taxpayers would have received in January had the proposed legislation been in effect this past year. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD at this point.

FISCAL YEAR BUDGET OUTLAYS BY FUNCTION—TOTAL $324.6 BILLION

[In billions]

National Defense: $86.6 billion (26.7%), (Military personnal $25.0; retired military personnel $6.2; Operation and maintenance $26.3; Procurement $16.0; Research and development $8.9).

International Affairs: $4.4 billion (1.4%), (Foreign economic and financial assistance $3.7).

General Science, Space and Technology: $4 billion (1.2%).

Natural Resources, Environment and Energy: $9.5 billion (2.9%).

Agriculture: $1.7 billion (0.5%).

Commerce and Transportation: $16 billion (4.9%), (Ground transportation $6.5).

Community and Regional Development: $4.4 billion (1.4%).

Education, Training, Employment and Social Service: $15.2 billion (4.7%), (Elementary, Secondary and Vocational education $4.6; Training and Employment $4.1; Social Services $3.3).

Health: $27.6 billion (8.5%), (Health care services $23.4).

Income Security: $108.6 billion (33.5%), (General retirement and disability insurance $69.4; Federal employment retirement and disability $7.0; Unemployment insurance $13.5; Public assistance and other income supplements $18.8).

Veterans Benefits and Services: $16.6 billion (5.1%), (Income security for veterans $7.9; Veterans education, training and rehabilitation $4.6; hospital and medical care for veterans $3.7).

Law Enforcement and Justice: $2.9 billion (0.9%).

General Government: $3.1 billion (1.0%).

Revenue Sharing and General Purpose Fiscal Assistance: $7 billion (2.2%), (General Revenue Sharing $6.1).

Interest: $31 billion (9.6%), (Interest on the public debt $32.7).*

Allowances: none.

Undistributed Offsetting Receipts: —$14.1 billion (—4.3%), (Employer share, employee retirement —$4.0; Interest received by trust funds —$7.7).

I would like to note in introducing this measure that this brief taxpayer report can be provided without the addition of new pages to the IRS instruction booklets. The legislation in fact contains a specific provision to that effect, by requiring that the additional table be included in the booklet through a layout adjustment in the material being currently provided. An examination of instruction booklets distributed in recent years demonstrates that such an adjustment can be undertaken quite easily.

I am pleased to have both the chairman and the ranking minority member of the Senate Budget Committee join me in sponsoring this measure. In a small but significant way I believe it will add to the improved public discussion of Federal budgetary issues which establishment of the committee during recent months has made possible.

*Figure reflects interest on loans from the Federal Government.

By Mr. MONTOYA:

S. 3452. A bill to modify the project for the Cochiti Reservoir, New Mexico, in order to provide for a public access road to such reservoir. Referred to the Committee on Public works.

Mr. MONTOYA. Mr. President, today, I am introducing a bill to authorize the Army Corps of Engineers to construct an access road from U.S. highway No. 85 to the Cochiti Reservoir in New Mexico. The closing of the old access road, UP 90, makes this new access road necessary.

Mr. President, the construction of this access road would not only provide a better route for the Army Corps of Engineers, but would provide ready access to the Reservoir for the many New Mexicans who enjoy the lake and its recreational areas. Currently, those wishing to use the recreational facilities at Cochiti have to drive a considerable distance out of their way. With the construction of this new road, access to Cochiti Reservoir will be easier and more direct. As a spinoff, the construction of this useful route will provide jobs to an area that is suffering increased unemployment.

I am hopeful that this authorization will be inserted into the Omnibus Flood Control bill now under consideration by the Public Works Committee. The need for this new access road cannot be overemphasized, and hopefully, the Public Works Committee will take swift action on this authorization to insure those citizens using Cochiti's recreational facilities a direct route to the lake.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3453. A bill to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend chapter 2, title 18, United States Code, and sections 101 and 902 of the Federal Aviation Act of 1958, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD together with the text of the bill.

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

S. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AIRCRAFT SABOTAGE ACT OF 1975

That section 31 of title 18, United States Code, is amended by striking out the words "Civil Aeronautics Act of 1938" and inserting in lieu thereof the words "Federal Aviation Act of 1958" and by adding at the end thereof the following two paragraphs:

" 'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard.

" 'In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight."

SEC. 102. Section 32, Title 18, United States Code is amended to read as follows:

"Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy, or disable any such aircraft, or any part or other material used, or intended to be used in connection with the operation of such aircraft; or willfully sets fire to, damages, destroys, or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of any such aircraft in flight; or

"Whoever, with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility, or other material used, or intended to be used, in connection with the operation, maintenance, or loading or unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft; or

"Whoever willfully performs an act of violence against or incapacitates any passenger or member of the crew of any such aircraft if such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

"Whoever communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

"Whoever willfully attempts to do any of the aforesaid acts—

shall be fined not more than $10,000 or imprisoned not more than twenty years, or both."

SEC. 103. Chapter 2, Title 18, United States Code, is amended by adding a new section to read as follows:

"§32A. Offenses in violation of the convention for the suppression of unlawful acts against the safety of civil aviation

"(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterward found in this country—

shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

"(b) For purposes of this section a person commits an 'offense' when he willfully—

"(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

"(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

"(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

"(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection.

"(c) The provisions of this section shall become effective one day after the publication in the Federal Register by or on behalf of the Secretary of State of a notice referring to this Act and stating that the Convention has entered into force for the United States on a date specified in that notice."

SEC. 104. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States," is amended as follows:

(1) by deleting the word "or" at the end of subsection (d)(i);

(2) by deleting the word "and" at the end of subsection (d)(ii) and inserting in lieu thereof the word "or"; and

(3) by adding a new subsection (d)(iii) as follows:

"(iii) regarding which an offense as defined in subsections (d) and (e) of Article I, section I of the [Montreal] Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and".

SEC. 105. Section 902(k) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(k)), is amended by adding subsection (3) to the end thereof, to read as follows:

"(k)(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under Section 32 of title 18, United States Code, shall be punished as provided therein."

SEC. 106(a) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"(a) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 and 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or Conveying Threats."

TITLE II—AIRCRAFT PIRACY AMENDMENTS OF 1975

SEC. 201. Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsections:

(a) FALSE INFORMATION.—

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this title, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

(b) CARRYING WEAPONS ABOARD AIRCRAFT.—

"Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized, under regulations issued by the Administrator, whoever, while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

SEC. 202. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or sections 901(c) or 901(d) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471(c) and (d)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown."

SEC. 203. Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

"(m) FALSE INFORMATION AND THREATS.—

"(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveys false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (1), (j), or (1)(2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (1)(j), or (1)(2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(a) The table of contents of the Federal Aviation Act of 1958, in the matter of title II (subchapter IX, chapter 20 of title 49, United States Code, section 1472(m)), is amended by redesignating

"(m) False information."

to read

"(m) False information and threats.".

SEC. 204. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b)(1) of that section, and substituting therefor, "Except with respect to civil penalties under section 901(c) and (d) of this title, such".

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 23, 1976.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to implement the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, ratified by the United States on November 1, 1972, and entered into force for the United States on February 26, 1973, and to refine current legislation.

This proposal, containing two titles, would amend existing Federal legislation dealing with offenses related to air piracy and the destruction of aircraft and aircraft facilities in order to bring our law into conformity

with the requirements of the Convention and to expand the protection of aircraft and related facilities afforded by current legislation.

The Convention requires, in Article 5, that each contracting state take such measures as may be necessary to establish jurisdiction over the offenses enumerated in Article 1 in specified instances. Article I proscribes certain acts, such as damaging or destroying aircraft or air navigation facilities, or committing violence against persons aboard aircraft, if the acts are likely to endanger the safety of the aircraft. In those cases where the signatories are required to establish jurisdiction, it is incumbent upon them to provide "severe penalties" for violations. (Article 3). Section 1(a) of Article 5 requires that each contracting state establish jurisdiction "where the offense is committed in the territory of that state". To a great extent, our existing law already makes unlawful the offenses of Article 1, and the penalties are appropriately severe in most cases. Because of certain significant gaps, however, it is necessary to amend our law to achieve complete conformity. Therefore, the relevant statute—18 U.S.C. § 32 "Destruction of aircraft or aircraft facilities"—has been rewritten in Title I, section 102 of the legislation to reflect the changes necessitated by the Convention. Section 102 would also broaden the scope of 18 U.S.C. § 32, as well as make the language of the current statute more concise and clear.

Section 1(b) of Article 5 requires that each contracting state establish jurisdiction over the offenses when they are "committed against or on board an aircraft registered in that State". This is accomplished by the present definition of "special aircraft jurisdiction of the United States" which includes "civil aircraft of the United States". (Section 101 (32)(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1301 (32)a).)

Each signatory is also obligated to establish jurisdiction "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board". (Article 5, section 1(c).) This is accomplished in part in section 103 of the legislation which creates a new section 32A of Title 18, United States Code. The new section prohibits the commission of an offense "against or on board an aircraft registered in a State other than the United States and [the alleged offender] is afterwards found in this country". An amendment to the definition of "special aircraft jurisdiction of the United States" found in section 104 of the legislation, brings our law into complete compliance with this requirement when viewed in conjunction with the new section 32A.

Section 1(d) of Article 5 requires each contracting state to establish jurisdiction over the offenses when committed "against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State". Legislation implementing this requirement was enacted into law on August 5, 1974 (P.L. 93-366, Antihijacking Act of 1974).

Lastly, Article 5, section 2, requires that each signatory establish its jurisdiction when "the alleged offender is present in its territory and it does not extradite him . . .". The new section 32A, mentioned above, is also designed to cover this situation to the extent required by the Convention.

Title I also amends Chapter 2 of Title 18 by proscribing threats to destroy aircraft (section 106 of Title I).

The proposed legislation contained in Title I is necessary to fully implement the Montreal Convention, which is very important in the international community's efforts to curb air piracy and related offenses.

Title II of the proposed legislation would facilitate prosecutions for certain crimes and offenses committed aboard aircraft. A modified version of the legislation set forth in Title II was proposed by the Attorney General during the 93rd Congress and introduced as S. 872 by Senator Hruska. The legislation set forth in Title II is designed to accomplish the following purposes:

1. To provide civil penalties for certain aircraft hijack hoaxes and attempts to carry certain concealed weapons aboard an aircraft;

2. To establish special venue provisions in proceedings to enforce the civil penalties;

3. To proscribe threats to hijack aircraft;

4. To eliminate the misdemeanor offenses once applicable to aircraft hijack hoaxes.

As introduced during the 93rd Congress, S. 872 proposed a new felony offense for carrying weapons aboard aircraft. However, S. 39 which contained a similar felony offense for carrying weapons aboard aircraft was enacted into law during the 93rd Congress (Public Law 93-366). Therefore, a felony offense for carrying weapons aboard aircraft is not included under Title II of the present legislation.

Since S. 872 was introduced during the 93rd Congress, numerous misdemeanor offenses for carrying or attempting to carry weapons aboard aircraft have proven very difficult to successfully prosecute because of the extenuating circumstances surrounding the commission of those offenses. Due to the reluctance of prosecutors to prosecute these offenses and the reluctance of courts to convict for these offenses, Title II of the present legislation proposes an alternate violation of carrying, or attempting to carry, a weapon aboard an aircraft punishable by a civil penalty.

The Department of Justice believes that enactment of the Aircraft Piracy Amendments contained in Title II will substantially assist law enforcement authorities in dealing with offenses related to the air piracy and terrorism problems. The enactment of the civil penalty provisions included as section 201 of Title II will enhance prosecutive efforts in an area where criminal sanctions were not deemed appropriate.

In view of the above considerations, the Department of Justice urges the early passage of this proposed legislation. The increased problem of terrorism directed at aircraft and aircraft facilities throughout the world demands early action upon legislation implementing the Montreal Convention as proposed in Title I.

While an abatement of the aircraft hijacking threat in the United States has resulted from the preboarding security efforts at our nation's airports, we believe that the amendments to our air piracy statutes contained in Title II are necessary for our government to have all available tools at its disposal to counter any renewed efforts to interfere with aircraft safety. I therefore urge the early consideration and adoption of this proposed legislation.

The Office of Management and Budget has advised that enactment of this legislation is consistent with the Administration's objectives.

Sincerely,

———————,

Attorney General.

SECTION-BY-SECTION ANALYSIS

The first section of the proposed legislation adds to 18 U.S.C. § 31 the definitions of "in flight" and "in service." These definitions are necessary because the terms are used in 18 U.S.C. § 32 as amended herein.

Section 102 amends 18 U.S.C. § 32, "Destruction of aircraft or facilities", in order to fully comply with Article 5, section 1(a) of the Montreal Convention which requires that each signatory establish jurisdiction over the Article 1 offenses when they are committed in the territory of that state. To a large extent domestic law already covers the offenses of Article 1, but several significant gaps exist which require amendments to section 32. (It should also be noted that the opportunity was taken to make the section more clear and concise. In this regard, it was not intended in any way to limit or lessen the scope of the proposed statute as compared to that of the current law.)

The first paragraph of Section 102 of the proposed legislation essentially incorporates the first paragraph of the current 18 U.S.C. § 32 as well as portions of the third and fourth paragraphs of the current statute insofar as the latter two paragraphs relate respectively to willfully placing a destructive substance in, upon, or in the proximity of any aircraft, or willfully setting fire to, damaging, destroying, disabling or interfering with the operation of an air navigation facility. However, it should be noted that the provisions which are being substituted for portions of the third and fourth paragraphs of the current law do not contain the requirement that the proscribed acts be committed with the intent to damage or disable the aircraft. Rather, the substituted provisions only require that the placing of the destructive substance be likely to damage or destroy any such aircraft, or any part, etc., or that the setting fire to, damaging, destroying or disabling of any navigation facility be of such a nature that it is likely to endanger the safety of any such aircraft in flight. The omission of the above-mentioned element of proof in the substituted provisions was necessary to avoid a requirement of proof for those offenses which would be greater than that required by the Montreal Convention. The phrase "any part or other material used or intended to be used in connection with the operation of such aircraft" is meant to include the various parts of an aircraft and any material including liquids and lubricants which might be damaged by a destructive substance. These materials are individually listed in the current statute.

The second paragraph of Section 102 essentially incorporates the second, third and fourth paragraphs of the current section 32 except for the provisions mentioned in the first paragraph of Section 102. The phrase listing all of the various types of property including "other material used, or intended to be used in connection with the operation, maintenance or loading or unloading or storage of any such aircraft . . ." is meant to include all of the various types of property and material which are individually listed in the current statute.

The third paragraph of Section 102 replaces paragraph 2 of the current section 32 by adding passengers to the protected category of persons as required by Article 1, section 1(a) of the Montreal Convention. Since the conduct proscribed by this paragraph could likely endanger the safety of the aircraft at times prior to and after the time that such aircraft is in flight, the jurisdictional base has been extended to cover not only those times when the aircraft is in flight, but also the period of time while the aircraft is in service. Although paragraph 5 of the current 18 U.S.C. § 32 requires that the conduct be accompanied with an intent to damage, destroy, disable, or wreck any such aircraft, the substituted paragraph omits this element of proof because it would establish an offense requiring proof exceeding the requirements of the offense established by the Convention.

The fourth paragraph of proposed Section 102 of this bill has been added to meet the requirements of Article 1, section 1(e) of the Convention. Currently, the only statutory provisions covering false information are 18 U.S.C. § 35 (a) and (b) with regard to bomb hoaxes and 49 U.S.C. §1472(m) with regard to hijacking hoaxes. However, neither of these provisions has a requirement of endangering the safety of an aircraft while in flight as does Article 1, section 1(e) of the Convention. That is, our current statutory language is broader than that of the Convention and could stand on its own in meeting the Convention's requirements. However, it was felt that to fully implement the Con-

vention this Government should establish more severe sanctions for imparting false information when such imparting endangers the safety of the aircraft. Currently, 18 U.S.C. § 35(b) and 49 U.S.C. § 1472(m)(2) carry maximum jail terms of five years and fines of $5000, but do not require a showing of endangering the safety of the aircraft. Where this additional element is present, we believe it necessary to make the penalty associated with the activity more severe, which has been done by increasing the sanctions for such activities to a maximum of twenty years' imprisonment and a $10,000 fine.

The fifth paragraph of Section 102 of this legislation is taken directly from the sixth paragraph of current 18 U.S.C. § 32. The penalties for violations of the amended statute are the same as those provided in the current law.

Section 103 of the proposed legislation adds a new section 32A to Title 18 of the United States Code, and is designed to implement Article 5, section 1(c), in part, and Article 5, section 2. Article 5, section 1(c) requires each contracting state to establish jurisdiction over the offenses of Article 1 "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board." Article 5, section 2 requires each contracting state to establish jurisdiction over the offenses listed in Article 1, sections 1 (a), (b) and (c), and in Article 1, section 2 insofar as that section relates to offenses listed in sections 1 (a), (b) and (c), "where the alleged offender is present in [the State's] territory and [the State] does not extradite. . ." Normally, of course, the United States would lack jurisdiction to try such individuals.

Jurisdiction is established in subsection (a) of section 32A over anyone who commits one of the offenses listed in subsection (b) on or against an aircraft registered outside of the United States and is afterwards found in this country.

Subsections (b) (1), (2) and (3) of section 32A enumerate the offenses of Article 1, section 1 (a), (b) and (c) as required by Article 5, section 2. (It should be noted that Article 5, section 2 of the Convention does not require that the offense of sections 1(d) and 1(e) of Article 1 be covered, so the obligations of Article 5, section 1(c) are met in the new section only to the extent of covering the offenses of Article 1, section 1 (a), (b) and (c). The offenses of Article 1, sections 1 (d) and (e) are covered for the purposes of Article 5, section 1(c) in Section 104 of the bill, which amends the special aircraft jurisdiction of the United States. Subsection (b)(4) covering attempts to commit the proscribed acts, and also covering accomplices of those who attempt to commit these acts, is also required by Article 5, paragraph 2 of the Convention.

Section 104 of the legislation implements Article 5, section 1(c), to the extent that it is not implemented in the new section 32A discussed above. This is accomplished by an amendment to the definition of "special aircraft jurisdiction" as set forth in section 101 (32) of the Federal Aviation Act of 1958 by adding the new subsection (d)(iii).

Section 105 of the legislation adds a new subsection to section 902(k) of the Federal Aviation Act of 1958 49 U.S.C. § 1472(k). It makes punishable the offenses of 18 U.S.C. § 32 in situations where they are committed aboard an aircraft in the special aircraft jurisdiction of the United States.

Section 106 of Title I adds a new section to chapter 2 of Title 18, United States Code. This new addition to chapter 2 prohibits the conveyance of threats to destroy, damage, or disable aircraft or related facilities by creating a felony offense where the threatening words or actions are delivered with an apparent will and determination to perform any action condemned by § 32. Prior to this proposal, only the conveyance of false information regarding attempts violative of § 32 was proscribed. Thus, the amendment corrects a serious lapse in our present law by including within the prosecutorial sphere such conduct or words which lack the companion overt act to constitute a punishable attempt but nevertheless are menacing and disruptive. Because of the serious nature of such conduct, the maximum penalty is five years imprisonment and a $5,000 fine.

The first paragraph of Section 201, Title II amends 49 U.S.C. 1471 by adding a proscription enforceable by a civil penalty against the conveyance of false information when such information is known to be false regarding any attempt to commit a violation of 49 U.S.C. 1472 (i), (j), (k), or (l). This additional subsection (c) restates the language found currently in 49 U.S.C. 1472 (m)(1) and provides for a maximum fine of $1,000 to be recoverable in a civil action. Prior to the proposed new subsection only a misdemeanor offense existed for the hoax or conveyance in jest of false information regarding aircraft hijacking offenses. Past attempts at prosecution have encountered a reluctance either by prosecutors themselves or the courts to process those offenses for criminal penalties where such offenses are attributed to annoyance, fatigue or poor attempts at humor by a passenger. Nevertheless the disruption and suspicion engendered by such poor judgment remarks necessitates a deterrent effort. It is anticipated that the proposed civil penalty attuned to these fact situations will provide a considerably more appropriate vehicle to assure enforcement of violations in this area.

The second paragraph of Section 201 of Title II amends 49 U.S.C. 1471 by addition. The proposal authorizes a maximum fine of $1,000 recoverable in a civil action where any unauthorized person attempts to board or boards an aircraft while carrying a concealed deadly or dangerous weapon. However, this proposed proscription does not extend to the placement or attempted placement of explosive devices aboard aircraft as prohibited by its current misdemeanor counterpart 49 U.S.C. 1472(l). The new subsection allows for the sanction of conduct which, under certain extenuating circumstances, would not warrant criminal prosecution but should, nevertheless, warrant a civil action for civil penalty. The legislation particularly responds to unique problems arising from the boarding area discovery of weapons by providing an alternative to criminal prosecution. Both the prosecutor and the defendant are benefited by this expansion of the law which refines the penalty to suitably comprehend a broad range of disruptive conduct in its varying degrees of seriousness. As discussed in the preceding paragraph, where criminal prosecution is not deemed appropriate due to the otherwise excellent reputation of the defendant or the existence of extenuating facts, the application of a civil penalty still offers an effective measure to deter such conduct.

Section 202 of Title II would amend 28 U.S.C. 1395(a) by expanding the venue of proceedings brought to enforce the civil penalties contemplated in 18 U.S.C. 35(a), and sections 901 (c) and (d) of the Federal Aviation Act of 1958. The additional wording contained in the proposal would allow process against any defendant or witness to be served in any judicial district of the United States upon an ex parte order for good cause shown. Thus, civil proceedings may be instituted not only at the place of residence of the defendant—as presently authorized under existing law—but also at the place where the violation providing the basis for such proceedings occurred.

The first paragraph of Section 203 of Title II amends 49 U.S.C. 1472(m) by replacing the misdemeanor offense of conveyance of false information concerning air piracy and other related offenses with the offense of willful and malicious conveyance of false information concerning such offenses as presently set forth in 49 U.S.C. 1472(m)(2). This proposed amendment retains the felony hijack hoax offenses as described above while removing from the ambit of criminal prosecution the type of conduct once encompassed by the misdemeanor hijack hoax provision. In this regard, the conduct envisioned in the eliminated section would be subject to a civil penalty as discussed in the analysis of Section 201(a) of Title II.

The second paragraph of Section 203, Title II, amends 49 U.S.C. 1472(m) by additionally prohibiting the conveyance of threats to perform any action violative of the felony provisions of subsections (i), (j), or (l) of the section. The creation of a felony offense regarding threats expands the scope of 49 U.S.C. 1472 to encompass a type of criminal conduct which was previously omitted from the purview of current legislation. The nature of the proof necessary to show the offense is such which requires the existence of an apparent determination or will to carry the threat into execution where the words are not accompanied with the overt actions or circumstances necessary to constitute a punishable attempt.

The third paragraph of Section 203 amends the table of contents pertaining to chapter 20 of Title 49 U.S.C., section 1472(m) by redesignating "(m) False information" to read "False information and threats."

Section 204 of Title II amends 49 U.S.C. 1473(b)(1) by inserting certain exclusionary words to remove the collection of any civil penalties imposed under section 901 (c) and (d) of the Federal Aviation Act of 1958, from conformance with the procedures utilized in civil suits in admiralty. The proposed amendment allows a greater flexibility in the prosecution of these civil violations and the collection of judgments therefrom. In effect, the venue provision for collection proceedings is expanded in consonance with the broadened scope of enforcement of the legislation to ensure that all actions related to sections 901 (c) and (d) are swiftly processed at the location most conducive to the efficient and economical handling of the case.

By Mr. SPARKMAN (by request):

S. 3454. A bill to provide for amendment of the Bretton Woods Agreements Act, and for other purposes. Referred, by unanimous consent, to the Committee on Foreign Relations; and, if and when reported, to the Committee on Banking, Housing and Urban Affairs for not to exceed 30 days.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

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

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

I ask unanimous consent that the bill, a sectional analysis and a comparative type showing changes which would be made be printed in the RECORD at this point, together with the letter from the Secretary of the Treasury to the President of the Senate dated May 11, 1976.

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

S. 3454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286K–2) is amended by adding at the end thereof the following new sections:

"SEC. 24. The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution No. 31–4 of the Board of Governors of the Fund.

"SEC. 25. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights."

SEC. 2. The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended to read as follows:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2 or paragraph 10 of Schedule C of the Article of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of Schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of Schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVII of the Article of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank."

SEC. 3. The Special Drawing Rights Act (22 U.S.C. 286n–r) is amended by:

(1) deleting "article XXIV" in section 3(a) and inserting in lieu thereof "article XVIII";

(2) deleting "article XXVI, article XXX, and article XXXI" in section 3(b), wherever it appears, and inserting in lieu thereof "article XX, article XXIV, and article XXV";

(3) deleting "article XXIV" in section 6 and inserting in lieu thereof "article XVIII";

(4) deleting "article XXVII(b)" in section 7 and inserting in lieu thereof "article XXI (b)".

SEC. 4. Section 2 of the Par Value Modification Act (31 U.S.C. 449) is hereby repealed.

SEC. 5. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) is amended to read as follows:

"The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the United States Treasury. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard provided in section 2 of the Par Value Modification Act (31 U.S.C. 449) on the date of enactment of this amendment, of the gold so held against gold certificates."

SEC. 6. The amendments made by sections 2, 3, and 4, of this Act shall become effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in resolution no. 31–4 of the Board of Governors of the Fund.

SECRETARY OF THE TREASURY,
Washington, D.C., May 11, 1976.

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

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To provide for amendment of the Bretton Woods Agreements Act, and for other purposes," together with a comparative type showing the changes that would be made in existing law by the bill.

The major provisions of the proposed legislation would authorize United States acceptance of fundamental changes in the Articles of Agreement of the International Monetary Fund as well as United States consent to an increase equivalent to 1,705 million special drawing rights (SDR) in the U.S. quota in the Fund. This legislation is necessary because Section 5 of the Bretton Woods Agreements Act provides that Congressional authorization must be obtained for any person on behalf of the United States to accept any amendment of the Articles of Agreement of the Fund and to consent to any change in the quota of the United States in the Fund.

The amendment of the Fund Articles of Agreement represents the first general revision of international monetary arrangements since the basic framework for the post-war economic system was established at the 1944 Bretton Woods Conference. The proposals combine longer term structural reforms with measures to increase the resources of the IMF and to modernize its operations.

The Fund Articles of Agreement constitute the formal rules of the international monetary system. The Fund has played a vital role in promoting a vibrant, open and cooperative international economy in the post-war period. The Fund's financial resources are available for loans to support members' efforts to correct temporary balance of payments problems without recourse to measures destructive of national or international prosperity.

Circumstances have changed greatly since the Bretton Woods agreement was concluded in 1944. In order for the Fund to continue to contribute to international economic growth, prosperity and stability, important changes are needed to bring its rules into line with contemporary needs and to provide a more adaptable framework for the future evolution of the international monetary system. In parallel, an increase in the Fund's resources is needed to enable it to perform its function as the central multilateral institution for the provision of temporary balance of payments financing to its members.

The proposed amendment to the IMF Articles of Agreement changes certain basic provisions relating to the operations of the monetary system—particularly those relating to exchange rates and gold. The present IMF Articles of Agreement prescribe a system of par values supported by convertibility of currencies into gold. Experience has demonstrated forcefully that the system of par values in effect until 1971 did not bring about the necessary adjustments in countries' balance of payments positions and that gold is an unsuitable basis for the international monetary system. Ultimately, accumulated payments imbalances and distortions in the world economy caused by the rigidities of the par value-gold convertibility system led to the collapse of that system.

With the dollar at the center of that system, the costs for the United States—in financial resources and in real terms—of maintaining the system became excessive and insupportable. In August 1971, the United States acted to re-order its international economic policies and to initiate the process of negotiating basic reforms of the international monetary system. The legislative proposals transmitted herewith represent the culmination of those negotiations and the achievement of basic policy objectives pursued by the United States throughout the negotiations.

Under the proposed amendment to the Articles of Agreement, the exchange rate provisions would focus on achieving the underlying economic stability that is the prerequisite for exchange rate stability, and not on action to manage or fix exchange rates. The United States would not be required or expected to maintain a rate for its currency which is out of line with competitive reality and which costs jobs and growth. Specifically, the United States would not be required at any time to establish and maintain a par value for the dollar. Accordingly, the proposed legislation would repeal the present par value of the dollar, and would retain that legal standard for the dollar solely with respect to the issuance of gold certificates. Prior Congressional approval would be required by the bill to authorize any future establishment of a par value for the dollar in the International Monetary Fund, and to authorize any change in a par value for the dollar if one were established.

The new provisions of the IMF Articles of Agreement also promote the process of phasing gold out of the system—by abolishing the official price of gold and gold's role as common denominator of the system, by eliminating all requirements to use gold in transactions with the Fund, and by providing specific authority for future disposal of the Fund's gold holdings. Gold will no longer have a position at the center of the international monetary system and will have no essential monetary function in the Fund. Concomitantly with the reduction in the monetary role of gold, steps are proposed to relax certain rules governing the use of the SDR, to make it a more usable asset.

Other important improvements in the operational aspects of the IMF are proposed, which—along with the fundamental changes and in conjunction with the increase in members' quotas—will assure the renewed vitality and effective functioning of the International Monetary Fund and will assure its ability to adapt to future needs.

These changes are in the interest of the United States and of the entire IMF membership. The proposed amendment and increase in the United States quota in the Fund have received the strong endorsement of the National Advisory Council on International Monetary and Financial Policies, which has issued a Special Report on these matters, transmitted to you and to the Speaker of the House of Representatives on April 9. I urge the Congress to consider these proposals promptly and favorably.

It will be appreciated if you will lay the enclosed draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

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

Sincerely yours,

WILLIAM E. SIMON.

SECTIONAL ANALYSIS

SEC. 1. AMENDMENT OF THE BRETTON WOODS AGREEMENTS ACT

Two basic purposes of the proposed bill are to authorize U.S. acceptance of a comprehensive set of amendments to the Articles of Agreement of the International Monetary Fund and to authorize U.S. consent to an increase in the United States quota in the Fund. The first section of the proposed bill provides for the necessary amendment of the Bretton Woods Agreements Act for these two purposes.

The proposed bill would add a new Section 24 to the Bretton Woods Agreements Act which would specifically authorize the U.S. Governor of the Fund to accept the amendments of the IMF Articles recently approved by the Board of Governors of the Fund in resolution No. 31–4. The amendments are the culmination of over four years of negotiations and generally concern: members' exchange arrangements; reduction in the role of gold in the international monetary system; changes in the characteristics and uses of the special drawing right; and simplification and modernization of the Fund's financial operations and transactions.

The proposed bill would also add a new Section 25 to the Bretton Woods Agreements Act, authorizing the U.S. Governor of the Fund to consent to an increase of SDR 1,705 million in the quota of the United States.

The quota increase for the U.S. is part of an overall increase in quotas in the IMF by 33.6 per cent, resulting from the Fund's sixth general review of quotas.

Appropriations were sought to meet payments to the IMF on increases in the U.S. subscription in earlier years. Prior to 1968, subscription payments to the IMF were treated as budget expenditures in the same manner as capital subscriptions to other international institutions, loans to private entities, and purchases of fixed assets. Consequently, payments to the IMF were subject to the regular appropriations process.

In 1968 this outlay treatment was changed based on recommendations by the President's Commission on Budget Concepts. The Commission viewed U.S. payments to the IMF not as investment outlays but as deposits with a bank. The IMF is a depositary in which Treasury funds are kept subject to withdrawal under the terms of the IMF Articles of Agreement. Therefore, a payment to the IMF of the proposed increase in the U.S. quota is not an outlay but an exchange of monetary assets—one monetary asset (dollars) decreases, and another (the U.S. account with the IMF) increases simultaneously.

Nor does payment by the United States on its maintenance of value obligations in the IMF result in a budgetary outlay. Accordingly, on the basis of this budgetary concept, no appropriation was provided to meet the U.S. maintenance of value obligations to the IMF which resulted from the reduction in the SDR value of the dollar during the IMF fiscal year ending April 30, 1975. Similarly maintenance of value payments by the IMF to the United States arising from an appreciation of the dollar as against the Special Drawing Right (SDR), in which members' quotas are denominated, also have been treated as an exchange of monetary assets.

Just as U.S. payments to meet its maintenance of value obligations to the IMF are treated as an exchange of monetary assets and do not require an appropriation, so the payment of the increase in the U.S. quota in the IMF will not require an appropriation, and none is authorized by the proposed bill.

SEC. 2. CONSEQUENTIAL AMENDMENT OF SEC. 5 OF THE BRETTON WOODS AGREEMENTS ACT

This section of the proposed bill would amend Section 5 of the Bretton Woods Agreements Act to take account of several proposed amendments to the IMF Articles of Agreement.

Section 5(a). The Fund Articles of Agreement, under the proposed amendments, as at present, authorize adjustments in the quotas of members either under a periodic general review of quotas or through selective increases in quotas. Under Section 5(a) of the Bretton Woods Agreements Act as it would be amended by section 2 of the proposed bill, Congressional authorization will continue to be required prior to U.S. consent to an increase in the United States quota in the IMF under a general review of quotas and prior to any proposal of or consent to a selective increase in the U.S. quota.

Article III, section 2(b), of the IMF Articles of Agreement as amended would provide an additional way in which members' quotas can be increased. The Fund could propose, at any time, an increase in the quotas of those members of the Fund that were members on August 31, 1975, in proportion to their quotas on that date, in an amount not to exceed amounts transferred from the proceeds of IMF gold sales to the general resources of the Fund. Unlike an increase in the U.S. quota under a general review of quotas or pursuant to a selective quota increase, no payment by the U.S. would be required to effect the increase in the U.S. quota resulting from this "capitalization" of proceeds of IMF gold sales. Consequently, the proposed bill does not require prior Congressional authorization for consent to an increase in the U.S. quota pursuant to article III, section 2(b).

Sections 5(b) and 5(c). Under the proposed amendment of article IV of the Fund's Articles of Agreement, no IMF member will be legally required to establish a par value for its currency. Thus the United States need not establish and maintain a par value for the U.S. dollar in order to fulfill its obligations in the IMF. Accordingly, Section 4 of the bill repeals Section 2 of the Par Value Modification Act that established the par value of the dollar at 0.828948 Special Drawing Right, or forty-two and two-ninths dollars per fine troy ounce of gold. Should the United States in the future choose to establish a par value for the dollar under a generalized system of par values, prior Congressional authorization for proposal of the par value to the IMF will be required under Section 5(b) of the Bretton Woods Agreements Act. Any subsequent change in the par value of the dollar would also require prior Congressional authorization under Section 5(c) of that Act.

Section 5(e). This section of the Bretton Woods Agreements Act is being amended to take account of the reordering of the IMF Articles of Agreement occasioned by the proposed amendments.

SEC. 3. CONSEQUENTIAL AMENDMENT OF THE SPECIAL DRAWING RIGHTS ACT

The Special Drawing Rights Act (22 U.S.C. 286n–r) is being amended solely to take account of the reordering of the IMF Articles occasioned by the proposed amendments.

SEC. 4. CONSEQUENTIAL AMENDMENT OF THE PAR VALUE MODIFICATION ACT

Under the proposed amendments to the IMF Articles of Agreement, the U.S. will have no legal obligation to establish and maintain a par value for the dollar. Section 4 of the proposed bill repeals the legal definition of the par value of the dollar in terms of the Special Drawing Right and gold established by the Par Value Modification Act.

SEC. 5. CONSEQUENTIAL AMENDMENT OF THE GOLD RESERVE ACT OF 1934

The only domestic purpose for which it is necessary to define a fixed relationship between the dollar and gold is the issuance of gold certificates. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) provides that the amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard, of the gold so held against gold certificates. The legal standard presently applicable to all gold certificates is the par value of the dollar as prescribed in Section 2 of the Par Value Modification Act. Section 5 of the proposed bill provides that this legal standard will continue to apply for purposes of Section 14(c) of the Gold Reserve Act.

Section 5 of the proposed bill also deletes the reference in Section 14(c) of the Gold Reserve Act to the "Treasurer of the United States" and substitutes therefor the "United States Treasury". This substitution reflects Reorganization Plan No. 26 of 1950 (31 U.S.C. 1001, note) and a reorganization within the Fiscal Service of the Treasury Department, effective February 1, 1974. All accounts of the "Treasurer of the United States", including accounts relating to gold held against outstanding gold certificates, now are accounts of the "United States Treasury". The Department of the Treasury proposes to amend or repeal other statutes, as and when appropriate, to make similar substitutions in the law.

SEC. 6. DATE OF EFFECTIVENESS

Section 6 of the proposed bill postpones the date upon which those provisions of the bill that are based upon or directly related to amendments of the IMF Articles of Agreement are to become effective. Those provisions—amendment of section 5 of the Bretton Woods Agreements Act, amendment of the Special Drawing Rights Act, and repeal of section 2 of the Par Value Modification Act—will take effect only upon the entry into force of the proposed amendments of the Articles of Agreement of the International Monetary Fund.

COMPARATIVE TYPE SHOWING CHANGES WHICH WOULD BE MADE IN EXISTING LAW BY PROPOSED BILL

(Matter proposed to be omitted enclosed in brackets; new matter set in italics)

BRETTON WOODS AGREEMENTS ACT

(59 Stat. 512, 22 U.S.C. 286 et seq. (1945))

* * * * *

SEC. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under [article III, section 2,] *article III, section 2(a)*, of the Articles of Agreement of the Fund; (b) *propose a par value for the United States dollar under paragraph 2 or paragraph 10 of Schedule C of the Articles of Agreement of the Fund;* [(b)] (c) propose [or agree to] any change in the par value of the United States dollar under [article IV, section 5, or article XX, section 4,] *paragraph 6 of Schedule C* of the Articles of Agreement of the Fund, or approve any general change in par values under [article IV, section 7] *paragraph 11 of Schedule C;* [(c)] (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; [(d)] (e) accept any amendment under article [XVII] *XXVIII* of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; [(e)] (f) make any loan to the Fund or the Bank. Unless Congress by law authorizes such action, no governor or alternate appointed to represent the United States shall vote for an increase of capital stock of the Bank under article II, section 2, of the Articles of Agreement of the Bank, if such increase involves an increased subscription on the part of the United States.

* * * * *

Sec. 24. The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution no. 31–4 of the Board of Governors of the Fund.

Sec. 25. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

SPECIAL DRAWING RIGHTS ACT

(82 Stat. 188, 22 U.S.C. 286n et seq. (1968))

* * * * *

SEC. 3. (a) Special Drawing Rights allocated to the United States pursuant to article [XXIV] *XVIII* of the Articles of Agreement of the Fund, and Special Drawing Rights otherwise acquired by the United States, shall be credited to the account of, and administered as part of, the Exchange Stabilization Fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a).

(b) The proceeds resulting from the use of Special Drawing Rights by the United States, and payments of interest to the United States pursuant to article [XXVI] *XX*, article [XXX] *XXIV*, and article [XXXI] *XXV* of the Articles of Agreement of the Fund, shall be deposited in the Exchange Stabilization Fund. Currency payments by the United States in return for Special Drawing Rights, and payments of charges or assessments pursuant to article [XXVI] *XX*, article [XXX] *XXIV*, and article [XXXI] *XXV* of the Articles of Agree-

ment of the Fund, shall be made from the resources of the Exchange Stabilization Fund.

* * * * *

SEC. 6. Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States vote to allocate in each basic period Special Drawing Rights under article [XXIV] *XVIII*, sections 2 and 3, of the Articles of Agreement of the Fund so that allocations to the United States in that period exceed an amount equal to the United States quota in the Fund as authorized under the Bretton Woods Agreements Act.

SEC. 7. The provisions of article [XXVII (b)] *XXI(b)* of the Articles of Agreement of the Fund shall have full force and effect in the United States and its territories and possessions when the United States becomes a participant in the special drawing account.

PAR VALUE MODIFICATION ACT (86 STAT. 116, 31 U.S.C. 449 ET SEQ. (1972))

* * * * *

[SEC. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals 0.828948 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollars per fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).]

* * * * *

GOLD RESERVE ACT OF 1934 (48 STAT. 344, 31 U.S.C. 405B (1934))

* * * * *

SEC. 14. * * *

(c) The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the [Treasurer of the] United States Treasury. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard *provided in Section 2 of the Par Value Modification Act (31 U.S.C. 449) on the date of enactment of this amendment*, of the gold so held against gold certificates.

Mr. SPARKMAN. I also ask unanimous consent that if and when the bill is reported by the Committee on Foreign Relations, it be referred to the Committee on Banking, Housing and Urban Affairs for not to exceed 30 days with respect to section 4 relating to the Par Value Modification Act and section 5 relating to the Gold Reserve Act of 1934.

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

By Mr. BROCK:

S. 3456. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems. Referred to the Committee on the Judiciary.

Mr. BROCK. Mr. President, I am unequivocally opposed to forced busing. And, since busing is said to be the "law of the land," that law must be changed. It is ironic that a nation so committed to the rights of the disadvantaged, minority groups, defendants in criminal trials, or dissenting voices, ignores the rights of its sons and daughters by busing them out of their neighborhoods against their will in an effort to achieve numerical school quotas.

As a U.S. Senator, I have taken every opportunity to express opposition to busing by supporting many different measures to stop busing cold in its tracks. The legislation I am introducing today represents a new effort in the fight to stop once and for all the wasteful and foolish busing of our schoolchildren.

For 3 years we in Congress have fought this matter to a stalemate. No one has won—and only the Nation's children have lost. Are we really so incapable of decisions in the face of tragedy? Hopefully not, but perhaps a new path for debate must be chosen.

This bill may represent that new path. It is really an education bill—the toughest and most far-reaching legislation that can withstand constitutional scrutiny by the courts. It is suggested over other approaches—such as a constitutional amendment—because of the obvious improvement in possibility of passing this bill through the Houses of Congress.

This bill, of course, deals with compulsory transportation beyond traditional neighborhoods, but it does so in a fair and rational way. It does so in a fashion which will benefit the educational opportunity of every child, black or white, rich or poor.

However, a word of caution is in order so as not to overstate the case. No one bill can be a panacea for the panoply of ills besetting our American public schools. They need more financial support, and the funds received must be spent more wisely. This bill alone will not do that. Yet, if this bill passes, the people of this Nation are more likely to support other needed efforts. They would have some assurance the funds going to education would be used for that central purpose, educating children. People also need the intense community interest and participation which comes with local control. This bill alone does not achieve that objective, yet its passage would help restore the sense of community such support requires.

The turmoil, confusion, hatred, and social disruption caused by the forced busing of schoolchildren is totally fruitless. Rather than developing quality education, it has been accompanied by decreasing educational standards, increasing racial tensions, sporadic violence, and an overall loss in improvement of relations between different segments of our society. Busing has lowered public school attendance and lessened support for the entire educational system.

In a nutshell, the forced busing of schoolchildren is a classic example of a cure being worse than the disease.

We must provide quality education for all Americans. In too many areas that is not being done, from central cities to rural and mountain communities. This must become again a fundamental goal, it has been for these 200 years.

We need to provide our children with good schools in their own neighborhood where they can learn understanding and brotherhood, rather than hatred bred by coercion. We must recognize that each child in this country deserves the same treatment and the same opportunity without regard to his or her race, creed, or national origin. Today, with or without busing, our schools, and the hope they offer, simply are not equal.

Obviously, there is no perfect answer to this problem. However, it is our constitutional responsibility to do better. The courts have almost pled with the Congress to establish standards for guaranteeing equal access to educational opportunity for all children; that plea must not be ignored.

Quotas are wrong. There is no distinction between the enforced transportation of our separatist past and the governmental edicts to achieve racial balance we see today. In either instance, we find ourselves far afield from a colorblind application of the law. There are ways to safeguard the constitutional rights of our children, to guarantee them equality of opportunity, and equality of educational support. It must be the responsibility of Congress to achieve these goals.

The proposal that I have submitted to the Congress today will do three things as a first step: First. It will not allow forced transportation of schoolchildren beyond the second nearest school, suitable for that child, from that child's home or residence; Second. It will instruct the courts to use busing only in the last remedy situation; and, just as important, Third. The bill codifies and clearly sets forth the Congress commitment to support the neighborhood school policy.

Last fall, Mr. President, as school openings across the land started, we witnessed a new wave of needless and senseless violence and bloodshed. These difficulties were not created by the voluntary actions of school districts. Rather, these problems arose as the Federal Government imposed irrational and arbitrary quota requirements for our children.

Therefore, I am today introducing legislation, as strict as possible, to prevent this from occurring again. It is critical that the Congress reach a new solution to this problem before another school opening is upon us. I am confident that this legislation is the first step in solving this age-old dilemma, but it is only that. Of even more importance is a renewal of our fundamental commitment to afford our children a world unburdened of the blight of discord, hatred, and selective freedoms—a world full of opportunity for all.

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

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

S. 3456

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 "Uniform Criteria Act of 1976".

POLICY AND PURPOSE

SEC. 2. (a) The Congress declares it to be the policy of the United States that—

(1) all persons in the United States are entitled to freedom from coercion imposed in the exercise of limitless discretionary powers by any branch, agency, or officer of the United States Government;

(2) it is in the public interest to terminate at the earliest practical date by means consistent with the Constitution the involvement of United States courts in decisions

affecting the operation, management, and control of public schools.

(b) In order to carry out this policy it is the purpose of this Act to specify appropriate criteria for the formulation of remedies for the orderly elimination of the vestiges of dual school systems.

FINDINGS

SEC. 3. (a) The Congress finds that—

(1) dual school systems as defined by the courts have been effectively dismantled in the United States;

(2) in the process of eliminating dual school systems, many local educational agencies have been required to reorganize their school systems and undertake massive reassignments of students and to engage in the extensive transportation of such students;

(3) the guidelines provided by the courts for fashioning remedies to dismantle previously-maintained dual school systems and for the elimination of the vestiges of dual systems have been acknowledged by the Supreme Court of the United States to be "incomplete and imperfect," and the Congress finds that they are particularly inadequate from the standpoint of providing criteria for determining the extent to which an educational agency is required to reassign or transport students to eliminate the vestiges of the dual school system;

(4) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend a large amount of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(5) transportation of students is excessive when it creates serious risks to the health and safety of students, or disrupts the educational process carried out with respect to such students, or impinges significantly on their educational opportunity;

(6) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades;

(7) the neighborhood is the appropriate basis for determining public school assignments in the first six grades;

(8) the assignment of students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis is educationally sound and is consistent with public policy long recognized by Congress;

(9) it is contrary to public policy to require an educational agency to attain or maintain a balance, on the basis of race, color, sex, national origin, or socioeconomic classes of students among its schools;

(10) it is contrary to the public interest to require an educational agency to make year-by-year school assignments to adjust the racial composition of student bodies after desegregation has been accomplished and racial discrimination through official action is eliminated from the separate school systems in the Nation;

(11) in the interest of orderly administration of public schools, it is urgent that school authorities be provided authoritative criteria by which to determine what is required by Congress and the courts to eliminate the vestiges of previously maintained dual school systems.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specifies appropriate remedies for the elimination of the vestiges of dual school systems.

TITLE I—ASSIGNMENT PROVISIONS

ASSIGNMENT ON NEIGHBORHOOD BASIS

SEC. 101. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal protection of the laws unless such assignment is made for the purpose of segregating students on the basis of race, color, sex, or national origin.

BALANCE NOT REQUIRED

SEC. 102. The failure of an educational agency to attain a balance, on the basis of race, color, sex, national origin, or socioeconomic status of students among its schools shall not constitute a denial of equal protection of the laws.

TITLE II—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 201. In formulating a remedy for a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal protection of the laws.

SEC. 202. In formulating a remedy for a denial of the equal protection of the laws, which may involve the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or on the first combination thereof which would remedy such denial;

(a) assigning students to the schools closest to their place of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 203;

(e) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 203 and 204 of this Act.

TRANSPORTATION OF STUDENTS

SEC. 203. (a) No court, department, or agency of the United States shall, pursuant to section 202, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, departments, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency shall because of such shifts be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan to compensate wholly or in part for such shifts in school population.

DISTRICT LINES

SEC. 204. In the formulation of remedies under section 201 or 202 of this Act, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 205. Nothing in this Act prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 206. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this Act. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

TERMINATION OF ORDERS

SEC. 207. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

TITLE III—DEFINITIONS

SEC. 301. For the purposes of this Act—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) A "dual school system" is one in which students are assigned to schools solely on the basis of race, color, sex, or national origin for the purpose of segregating such students in schools of the system.

(d) A "unitary school system" is one in which an educational agency is not effectively excluding any person from any school because of race, color, or national origin, whether or not such school system was in the past segregated de jure or de facto.

(e) The term "segregation" means the operation of a school system in which students are assigned to schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(f) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 402. If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this Act and of the amendments made by this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

By Mr. MONTOYA:

S.J. Res. 197. A joint resolution requesting the Secretary of the Interior to take certain action to honor and recognize the role played by James Larkin White in connection with the establishment of Carlsbad Caverns National Park, N. Mex. Referred to the Committee on Interior and Insular Affairs.

Mr. MONTOYA. Mr. President, today, I am introducing a joint resolution requesting the Secretary of the Interior to erect a suitable monument in the Carlsbad Caverns National Park, N. Mex., in honor and recognition of the role played by James Larkin White in establishing the Carlsbad Caverns National Park.

James Larkin White was the first known man to explore any part of the Carlsbad Caverns, and through his continued efforts over the years, Mr. White was the man most responsible for bringing the significance of the caverns to the public's attention.

Mr. President, it is only fitting and proper that a monument to this late New Mexican explorer be erected so that those enjoying the wonders of these caverns be made aware of the contributions of James Larkin White in securing Carlsbad Caverns as a national park.

At this time, I ask unanimous consent that the text of this joint resolution along with a copy of the New Mexico State Legislature's resolution regarding this tribute to James Larkin White be entered into the RECORD.

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

S.J. RES. 197

Whereas, James Larkin White was the first known man to explore any part of Carlsbad Caverns;

Whereas, James Larkin White continued to explore such caverns for his entire life and became the foremost expert in the country on the caverns;

Whereas, James Larkin White began showing the caverns to the public in 1922 and, through his efforts was the man most responsible for bringing the significance of the caverns to the public's attention;

Whereas, James Larkin White dedicated his life toward the creation of Carlsbad Caverns National Park and later became the chief ranger at the park; and

Whereas, the name and memory of James Larkin White should continue to endure as long as people come to gaze in awe at the sights he first beheld in the flickering lantern light: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to cause to be erected, at an appropriate place or places, within the Carlsbad Caverns National Park, New Mexico, a suitable plaque, statue, or other monument, in honor and recognition of the role played by James Larkin White in connection with the establishment of the Carlsbad Caverns National Park.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this joint resolution.

SENATE MEMORIAL NO. 4

A memorial requesting the United States to erect a statue and plaque at the entrance to Carlsbad Caverns National Park to honor the memory of James Larkin White, the first known man to explore the caverns and the man most responsible for the creation of the national park

Whereas, James Larkin White was the first known man to explore any part of Carlsbad Caverns; and

Whereas, he continued to explore them for his entire life and became the foremost expert in the country on the caverns; and

Whereas, he began showing the caverns to the public in 1922 and, through his efforts, was the man most responsible for bringing the significance of the caverns to the public's attention; and

Whereas, he dedicated his life toward the creation of Carlsbad Caverns National Park and later became the chief ranger at the park; and

Whereas, his name and memory should continue to endure as long as people come to gaze in awe at the sights he first beheld in the flickering lantern light;

Now, therefore, be it resolved by the Senate of the State of New Mexico that the United States is requested to erect a statue and plaque at the entrance to Carlsbad Caverns National Park honoring the memory of James Larkin White; and

Be it further resolved that copies of this memorial be transmitted to the National Park Service, the Secretary of the Interior, and to the members of New Mexico's delegation to the Congress of the United States.

ADDITIONAL COSPONSORS

S. 2087

At the request of Mr. NELSON, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2087, to amend the Small Business Act.

S. 3091

At the request of Mr. HUMPHREY, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 3091, to amend the Forest and Rangeland Renewable Resources Planning Act.

S. 3098

At the request of Mr. WEICKER, the Senator from Indiana (Mr. BAYH) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 3098, to amend the Community Services Act of 1974.

S. 3151

At his own request, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3151, to establish a program for gathering and analyzing information with respect to multinational enterprises.

S. 3182

At the request of Mr. TAFT, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 3182, to amend the Occupational Safety and Health Act.

S. 3192

At his own request, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 3192, the Consumer Communications Reform Act of 1976.

S. 3227

At the request of Mr. HUMPHREY, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 3227, to accelerate solar energy research and development.

S. 3378

At the request of Mr. TAFT, the Senator from South Carolina (Mr. THURMOND) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 3378, to amend the Internal Revenue Code of 1954.

S. 3414

At the request of Mr. CHILES, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 3414, to amend the Service Contract Act of 1965.

S. 3432

At the request of Mr. GRAVEL, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 3432, to authorize an increase in the monetary authorization for certain comprehensive river basin plans.

S. 3428

At the request of Mr. HUGH SCOTT, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3428, entitled "Agenda for Government Reform Act."

S. 3433

At the request of Mr. PACKWOOD, the Senator from North Dakota (Mr. BURDICK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Idaho (Mr. MCCLURE), and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of S. 3433, a bill to require that imported meat and meat food products made in whole or part of imported meat be labeled "imported," to provide for the inspection of imported dairy products, to require that imported dairy products comply with certain minimum standards of sanitation, and to require that imported dairy products be labeled "imported."

S. 3440

At the request of Mr. PELL, the Senator from New York (Mr. JAVITS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. HATHAWAY), the Senator from Ohio (Mr. TAFT), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 3440, the Arts, Humanities, and Cultural Affairs Act of 1976.

SENATE RESOLUTION 421

At the request of Mr. BROCK, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of Senate Resolution 421, requiring limitation and disclosure of the use of Senate facilities for official business and reimbursement by Senators for unofficial use of Senate computer materials, and for other purposes.

AMENDMENT NO. 1644

At the request of Mr. HATFIELD, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of amend-

ment No. 1644 intended to be proposed to S. 3219, the Clean Air Act Amendments of 1976.

AMENDMENT NO. 1654

At the request of Mr. HASKELL, the Senator from Oregon (Mr. HATFIELD), the Senator from New Jersey (Mr. CASE), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. GARY HART), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) were added as cosponsors of amendment No. 1654, intended to be proposed to S. 3105, the Energy Research and Development Administration Authorization Act.

SENATE RESOLUTION 449—SUBMISSION OF A RESOLUTION DISAPPROVING ENERGY ACTION NUMBERED 2

(Referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF (by request) submitted the following resolution:

S. RES. 449

Resolved, That the Senate does not favor the energy action numbered 2 transmitted to the Congress on May 12, 1976.

Mr. METCALF. Mr. President, today as acting chairman of the Senate Interior and Insular Affairs Committee I am submitting a resolution in accordance with procedures specified in section 551 of the Energy Policy and Conservation Act—Public Law 94-163—expressing the Senate's right of disapproval of the proposal by the Federal Energy Administration—Energy Action No. 2—to modify the crude oil entitlement purchase exemption for small refiners. This FEA proposal was transmitted to the Senate on May 12, 1976 and would become effective at the end of 15 calendar days of continuous session of Congress unless disapproved by either House of Congress. In the case of the Senate this period woud extend until midnight May 27 unless the Senate is not in session because of an adjournment sine die or an adjournment of more than 3 days to a date certain.

I am submitting this resolution of disapproval to preserve the opportunity for the Senate to make full use of the procedures contemplated in the Energy Policy and Conservation Act to consider this issue. The Senate Interior Committee will hold a hearing on the FEA proposal on Monday, May 24, to receive the testimony of the FEA and selected private witnesses on the impact of these modifications in the crude oil entitlements program.

I understand that this resolution will be referred to the Senate Interior Committtee. Under the provisions of section 551 of the Energy Policy and Conservation Act, should the Committee fail to favorably report the resolution it will be in order after Tuesday, May 24, for any Member to move to discharge the Committee of its responsibilities with respect to the resolution. If such a motion carries the Senate will then have an opportunity to consider and debate the merits of FEA's proposed modification in the context of the resolution of disapproval.

SENATE RESOLUTION 450—SUBMISSION OF A RESOLUTION DISAPPROVING ENERGY ACTION NUMBERED 2

(Referred to the Committee on Interior and Insular Affairs.)

Mr. MANSFIELD (for Mr. MCGEE) submitted the following resolution:

S. RES. 450

Resolved, That the Senate does not favor the energy action numbered 2 transmitted to Congress on May 12, 1972.

SENATE CONCURRENT RESOLUTION 118—SUBMISSION OF A CONCURRENT RESOLUTION URGING THE SOVIET UNION TO PERMIT RELIGIOUS FREEDOM

(Referred to the Committee on Foreign Relations.)

Mr. JACKSON (for himself, Mr. CASE, Mr. HUMPHREY, and Mr. STEVENS) submitted the following concurrent resolution:

S. CON RES. 118

Whereas Christians and other religious believers in the Soviet Union are being persecuted simply because they desire to worship God according to the dictates of their conscience and the precepts of their faith rather than according to the dictates of the state;

Whereas a symbol of the denial of basic human rights by the Soviet Union is the imprisonment for five years at hard labor of Georgi Vins, Secretary for the Council for the Evangelical Christians and Baptists for the alleged crime of administering to the congregation that elected him as their pastor, and the continuing persecution of the Vins family, which for three generations has suffered imprisonment and death in imprisonment for preaching the Baptist faith;

Whereas the continued denial of this fundamental human right in the Soviet Union could have adverse implications for the growth of amicable relations between our two countries; and

Whereas such Soviet policy contravenes the spirit, if not the letter of the Helsinki Agreement and by so doing raises serious doubts as to the commitment of the Soviet Union to that agreement: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the Government of the Soviet Union should immediately release Georgi Vins from imprisonment and allow him and all other Christians and other religious believers within its borders to worship God freely according to their own conscience, as the Soviet Union is committed to do by the provisions of its constitution and by the provisions of the United Nations Covenant on Civil and Political Rights which the Soviet Union has ratified.

Mr. JACKSON. Mr. President, on behalf of myself and Senators CASE, HUMPHREY, and STEVENS I introduce a Senate concurrent resolution that it is the sense of the Congress that the Government of the Soviet Union should immediately release Georgi Vins from imprisonment and allow him and all other Christians and other religious believers within its borders to worship freely according to their own conscience.

This resolution was introduced in the House by Representative JOHN BUCHANAN and a bipartisan group of cosponsors. We are proud to add our voice to theirs on behalf of this Baptist leader who is near death in a Soviet prison for his brave defense of his faith and the inspiration he has provided to his persecuted brethren.

As I said in February, 1975 to the Research Center for Religion and Human Rights in Closed Societies, Georgi Vins' tragic yet far from solitary plight is a grim reminder that the atmosphere of détente has not inhibited the Soviet Government's campaign of repression against religious and intellectual dissidents and minorities.

In standing up for human rights, we Americans reflect the best in our democratic and humanitarian heritage. Furthermore, in the struggle for human rights, we have international law on our side. The Universal Declaration of Human Rights was reaffirmed in the International Covenant on Civil and Political Rights which the Soviet Union ratified in 1968. The Helsinki accords, which the Soviet Union joined in signing last August, pledge all participating states to uphold the universal declaration.

Georgi Vins' father, who trained as a Baptist minister in the United States, was arrested and imprisoned three times during the 1930's on various charges stemming from his religion and died during his third sentence from the rigors of a Far East labor camp. He died 5 years before the United Nations unanimously passed the Universal Declaration of Human Rights, with its great paragraph:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Georgi Vins was serving his first term in prison at hard labor when the Soviets ratified the International Covenant on Civil and Political Rights in 1968. The Covenant reaffirms the universal declaration on religious freedom and also declares:

No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

Georgi Vins was being tried on the charge of "harming the interests of Soviet citizens under a pretext of carrying out religious activity" while the Helsinki Conference on Security and Cooperation in Europe was deliberating on its "Third Basket" human rights provisions. He had been sent to a labor camp in the Yakutsk district of Siberia by the time the final act was signed in Helsinki on August 1, 1975. That act includes the provision:

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

We must express our concern for Georgi Vins and others in such compel-

ling situations in the Soviet Union. And we must remain firm in our commitment to freedom of worship. It is most important and appropriate that the American people, who are so blessed in the freedoms that we take for granted, make clear to the Soviet Union that a genuine détente requires increasing respect for fundamental human rights.

Mr. President, I ask unanimous consent that the March 30 statement Mr. BUCHANAN made in the House about Georgi Vins be printed in the RECORD at this point.

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

GEORGI VINS, SOVIET CHRISTIAN

Mr. BUCHANAN. Mr. Speaker, appeals have been pouring into the West in recent months from Soviet evangelical Christians, seeking relief from oppression by authorities in their country. Some of the appeals have been sent directly to the United Nations General Secretary, the World Council of Churches, the Baptist World Alliance, and Christian leaders in the West. Some are copies of appeals sent to Soviet authorities. In many cases, accompanying documents cite names, places, dates, and details of grievances.[1]

A significant case is that of Soviet church leader Georgi Vins, 48, of Kiev in the Ukraine. Before his imprisonment early in 1975, he was secretary of the Council of Churches of Evangelical Christians and Baptists—CCECB—the dissident Baptist movement that the government says is illegal.

Georgi Vins, a founder of the CCECB, was arrested first in 1966 after a Baptist demonstration outside the Communist Party headquarters in Moscow and sentenced to 3 years at hard labor in a prison. He came out of prison in 1969 broken in health. A new case against him was started in 1970, but he went into hiding and carried on the direction of the CCECB underground. Late in March of 1973, the authorities found him and jailed him in Kiev pending trial.[2]

News reached the Western World in February 1975 that Mr. Vins was convicted by a court in Kiev of "harming the interests of Soviet citizens under a pretext of carrying out religious activity." The sentence of 5 years in prison to be followed by 5 years in exile was believed to be the maximum possible under the charge.[3]

The date of the trial in Kiev was kept secret, but family members and other believers showed up nevertheless and maintained a watch outside. The trial was held almost a year after Vins' arrest. Only persons with special passes, apparently those hostile to evangelical Christianity, were to be admitted to the courtroom. Several family members managed to get inside, however, among them Lydia Vins, Georgi's mother, who like her son and her husband had spent time previously in Soviet jails for her faith. She tape recorded her comments on the 5-day trial, and the correspondent of a religious publication in touch with key Soviet believers sent the magazine a translated transcript.[4]

Mrs. Vins said a Norwegian Christian lawyer, Alf Haerem, was obtained to be Georgi Vins' defense lawyer. Authorities tried to persuade the family and his friends to take an atheist as a defender, she said, but they refused. They, in turn, refused to give Mr. Haerem an entry visa, and Mrs. Vins informed the court of that fact. At this, according to his mother's account, Georgi announced he was rejecting the composition of the court.

He said, according to his mother's account published in Christianity Today: "The first reason is that the court is one-sided, consisting of atheists, and they are not judging me, but they are judging the confession of faith of the Evangelical Christian Baptists, they are judging the Bible and the Gospel, and they are judging the whole movement of our Christianity.

"The second reason is that the entire investigation was conducted with much violence, with psychological and physical terrorism, and that the investigation was not conducted by the proper authority but by the Committee of Government Security (KGB). For two months an agent of the KGB threatened and menaced me, and now he is sitting here in this courtroom. . . ."[5]

Soviet authorities also rejected the offer of the World Council of Churches in Geneva to send a foreign lawyer to represent him at the trial. They also rejected applications by other Western observers to attend the trial.

Mr. Vins' confrontation with the Soviet authorities resulted from his prominence in the Initsiativniki, or Initiators, a group of reform Baptists who broke in September 1965, with the officially tolerated All-Union Council of Evangelical Christians and Baptists over the issue of submitting to the authority of the athiest Soviet State.[6]

The Initsiativniki, which Mr. Vins served as secretary, have rejected Moscow's right to oversee their religious affairs, thereby prompting official repression.

The Initsiativniki or Initiators, the "reformers," formed their own separate fellowship, the CCECB, now considered an outlaw organization in the eyes of Soviet officials.

In 1966, according to a report in Christianity Today, the AUCECB—the officially sanctioned religious organization composed of Baptists, Pentecostals, Mennonite and others—revised its constitution, apologized for the stringent 1960 regulations which prompted the start of the reform group, and asked the reformers to return. There was no effective response; at the time Vins and other leaders were in prison.[7]

One of those appealing on Vins' behalf through open letters is Soviet physicist Andrei Sakharov, who himself is in trouble with the government for his outspoken championship of human rights. In an interview published in a Stockholm daily before Vins' trial, Dr. Sakharov said Vins was charged with vagrancy—not holding a job and hiding from the police—using religion for crime against the rights of citizens—living on the means of others—and violating church-state separation laws.[8]

In theory, Soviet citizens enjoy religious freedom under article 124 of the Constitution:

"No one is forced to be a believer or an atheist, to observe religious rites or not to do so."

Said Vladimir Kuroyedov, chairman of the State Council of Religious Affairs, in a recent Izvestia interview:[9]

In fact, religious worship in the Soviet Union is circumscribed with restrictions. The State Council of Religious Affairs is the watchdog successor to two organizations set up by Stalin to control "religious cults." Communist Party membership, the key to advancement in Soviet society, is barred to religious believers. Scientific atheism is taught as a part of social studies in Soviet schools and as a special required course at higher university level. But any religious instruction for youth is banned.[10]

The New York Times this month reported:

"The Russian Orthodox Church and the All-Union Council of Baptists function obediently under state scrutiny. But unapproved sects . . . have been harassed for refusing to submit on issues like conscientious objection to military service. Last month, the official press in Byelorussia reported prison sentences for several Jehovah's Witnesses found guilty of copying articles from the Western publication Watchtower and maintaining secret chapels.[11]

The case of Georgi Vins is by no means unique. Writings by Christian authors smuggled into the West tell of dozens of cases of repression of religious people. But Vins' case is notable and it is dramatic. His father and mother were imprisoned for their faith, and it appears now that his children may be because they have decided that they are never going to give up their beliefs.

Pyotr Yekovlevich Vins, Georgi's father, of German origin, came from Samara—now Kuibyshev. As a young man, he went to America for theological education not available in Russia, and spent his time there first at Weston Memorial Baptist Church, Philadelphia, then at Colgate Divinity School, Rochester, N.Y., and from 1912–22 at the Southern Baptist Seminary at Louisville, Ky. On his return to the Soviet Union in the spring of 1922, he went to Siberia as a missionary. From that time on he was an active and wholehearted member of the Baptist Church in the Soviet Union.

He was first arrested in Moscow in 1930 after refusing the NKVD's suggestion that he support their candidates in the elections to the Assembly of the Union of Christians-Baptists. He was sentenced to 3 years in a labor camp, the first of several prison terms. His third arrest was in 1937, and there was no further news of him for many years. Then his wife learned he had been convicted by a closed court—the infamous troika—to 10 years in a labor camp without right of correspondence. He died on December 2, 1943, at the age of 45, in one of the Far East labor camps.[12]

Like his father, Georgi Vins, born in 1928, was an active member of the Baptist Church, and he also became a pastor. He received a higher education and holds two degrees, one in economics and one in engineering. He was actively involved from 1960–64 in the series of meetings and writing of documents to the State authorities, to the AUCECB and to believers throughout the Soviet Union.

Vins and other demonstrators were arrested when they openly walked into the offices of the Central Committee building in 1966. In November he and a co-defendant, Gennadii Kryuchkov, were tried and sentenced to 3 years in prison.

Vins and two other Baptists carried on an active Christian life of prayer and evangelism in the prison camp and aroused a great deal of interest among their fellow prisoners. He was transferred to another camp in an effort to stop this evangelism.

Vins' physical condition deteriorated in prison. He developed heart disease and had running sores on his arms and body. Despite his training as an electrical engineer, he was forced to drag logs at work.

Meanwhile, his family suffered because of his prisoner status. His wife, with a degree in foreign languages, was forced to take a job selling ice cream. His daughter was mistreated at school.

He was released in May 1969, and by the end of the year was once more taking an active part in the life of the CCECB.

Not long after Vins' activity as a pastor was curtailed once more. He was again arrested, sentenced to a year of forced labor—to be served at home—and 10 percent of his wages was deducted as a fine.

By June or July 1970, a new criminal case was being prepared. For more than 3 years, Vins lived in hiding, unable to return home and attempting to carry on his work as a pastor clandestinely. He appears not to have been arrested during this time, but in a list of prisoners put out in October 1970, he appears as "under investigation" presumably as a "parasite."

Vins wrote a letter in December 1970 to Russian officials to protest his mother's arrest on December 1, 1970. The letter contains information about prison sentences endured by other members of his family, including his father. His mother's cousin was arrested in 1938 and died in the camps. His uncle's

Footnotes at end of article.

wife was arrested in 1939 and spent 17 years in a prison camp. Her father was given a 5-year sentence in 1939.

The police came to Vins' mother's home on December 1, 1970, where her sudden arrest caused great distress to her grandchildren, who were in her care during the absence of her daughter-in-law.

The Council of Prisoners' Relatives—CPR—reported that her arrest was a direct result of her activity as president of the CPR in compiling and distributing information about Christian prisoners.

Vins' mother, Lidiya Vins, was tried in Kiev on February 8–9, 1971, and appealed without success on February 18. She was sentenced to 3 years' imprisonment. A CPR bulletin gave details about her poor health: she was diabetic, had a stomach illness, and had to be taken to work on people's arms.

Another CPR bulletin said there was no hope for her surviving her 3-year sentence because of her illness, and still another bulletin added that she had been moved to a Civil hospital for a month after which she was taken back to camp. Her friends in the Kiev congregation once more appealed for her release and she was released in November 1973. At the time, Georgi apparently was still hiding.

At the end of March 1974, Georgi Vins was arrested again and was held virtually incommunicado. The Kiev congregation appealed for his release to Soviet officials and his family pleaded to be granted the opportunity to see and talk with him, to learn about his condition.[13]

Only a little information about Vins' present condition has reached the West. Earlier this year, it was reported that after the January 1975 trial Vins was sent to the Yakutsk district in Siberia to serve the first part of his sentence—5 years of strict labor camp. The climatic conditions are very hard in that area, with the average temperature in January being 50 degrees Celcius below zero. Vins is in the category of "dangerous prisoner," which implies among other things that he has to report every third hour and that he may be shot without warning in case of desertion. Despite his poor health, he is sent to hard labor 10 hours a day.

Left at home in Kiev were Vins' mother, his wife, Nadezda, and five children. On September 18, 1975, the police confiscated most of the furniture in their apartment. The family was left with a table, a chair for each, and a bed for each. It is strictly forbidden for their church to organize relief to help them.[14]

Mr. Speaker, a statement signed by Vins' four children asserts that Vins' wife was fired from her work in 1962 for her religious beliefs and it was years before someone would hire her. Daughter Natasha was fired in January 1973, from a hospital job allegedly because "religion and medicine are incompatible." Vins' son, Peter, has completed his education, but as of December 1974, had not been hired anywhere.

The statement from the Vins children, addressed to Soviet authorities, ends with a vow:

"If our father is not released and if measures are taken in prison which threaten his life, then know you that our entire family is filled with resolve to die alongside him. This we make known to you and believers around the world."

Mr. Speaker, unless some action is taken on his behalf, Pastor Vins will surely die in a hard labor camp in Siberia.

FOOTNOTES

[1] "Carrying the Cross in the U.S.S.R.," *Christianity Today*, December 20, 1974, p. 26.

[2] Ibid.

[3] "Soviet Imprisons a Baptist Leader," The New York Times, February 3, 1975.

[4] "The Trial of Georgi Vins," Christianity Today, April 25, 1975, p. 43.

[5] *Ibid.*

[6] *New York Times, op, cit.*

[7] "Carrying the Cross in the U.S.S.R.," Christianity Today, *op. cit.*

[8] Ibid.

[9] "Soviet Subdues Religion, but Zeal for Atheism Lags," The New York Times, March 1, 1976.

[10] Ibid.

[11] *Ibid.*

[12] "The Vins Family," *Radio Liberty Dispatch* November 8, 1974.

[13] *Radio Liberty Dispatch, Ibid.*

[14] Information made available by *Friends in the West*, Blaine, Washington organization whose president is Ray Barnett.

AMENDMENTS SUBMITTED FOR PRINTING

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 1656

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE. Mr. President, there is apparently some doubt in some quarters as to my views on the pending clean air legislation. I introduced the committee bill. My name appears on the committee report. I support this legislation. I am prepared to take this bill to conference and I am prepared to work for equitable resolution of the differences between the House and the Senate.

As chairman of the Senate Subcommittee on Environmental Pollution, I consider this a responsibility and an obligation. As I said in my supplemental views on this legislation, however, there are aspects of this legislation which I opposed in committee and there are provisions which I offered in committee which were not adopted. I continue to hold that view. I would prefer a different bill, broader in some respects and narrow in others.

What apparently has not been understood, however, is that I think the Clean Air Act as it was enacted in 1970 is basically sound law. Throughout 1975 as the Subcommittee on Environmental Pollution held hearings, the evidence presented supported that judgment. As those hearings developed, as issues were discussed, as amendments were proposed, I inquired as to whether or not the law really needed amending, whether amendments were being proposed as a means of clarifying the intent of Congress in providing guidance to the Administrator. A number of witnesses supported amendments to the act. A number of people think certain amendments are desirable to improve implementation of the act.

However, this only suggests amendments may be desirable, not essential. In my opinion, with one exception, the judicial and the administrative processes are available to overcome any hurdles which may be presented by the act in its present form. In 1970 and repeatedly since 1970, I have indicated a willingness to review and, if necessary, revise any of the statutory automobile emission standards. I proposed an amendment this year to fulfill that commitment. I suggested in committee that scientific evidence, technical data supported a relaxation of the standard for oxides of nitrogen emissions from automobiles from .4 per mile to 1.0 grams per mile. I am convinced that a modification of the NO_x standard is the only necessary change in the Clean Air Act other than the addition of new funding authority.

I think the courts and the Administrator can resolve the nondegradation issue. I think the statutory base and the legislative history of the Clean Air Act adequately support the requirement that there be a national nondegradation policy. I think the courts will uphold the statutory requirement and the legislative history, and I think the Administrator will eventually develop a set of regulations which meet criteria established by the courts.

I think the courts have the capability to monitor changes in current policies relative to achieving primary standards in areas where auto emission standards alone are an inadequate control mechanism and to provide the necessary flexibility so that transportation control requirements are not unduly inflexible and restrictive.

I think that EPA and the courts are capable, through the use of injunctions and criminal penalties, to enforce the deadlines in the Clean Air Act for stationary sources. These things can happen without any amendments this year.

Therefore, in order to underscore my commitment and to indicate again the scope of amendments that I feel are necessary, I am today submitting an amendment to S. 3219, the effect of which would be to strike the committee bill in its entirety, substitute a 1.0 gram per mile NO_x standard as the statutory NO_x standard and establish authorizations for Clean Air Act programs for fiscal years 1977, 1978 and 1979.

I have not finally concluded as to whether or not I will offer this amendment. But we have an obligation to the auto industry to finalize the question of emission standards.

The committee tried to discharge its responsibility concerning the major policy questions of the Clean Air Act. Should the Senate deem that response inadequate, then I will propose my amendment as a means of resolving the issue.

LOBBYING DISCLOSURE ACT OF 1976—S. 2477

AMENDMENT NO. 1657

(Ordered to be printed and to lie on the table.)

Mr. METCALF. Mr. President, where it counts the most, in the determination of who will be taxed with the costs of registering as lobbyists, the Lobbying Disclosure Act of 1976 (S. 2477) does nothing but make a bad situation worse.

All of us are aware that the law it was designed to replace is a legal anomaly which promises much but cannot possibly deliver much of anything. The inoperative 1946 Federal Regulation of Lobbying Act is distinguished primarily by its hot and cold running loopholes, on tap for anyone who wants to wash his hands of public disclosure.

But S. 2477 as reported will not close the loopholes and insure coverage of all significant lobbying activities intended to influence Congress.

Quite the contrary, this measure will permit larger nationally based organizations to slip through the disclosure net while operating their lobbies much as they do today. And at the same time, it will establish unprecedented barriers to direct communications between smaller locally based groups and national policy leaders in Congress.

The purpose of the amendment that I am now introducing is to establish a fair threshold test, which clearly distinguishes between the efforts of grassroots groups, with only a few paid employees, and those corporations and trade associations, national in scope, which spend substantial amounts to employ or retain lobbyists.

Moreover, my amendment will eliminate an invidious but politically appealing gimmick—the home State and district exemption—which if, allowed to stand, will ultimately make a mockery of our role as U.S. Senators.

Mr. President, the single most damaging flaw in S. 2477 is section 3(a)(2), one of the threshold tests for determining when an organization must register as a lobbyist and, subsequently, when it must file quarterly reports on its lobbying activities.

Under this provision, any organization which has at least one paid director or employee receiving the equivalent of $100 weekly must register if its paid directors or employees speak on its behalf to Members of Congress or congressional aides on 12 separate occasions in any 3-month period. However, any organization can exclude from this lobbying countdown all conversations which occur with a Member, or his personal staff aide, representing the State or congressional district in which the organization's principal place of business is situated.

Certainly this test appears to be convenient. What could be simpler than counting direct contacts? And the home State and district exemption is obviously appealing.

Who among us wants to tell a group of our own constituents they will have to register as lobbyists if they drop in or call to talk about their problems four times a month, or more?

Appearances often are deceptive, however, and section 3(a)(2) will prove to be anything but simple—or fair—in its effect. It will catch a host of smaller locally based groups whose spending for lobbying activities is minuscule compared to that of the larger nationally based corporations and trade associations who will be able to slip through the disclosure net at will.

Here is why:

Washington-based lobbyists customarily rely for their heaviest persuasion, not on visits to congressional offices by their representatives here but on calls from residents of the home States and districts of strategically placed Senators and Representatives. Thus, the "home State and district" exemption becomes an open invitation for the larger nationally based organizations to conduct their lobbies essentially as they do now and still avoid registration and reporting. By way of illustrating this point, consider what any corporation or trade association able to afford decentralizing its lobby can do without becoming a lobbyist under any of the threshold tests contained in section 3(a). Such an organization can:

Maintain as many people in a Washington office as it wishes, including its own legal staff and other expert personnel, to analyze and track legislation, collect information on the positions of the various Members of Congress, and report back to the parent organization;

Communicate with all Members of Congress, their personal aides, and committee staff personnel in writing, by memorandums, and telegram, on an unlimited basis;

Speak directly, by telephone or in person, through its paid directors and employees, on an unlimited basis with Members of Congress from the State or district in which its "principal place of business" is situated;

Using a WATS line, telephone like-minded corporations or organizations which are association members with "principal" places of business in most or all States, and urge them to call or visit the Senators who represent their State and their district's Representative;

Spend up to $30,000 annually in "direct" expenses, not including staff time, for soliciting others to lobby on issues in which it is interested; and

Invite as many Congressmen and staff employees as it wishes for luncheon, dinner, or seminar meetings with its chief executive officer, governmental relations representative, or other employee on as many as three occasions each month, for presentations on whatever issues it wishes.

Now some lobbyists who have spoken with me about provisions of S. 2477 have asserted that no major corporation or trade association is likely to take advantage of the loopholes built into this measure. Perhaps so. Others, however, disagree. For example, in a memorandum to the committee staff, Alan B. Morrison, director of Public Citizen Litigation Group, and Joan C. Claybrook, director of Congress Watch, concluded that:

> The home State exemption for lobbying communications remains a gigantic loophole designed for corporate trade associations who even now routinely assign responsibility for contacting members of Congress to the company which resides in a member's backyard. The home State exemption merely authorizes continuation of this practice without registration—and very importantly—without requiring gift disclosure.

For my part, I can only point out that the threshold tests contained in S. 2477 not only determine who must register. They also determine whether an organization, although already registered as a lobbyist, reports on its activities during any particular calendar quarter. What is called for in such quarterly reports under this measure is both extensive and detailed, and willful misrepresentation of information furnished in them is punishable by fines of up to $10,000 and imprisonment of up to 5 years.

I cannot accept as an article of faith the notion that corporations and trade associations will be able to resist the temptation to avoid disclosure of their activities in instances where their interests conflict with those of the administration, or gore an ox sacred to an influential party leader or committee chairman in Congress, or are contrary to strong public feelings. Not when it will be perfectly legal to duck out and still maintain a powerful lobby.

At the other end of the scale, for the smaller locally based groups—which cannot afford to maintain Washington offices or to decentralize their lobbying efforts—section 3(a)(2) will have consequences that clearly have not been anticipated by sponsors of S. 2477.

For some such groups, of course, the "home State and district" exemption will be a boon, permitting an unfettered but most effective lobby. This will be the case, for instance, whenever a local group is happily situated in a State which has a large congressional delegation composed for the most part of relatively senior Members of the majority party who are sympathetic toward its interests and who are strategically placed in the various committees of Congress.

Where does this leave the group whose interests do not strike a responsive chord among their own Senators and Representatives? How will it affect those whose views are distinctly in the minority, perhaps even unpopular, in a particular State or district but are nonetheless a matter of great interest and concern elsewhere in the Nation? What about those whose interests cannot be well served because of the small size, political composition, or limited committee responsibilities of Members of their own State delegation?

To such less fortunately situated groups, section 3(a)(2) offers a most unappealing choice: Either speak only to your own Senators or Representatives—however unwilling they may be to listen and however incapable they are of advancing your interests—or pay the price of registering and reporting as lobbyists if you make as few as four telephone calls monthly for 3 months to "outside" congressional offices or committee staff personnel.

Consider for a moment the consequences of any such provision, not in ordinary circumstances but in instances where opinion in the country runs deep and strong. How many groups would have been swept into the net during the long night of Vietnam or the sustained agony of the Watergate scandals? Could this test have been applied to those throughout the Nation who wished to speak with Senator Ervin and members of the select committee, or its staff? Or with Representative RODINO and members of the House Judiciary Committee?

I submit that to have even attempted to do so would have been a travesty. And it is precisely at this point that the section 3(a)(2) threshold test becomes invidious, not just as a practical matter but in principle as well.

No Senator or Representative should be so constrained from hearing directly the diversity of viewpoints of citizens

from outside his own State or district. Whether a newcomer or a senior Member, no Senator or Representative can contribute significantly in the making of national policy if his outlook is narrowly parochial. And accommodating the particular interests of any constituency requires an understanding of the full range of problems and interests in States and regions elsewhere.

Surely we ought not levy what is in effect a surcharge on the citizens of Wyoming or Ohio, for example, for making their views known directly to the Senator from Montana on strip mining legislation, requiring them to register and report as lobbyists for engaging in activities that are conducted in exactly the same manner as those that are "free" to Montanans.

How can we justify making out-of-staters pay the additional price of registering as lobbyists to talk to Senate Majority Leader MANSFIELD, who is no less a representative of a national constituency on many issues than he is of the three-quarter-million Montanans who elected him a U.S. Senator? Or to Minority Leader SCOTT? Or to any House or Senate committee or subcommittee chairman, who has special responsibility for national policymaking in his committee's area of jurisdiction? Or to any Senator or Representative who has become identified as particularly interested and competent in a given national policy area?

In short, we legislate on national problems and make national policy as U.S. Senators and U.S. Representatives. Certainly we should not begin the process—in a provision without precedent in any existing statute—of defining our role as something less.

Mr. President, we do not need to know what is bothering everyone who makes a dozen or so telephone calls or spends a half day on Capitol Hill. We do need to know who is spending large sums in active, continuing, and presumably powerful lobbies.

My amendment strikes out both the "12 conversation" test and the home State and district exemption contained in section 3(a)(2). Instead of this vague and capricious oral communications device as the means of making a crucial determination—who is and who is not a lobbyist—it establishes a precise dollar expenditure test for organizations which use their own paid employees to engage in lobbying comunications, written as well as oral.

Briefly stated, my amendment—which leaves intact the threshold tests in S. 2477 pertaining to use of legislative agents and lobbying solicitation—will operate as follows:

First, all smaller groups which have total annual operating costs of less than $100,000 will be entirely exempt from coverage. Annual operating costs are defined to include salaries, wages, retainers, payment for office space, office equipment and supplies, telephone, postage and addressing, travel and entertainment, advertising and publications, and services.

Second, all organizations with annual operating costs of $100,000 or more will be required to register whenever they spend $1,000 or more in any quarterly period for the time devoted by their own paid officers or employees to the making of lobbying communications. Excluded from the $1,000 threshold are personal travel expenses, and it should be emphasized that neither general expenses for lobbying activities nor gross salaries are to be included in determining whether this spending threshold has been passed. Only the cost of the actual time in which an organization's paid officers or employees are engaging in direct lobbying or otherwise making lobbying communications must be included.

And third, once they have passed this threshold and become lobbyists, only those organizations which have total annual operating costs of $250,000 or more will be required to fulfill the extensive—and costly—quarterly reporting requirements contained in S. 2477. Those organizations which have annual operating costs of between $100,000 and $250,000 will only have to amend their registration statements in the event any significant changes have taken place during each quarter, to provide basic but less detailed information about their current lobbying activities.

Mr. President, the case for this approach is compelling.

It will operate to screen out the vast majority of State and locally based interests we, as Senators, hear from. Exempting those whose annual operating budgets are less than $100,000 will insure that we do not sweep in the tiny ad hoc citizens group—which may have only one or two part-time employees. Establishing a relatively high dollar threshold—$1,000 for the cost of an employee's actual time engaged in lobbying—will insure that we do not require registration and reporting by those larger organizations which communicate with us infrequently and only on a limited scale.

My amendment recognizes that the accounting required for detailed reporting is costly, and limits this requirement to organizations which have budgetary and administrative structures capable of absorbing such costs without undue hardship.

Most importantly—by eliminating the need for the "home State and district exemption"—this approach closes the loopholes in S. 2477, insuring that all larger nationally based organizations which operate active and well financed lobbies will be required to disclose their activities.

Finally, to insure that this legislation covers only those who are paid to lobby, my amendment also strikes out section 6(c)(3). Under this provision, an organization which has become a lobbyist must identify even unpaid principal operating officers—whether its own or such an officer or any loosely affiliated organization—who make 25 or more oral lobbying communications on its behalf. Additionally, the lobbying organization must also describe the key issues on which such volunteers worked.

Not only does this provision place a wholly unnecessary burden on first amendment rights, Mr. President, it also is in conflict with the stated intent of S. 2477. As the report on this measure states, on page 8:

> The definition of a lobbyist in the Lobbying Disclosure Act of 1976 is keyed to an organization with one or more paid officers, paid directors, or paid employees. Individuals can never be lobbyists. Ad hoc, volunteer groups or other organizations which do not have any paid officers, directors or employees can never become lobbyists regardless of the extent of their lobbying activities.

If this is the intent, why should we require identification and reporting on the activities of unpaid volunteers? I cannot conceive of any justification for such a requirement and the chilling effect it will have on a multitude of volunteer groups which give their time and energy to assist other organizations in advancing the policies they believe in.

Mr. President, the time has come to overhaul the unworkable 1946 Federal Regulation of Lobbying Act. In doing so, however, we must recognize that lobbying disclosure legislation goes to the heart of the legislative function—which is to hear, understand, and respond to the wants and needs of citizens.

In S. 2477, we are establishing conditions under which citizens and their spokesmen can communicate with us. The kind of conditions we set, the price we require of those who wish to make their views known to us, who will be required to pay and who will not—all must be subject to the closest scrutiny.

We all know that registration and reporting entail costs which many groups in our society can ill afford, costs which go well beyond the dollars and manpower that must be diverted to operate accounting systems and fill out Government forms. Public relations values—unfortunately, there is a stigma attached to the designation of "lobbyist"—and the competitive disadvantages resulting from disclosure of detailed lobbying strategies must both be taken into account.

We cannot help but restrict the exchange of fact and opinion between citizens and the elective officials who must act in their behalf if we sweep in the small, locally based, and poorly funded groups—the church groups, the community action groups, the business firms, the private schools and colleges, to name but a few—and require them to pay such costs. Conversely, it will be a travesty if the only means such groups have of getting their messages to us directly are tightly covered, while the larger, well financed, nationally based corporations and trade organizations are permitted to slip through the disclosure net.

I only wish, Mr. President, that the report on S. 2477 could be taken to mean what it says regarding the operation of this measure. Let me quote from page 11, for example, which asserts that:

> The bill defines a lobbyist in a way that will cover any significant lobbying effort by organizations which expend money in an effort to influence Congress. At the same time, the bill contains a definition of lobbying which overcomes the difficulties inherent . . . in the current Act by imposing a standard which may be both easily and uniformly applied.

If disclosure legislation is to help restore public confidence in Government,

it must deliver on its promises. Equity and commonsense demand modification of S. 2477's "twelve conversation" test—and elimination of the invidious "home State and district exemption"—to insure that "any significant lobbying by organizations which expend money" will actually be covered and that the act may in fact be "uniformly" applied.

Otherwise, if uncorrected, this measure will be seen as just another failed promise, with loopholes for the big operators and with the costs of disclosure simply another burden for those in our society who already are at such a disadvantage in making their voices heard.

I ask unanimous consent, Mr. President, that my amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1657

On page 37, line 14, strike out all through page 38, line 2, and insert in lieu thereof the following:

"(2) an organization which expends $1,000 or more in any quarterly period, other than personal travel expenses, to employ any paid officer, paid director, or paid employee to engage in lobbying communications in any quarterly period. For purposes of determining whether any organization is a lobbyist under this paragraph, there shall be excluded from the computation of the expenditures under this paragraph any expense incurred in any communication initiated by Congress whereby the organization provides information or opinions to Congress solely at the request of Congress; or".

On page 41, strike out lines 10 through 13.

On page 41, line 15, after "organization" insert the following: "which has, or expects to have, annual operating costs of $100,000 or more".

On page 44, line 2, strike out "oral".

On page 44, line 25, strike out the comma and insert in lieu thereof the following: "or subsection (c),".

On page 46, line 6, after "organization" insert the following: "which has, or expects to have, annual operating costs of $250,000 or more".

On page 47, line 19, strike out "oral".

On page 47, line 23, strike out "oral".

On page 48, line 1, strike out "oral".

On page 48, line 6, insert "and" after the semicolon.

On page 48, beginning with line 7, strike out all through line 20.

On page 48, line 21, strike out "(4)" and insert in lieu thereof "(3)".

On page 68, line 17, strike out the period and insert in lieu thereof a semicolon and "and".

On page 68, between lines 17 and 18, insert the following new paragraph:

"(21) 'annual operating costs' includes salaries, wages, retainers, payment for office space, office equipment and supplies, telephone, postage and addressing, travel and entertainment, advertising and publications, and services.".

NOTICE OF HEARINGS

Mr. JOHNSTON. Mr. President, the Senate Committee on Interior and Insular Affairs has scheduled a hearing on Monday, May 24, on the Federal Energy Administration's proposal—Energy Action No. 2—to modify the present crude oil entitlement purchase exemption for small refiners. The hearing will commence at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Frank G. Zarb, Administrator of the FEA will be the first witness. I understand that hearings on Energy Action No. 2 will also be held in the House Committee on Interstate and Foreign Commerce on Friday, May 21.

The FEA proposal has been submitted to the Congress under procedures specified in section 12(g) of the Emergency Petroleum Allocation Act and section 551 of the Energy Policy and Conservation Act. Unless one House of Congress adopts a resolution disapproving the proposal prior to midnight on May 27, 1976, the FEA modification will become effective.

Mr. President, Members of the Congress and the public should have access to the most complete set of views and information available on this FEA proposal. I hope that the Interior Committee hearing will facilitate the compilation of this record. In addition, I ask unanimous consent that the full text of Mr. Zarb's letter of transmittal to the Senate and the FEA proposal be printed in the CONGRESSIONAL RECORD at this point.

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

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 12, 1976.

Re: Modification of Small Refiner Entitlement Purchase Exemption (Energy Action No. 2)

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

DEAR MR. PRESIDENT: On February 28, 1976, the Federal Energy Administration gave notice of a proposal which, among other things, would revoke Special Rule No. 6 to the Appendix of Subpart C, Part 211 of Title 10, Code of Federal Regulations (41 F.R. 1044, January 6, 1976) which implements the small refiner purchase exemption and increases the amount of entitlement benefits granted through the small refiners bias. Written comments from interested persons were invited through March 24, 1976, and a public hearing regarding the proposal was held on March 23 and 24, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that Special Rule No. 6 which implements the small refiner purchase exemption should be revoked and the small refiner bias increased for all small refiners. As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94–163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), the amendment adopting these changes is herewith submitted to the Senate and is also being concurrently submitted to the House of Representatives for Congressional review pursuant to section 551 of the EPCA.

FEA's determination supporting the revocation of Special Rule No. 6 and the adjustment to the small refiners bias, which are required by section 455 of the EPCA, are set forth in the preamble to the enclosed amendment.

As Administrator of the Federal Energy Administration, I have been delegated by the President all authority granted to him by the EPAA (E.O. 11790, 39 F.R. 23185, June 27, 1974).

Unless disapproved by the Congress as provided by section 551 of the EPCA, this amendment will be effective upon expiration of the fifteen day review period under section 551.

Sincerely,

FRANK G. ZARB,
Administrator.

TITLE 10—ENERGY; CHAPTER II—FEDERAL ENERGY ADMINISTRATION; PART 221—MANDATORY PETROLEUM ALLOCATION REGULATIONS

(Revocation of Special Rule No. 6 and Adjustment to Small Refiner Bias Under Entitlements Program)

On February 28, 1976, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (41 FR 9391; March 4, 1976), to amend Title 10, Part 211, of the Code of Federal Regulations with respect to the domestic crude oil allocation or entitlements program (hereinafter referred to as the "entitlements program") set forth at 10 CFR 211.67. Comments on the proposed amendments were invited through March 24, 1976 and 96 written comments were received by FEA. Public hearings were held on March 23 and 24 at which 30 persons presented statements.

In this proposal, FEA specifically requested comments on the validity of its tentative determinations that the exemption from payments under the entitlements program for certain small refiners as provided in subsection 4(e) of the Emergency Petroleum Allocation Act of 1973 ("EPAA"), as amended by the Energy Policy and Conservation Act ("EPCA"), and as implemented by Special Rule No. 6 in the Appendix to Subpart C, Part 211 of Title 10, Code of Federal Regulations, seriously impairs FEA's ability to attain the objectives set forth in section 4(b)(1) of the EPAA, and results in an unfair economic or competitive advantage for certain small refiners with respect to other small refiners. FEA further invited comments on whether all small refiners including sellers and purchasers under the entitlements program should receive increased benefits by means of an adjustment to the small refiner bias and whether small refiners with a capacity of less than 10,000 barrels per day should be fully exempted. Finally, FEA solicited comments on the procedures for granting exception relief under the entitlements program and whether exception decisions should be made effective for longer periods.

FEA received numerous comments from all sectors of the petroleum industry including major and small and independent refiners, trade associations, branded and nonbranded independent jobbers and others concerning the proposed amendments. FEA is satisfied that the comments received fairly represent the broad range of interests which would be affected by any such changes in the benefits received by small refiners under the entitlements program.

The amendments adopted herein would eliminate the purchase exemption for certain small refiners by revoking Special Rule No. 6 and would increase the amount of additional entitlements issuable to all small refiners (whether entitlement purchasers or sellers) under the small refiner bias. These amendments will not be effective, however, if disapproved by either House of Congress under the procedures set forth in section 551 of the EPCA.

ADJUSTMENT TO THE SMALL REFINER BIAS

In conjunction with its modification of the small refiner entitlement purchase exemption discussed below by the revocation of Special Rule No. 6, FEA is hereby adopting an adjustment to the small refiner bias that increases the number of additional entitlements provided for all small refiners. In the proposal, FEA specifically invited comments as to whether the amendment adopted in this proceeding should simply increase the amount of the small refiner bias for all small refiners, which would place all small refiners on the same competitive basis under the entitlements program. At the public hearing and in the written comments on the proposal numerous small refiners, both entitlement purchasers and sellers,

supported this approach and the overwhelming majority also supported an increase in the small refiner bias for both sellers and purchasers. The unanimous view expressed in this regard was that it was inequitable to favor one class of small refiners over another as far as benefits under the entitlements program are concerned.

FEA's analysis of this issue indicates that an increase in the small refiner bias in conjunction with the revocation of Special Rule No. 6 has greater merit than any other alternative course of action available to the Agency as to the overall status of small refiners under the entitlements program. This approach both eliminates any special treatment afforded to small refiner entitlement purchasers and comports more fully with the general concern as to the competitive viability of small refiners expressed throughout the EPAA and the EPCA.

FEA initially adopted the small refiner bias after a significant amount of analysis and public comment on the issue when the entitlements program was instituted in late 1974. At that time FEA determined that the historical preference granted to small refiners under the oil import program as in effect in 1972 was sufficient to preserve the competitive viability of this class. However, over the first year in which the program was in effect FEA received substantial evidence that the amount of the bias may in fact not be adequate for its intended purpose. For example, a large number of small refiners have been forced to seek exception relief since, for these firms, bias amounts were not sufficient to enable them to compete effectively or even in certain cases to maintain their financial viability. Due to the more restrictive exception standards for entitlement sellers as opposed to entitlement purchasers, FEA has received numerous indications that many small refiner entitlement sellers are also in need of additional bias amounts to remain competitive and financially viable.

Many operating and other costs for these firms have increased since 1972, and thus the bias amounts may not be representative of the current competitive disadvantages of this class and the industry may have generally become more competitive due to increased consumer sensitivity to the higher prices.

In addition, FEA is basing its determination to increase the small refiner bias to a significant extent on the congressional concern for small refiners expressed generally, both in sections 403 and 455 of the EPCA and in the legislative history connected with the passage of the EPCA.

Therefore, FEA is hereby adopting an increase to the small refiner bias on the following basis, in conjunction with the revocation of the small refiner exemption. The small refiner bias would be modified for firms with volumes of crude oil runs to stills of less than 100,000 barrels per day by increasing the benefits at the 10,000 barrel per day crude run level by an additional 2¢ per gallon and by a declining additional amount as the refiner's volume of crude oil runs increases. At the 100,000 and up barrel per day run level, no increase over the present bias amounts is provided for. These additional benefits are expressed in terms of incremental entitlements that would be issued to small refiners based on their crude run levels. For example, a 10,000 barrel per day refiner under the bias presently in effect receives 123.8 additional entitlements for each 1,000 barrels of its crude runs up to 10,000 barrels per day; under the revised bias set forth herein such a small refiner would receive an additional 228.8 entitlements for each such 1,000 barrel per day of his crude runs, or an increase of 105 entitlements. Under the revised bias, FEA estimates that a refiner running 10,000 barrels per day will receive total benefits approximating 4.4 cents per gallon; a refiner running 30,000 barrels per day, 2 cents per gallon; a refiner running 50,000 barrels per day, .8 cents per gallon; and a refiner running 100,000 barrels per day, .24 cents per gallon, which latter amount is the same amount receivable under the bias currently in effect.

REVOCATION OF SPECIAL RULE NO. 6

Authority for the small refiner purchase exemption implemented by Special Rule No. 6 and the revocation thereof adopted herein is granted to FEA pursuant to sections 403(a) and 455 of the EPCA. Section 455 of the EPCA amends the EPAA by adding a new section 12(g) which provides that:

(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

(1) results in unfair economic or competitive advantage with respect to other small refiners; or

(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such section 551.

On the basis of its preliminary findings and analysis of the competitive benefits accruing to exempted small refiners, FEA indicated in the February 28 proposal its tentative conclusion that any crude cost advantage accruing to a small refiner entitlement purchaser exceeding one cent per gallon would constitute an unfair economic or competitive advantage within the meaning of section 12(g) of the EPAA. Thus, an increase in the small refiner's bias was proposed by FEA which would have limited permitted crude cost benefits flowing from that adjustment to one cent per gallon over and above the amounts received under the small refiner bias if the small refiner exemption were also revoked.

In the proposal, FEA set forth the range of benefits accruing to small refiners from the operation of the exemption for the months October through December 1975. The crude cost advantages received by small refiners under the exemption during that period ranged as high as 10 cents per gallon, and in some isolated cases higher and monthly benefits from the exemption were in excess of $4,000,000 in one instance. Benefits of this magnitude were also received by exempted firms for the months January and February 1976.

The following table shows for the months April through September 1975 during which Special Rule No. 6 was not in effect the number of small refiner entitlement purchasers that applied to FEA's Office of Exceptions and Appeals for relief from entitlement purchase requirements.

Entitlement exception relief for April through September 1975

	Totally exempted [1]	*Partially exempted* [1]
Number of applicants for relief for April-Sept. 1975	42	4
Number of firms receiving total relief	16	----
Number of firms receiving partial relief	10	----

[1] If a firm was partially exempted in any month it is counted in the partially exempted column.

Thus, it may be fairly assumed that of the total number of small refiner entitlement purchasers which have received benefits from the exemption, only 26 of these small refiners were found to be operating at below their historical level of return on sales as a result of the requirement to purchase entitlements, so as to warrant the grant of exception relief.

Impact on competition

Information currently available to FEA suggests that the exemption as implemented by Special Rule No. 6 is resulting in unfair competitive advantages in favor of exempted small refiners over other small refiners.

Comments from small refiner sellers of entitlements and marketers supplied by such refiners cited severe price disparities as against exempted small refiner entitlement purchasers with which they have been competing directly. They stated that under Special Rule No. 6, the market shares of exempted small refiners and marketers supplied by them were tending to increase as a result of benefits conferred by the exemption.

A large number of those commenting supported FEA's preliminary conclusions that competitive imbalances among competing small refiners are occurring and that the continuation of exemption benefits to the class of exempted small refiner entitlement purchasers will inevitably contribute to further competitive distortions among small refiners generally. Some small refiners benefiting from the exemption having access primarily to upper tier domestic supplies advocated limitation of the exemption because competitive disadvantages were being experienced when such firms compete with other exempted small refiners having access to primarily lower tier oil. Other small refiners argued that an exemption operating in favor of only some small refiners constitutes unwarranted preferential treatment among all small refiners and impacts unfavorably upon all other refiners. While a significant number of small refiners commenting advocated granting additional benefits to small refiner entitlement sellers, these refiners uniformly opposed any exemption which benefited any single group within the class of small refiners.

Many of the comments stated that the full exemption provided by Special Rule No. 6 is having effects in the marketplace which are inconsistent with the EPAA objective in section 4(b)(1)(D) of fostering an economically sound and competitive petroleum industry. In addition, FEA has determined that the current exemption constitutes a serious impediment to the attainment of the EPAA's objectives in that section for the preservation of the competitive viability of various sectors of the petroleum industry including small refiners, their marketers and branded independent marketers. Comments from branded independent marketers were generally to the effect that marketing outlets of exempted small refiners with which they compete were substantially undercutting retail gasoline and distillate prices and thereby are creating competitive distortions in the marketplace. They stated that the impact of an exemption is exaggerated in the context of a highly competitive retail market caused by increased consumer sensitivity to price and an abundance of supplies. Many branded retailers which compete directly with exempted small refiners marketing at the retail level alleged that they are unable to withstand the competitive pressures being exerted by such small refiners.

Branded independent marketers, and the national and regional association representing them, cited substantial competitive difficulties attributable to the exemption, and advocated its complete elimination. In this regard, branded marketers were uniformly supported by their major oil company suppliers. These firms voiced their concern that the market shares of independent branded

marketers and major oil companies in general are being reduced. Their comments also recognized that increased price sensitivity of the consumer, the softness of the product market, the imposition of lower cost marketing techniques and the competitive impact of offering self-service rather than full service gasoline retail sales were also significant factors contributing to changes in market share. Many firms commenting cited the overall negative impacts being exerted on their marketing operations and indicated that the additional unfavorable impact of granting exemption benefits to competitors is unnecessary and a serious intervention in the operations of the market. Comments were submitted which suggested that the average price differential between major brand and independent brand gasoline varied on a regional basis and that an independent brand advantage was evidenced with such advantage being largest in the areas where small refiner entitlement purchasers in competition with major brands have been exempted by Special Rule No. 6.

Groups representing branded jobbers stated that, while many independent branded marketers do not compete directly with exempted small refiners, in those areas where a marketer has to compete with a small refiner, the marketer is faced with a significant competitive disadvantage and small refiners have in fact expanded their market share in these areas because of their ability to undercut substantially branded prices. Such groups suggested that the exemption be eliminated entirely and that relief where appropriate be given on an equitable basis to small refiners by means of FEA's exceptions procedures. Short of complete elimination of the exemption, these firms indicated support for FEA's one cent per gallon limitation as proposed.

Impact on market

FEA has also determined that continuation of the full exemption constitutes unnecessary interference with market mechanisms and seriously inhibits FEA's ability to provide for the minimization of economic distortion and inflexibilities in the petroleum market under section 4(b)(1)(I) of the EPAA. Many comments maintained that where the impact of the exemption is felt it seriously distorts the economics of the market affected by providing benefits in the form of substantial crude cost advantages to one marketing entity over another. Small refiners benefitting from the exemption rebutted this by arguing that that the full exemption provided by Special Rule No. 6 is not interfering with market mechanisms because of the insignificant market share of such firms.

Furthermore, they stated that they lack the flexibility to alter refining procedures or crude input to exploit any such competitive advantage. Such firms believe that their limited volume and type of products reduces the competitive influence that such small firms can have in the marketplace.

Numerous other small refiners, however, indicated in their comments that the exemption provides preferential benefits to small refiner purchasers to the detriment of small refiner sellers of entitlements. This is particularly evident in cases where such small refiners are in direct competition. Many argued for adjustments to the bias to provide additional benefits to all small refiners. Absent this type of adjustment, there was a substantial amount of support for FEA's proposed one cent per gallon crude cost differential limitation on the exemption to ease the substantial competitive imbalances that are occurring among small refiners.

Most major companies advocated a complete elimination of the exemption, stating that the class of small refiners as a whole is currently at a competitive advantage and that the granting to some small refiners additional benefits is excessive. While most of these firms opposed the exemption many agreed that the one cent per gallon differential proposed by FEA would limit to a substantial degree the market distortions arising from the full exemption.

FEA has determined that the substantial crude cost benefits granted to some firms by application of the full exemption contribute to disparities in prices among sectors of the industry thus impairing the Agency's ability to provide for equitable prices among sectors of the petroleum industry as contemplated by section 4(b)(1)(F). In addition, the substantial artificial crude cost advantages provided by the exemption may also tend to discourage economic efficiency in a general sense within certain sectors of the industry where the full benefits are in excess of the actual need, since uneconomic refineries would be enabled to continue in operation by virtue of the exemption. Thus, retention of the exemption would run counter to the objective provided for by section 4(b)(1)(H) of the EPAA.

Disincentives to maximize crude runs and to expand capacity

In the public comment and hearing procedures, a number of firms stated that the small refiner purchase exemption as implemented by Special Rule No. 6 provided a strong disincentive to expansion of a small refiner beneficiary's refining capacity over the 100,000 barrels per day limit. In addition, since the first 50,000 barrels per day of a refiner's crude runs are exempted from entitlement purchase obligations under Special Rule No. 6, a similar disincentive exists to maximize crude runs above the 50,000 barrel per day level. FEA believes that these disincentives are contrary to the objective of "economic efficiency" set forth in section 4(b)(1)(H) of the EPAA and also run counter to the objective provided for in section 4(b)(1)(I) of "minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."

Agency's determinations as to small refiner entitlement purchase exemption

On the basis of the foregoing, FEA has determined pursuant to section 12(g) of the EPAA that the small refiner exemption from purchasing entitlements as currently implemented by Special Rule No. 6 under section 4(e) of the EPAA is resulting in unfair competitive advantages among small refiners and is seriously impairing FEA's ability to attain the objective set forth in section 4(b)(1)(D) of providing for "preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;" the objective set forth in section 4(b)(1)(F) of providing for "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;" the objective set forth in section 4(b)(1)(H) of providing for "economic efficiency;" and the objective set forth in section 4(b)(1)(I) of providing for "minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."

MODIFICATION OF EXCEPTION PROCEDURES

In the proposal FEA also requested comments as to the manner in which FEA's exceptions procedures with respect to the entitlements program should operate in the future. Specific comments were invited as to whether exception decisions should be made effective for longer periods than have normally been provided for by FEA and as to whether any other specific procedures relating to the filing of an exception application should be facilitated.

FEA received numerous comments on these issues and has determined in conjunction with the amendments adopted hereby to provide that, except in unusual and extenuating circumstances, exception decisions under the entitlements program would be effective for a six-month period. This contrasts with FEA's practice in the past of providing for exception relief for two and three month periods. In addition, FEA is continuing its review of the standards which will apply in its exception decisions and the types of information required to be submitted by applicants, with a view of requiring the minimum amount of information needed in order to properly evaluate exception applications. (Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective upon expiration of the fifteen day review period under section 551 of the EPCA, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in section 551 of the EPCA.

Issued in Washington, D.C., May 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

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1. Section 211.67 is revised in paragraph (e) to read as follows:

§ 211.67. ALLOCATION OF OLD OIL.

* * * * *

(e) SMALL REFINER BIAS. (1) In addition to the number of entitlements issuable under paragraph (a) of this section, subject to the limitation set forth in subparagraph (2) below, each small refiner with a daily average volume of crude oil runs to stills of less than 175,000 barrels for a particular month shall be issued the following number of additional entitlements for each day of that month: (i) for each small refiner with a daily average volume of crude oil runs to stills of 100,000 to 175,000 barrels, 1,258 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 100 by 16.7733; (ii) for each small refiner with a daily average volume of crude oil runs to stills of 50,000 to 100,000 barrels, 2,079 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 50 by 16.42; (iii) for each small refiner with a daily average volume of crude oil runs to stills of 30,000 to 50,000, 3,123 entitlements less the number of entitlements obtained by multiplying the difference between that small refiners' daily average volume of crude oil runs to stills (in thousands of barrels) and 30 by 52.2; (iv) for each small refiner with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels, 2,288 entitlements plus the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 10 by 41.75; and (v) for each small refiner with a daily average volume of crude oil runs to stills of zero to 10,000 barrels, 228.8 entitlements for each 1,000 barrels of that small refiner's daily average volume of crude oil runs to stills.

(2) No entitlements shall be issuable under subparagraph (1) above with respect to any volume of a small refiner's crude oil runs to stills attributable to a processing agreement

for the account of that small refiner with another refiner where the crude oil processed pursuant to that processing agreement is purchased from and the refined products produced under that agreement are sold, directly or indirectly, to that other refiner.

(3) Each small refiner shall separately identify in its reports filed pursuant to § 211.66(h) of this subpart any volumes of its crude oil runs to stills not eligible (under the provisions of subparagraph (2) of this paragraph) for small refiner bias entitlements.

2. Special Rule No. 6 in the Appendix to Subpart C of Part 211 is revoked.

THE SOVIET DEFENSE BUDGET: THE RUSSIANS ARE SPENDING MORE AND GETTING LESS FOR THEIR RUBLES

Mr. PROXMIRE. Mr. President, the new CIA report entitled "Estimated Soviet Defense Spending in Rubles, 1970–1975" released yesterday, May 18, 1976, shows that the Russians are spending more rubles than we thought because they are more inefficient and wasteful than we thought.

The facts are that the Russians are getting less rubble for their ruble. Ivan is fatter than we imagined he was, not taller or stronger.

The new CIA analysis of Soviet defense spending finds that the Russians are spending nearly twice as much of their gross national product for defense—from 11 to 13 percent annually—than the intelligence experts formerly believed.

But the reasons for the revised intelligence estimate have little to do with the size or effectiveness of the Soviet defense program.

Our intelligence experts have not materially revised their estimates about Soviet weapons or numbers of troops.

COMMENT FROM CIA DIRECTOR GEORGE BUSH

CIA Director George Bush makes this clear in his letter transmitting the report, in which he states:

I believe the study speaks for itself. I would only point out that the analysis does not indicate that the Soviets have any more weapons or manpower than previously estimated, but rather that the cost of these defense programs is greater than we originally had estimated.

HIGHER PRICES, NOT LARGER PROGRAMS

The report itself states that the analysis shows higher ruble prices being paid for military equipment, not larger programs.

According to the CIA report, the revised ruble estimate "does not affect our appraisal of the size or capabilities of Soviet military forces."

SOVIET DEFENSE INDUSTRIES INEFFICIENT

The CIA report goes on to state that the new estimates show that "the Soviet defense industries are far less efficient than formerly believed."

Soviet defense spending is now estimated to have grown from 40 to 45 billion rubles in 1970 to 50 to 55 billion rubles in 1975.

The CIA estimates that the average rate of growth during the 1970–1975 period was 4 to 5 percent.

The range of figures in the new estimates underlines the uncertainties that exist in any estimate of Soviet military spending.

UNCERTAINTIES AND MARGINS OF ERROR: R.D.T. & E. ESTIMATES LEAST RELIABLE

The CIA acknowledges the uncertainties and the fact that there are significant margins of error in its estimates.

The area of Soviet research and development is perhaps the greatest area of uncertainty.

The CIA states that estimates of Soviet outlays for R.D.T. & E. "is the least reliable of our estimates."

If the CIA is correct, some recent statements by Pentagon spokesmen about the relative costs of Soviet and U.S. military R. & D. programs may be equally unreliable.

Pentagon spokesmen have repeatedly warned about a Soviet military R. & D. gap. There seems to be little hard evidence on which to base such assertions.

HEARINGS BY SUBCOMMITTEE ON PRIORITIES AND ECONOMY IN GOVERNMENT

Questions about Soviet defense spending and its influences on the Soviet economy have been the subject of annual hearings by the Subcommittee on Priorities and Economy in Government over the past several years. This year's hearing on the same subject is scheduled to begin on May 24, 1976.

The hearings will be held in closed session but a sanitized record of the testimony will be released shortly thereafter.

NOTICE OF HEARINGS—ALCOHOLISM AND DRUG ABUSE AMONG THE ELDERLY

Mr. HATHAWAY. Mr. President, I wish to announce the commencement of hearings before the Subcommittee on Alcoholism and Narcotics and the Subcommittee on Aging, of the Committee on Labor and Public Welfare, into the subject of alcohol and drug use patterns among the elderly. In the course of these hearings, the subcommittees intend to explore the ways in which aging in America impacts on the individual's social and psychological relationships. Within this framework—a framework which is oriented around the aging process—the subcommittees intend to examine the potential abuses of alcohol and drugs among the senior citizens of our society.

Mr. President, I want to emphasize that our purpose in convening these hearings is to identify and investigate what we believe has become an increasingly serious problem for our senior citizens—a problem which only reinforces what many of us already know, that our society's treatment of the elderly has been, and continues to be, tragically shameful. For too long, our health care institutions—hospitals, clinics, nursing homes—have defined treatment for their elderly patients through medication. It is no surprise then, that the largest single personal health expense is drugs, constituting about 20 percent of the elderly is drugs, constituting about 20 percent of their out-of-pocket health expenditures.

Compounding the problem is the fragmentary care the elderly receive from different physicians and health care institutions, a condition which often encourages the elderly to "shop around" and get multiple prescriptions from a variety of sources. The tendency to hoard medication due to its expense, along with improper use, sets the stage for serious abuse problems.

Turning to alcohol, the subcommittees believe that abuses of this drug have been underestimated due to difficulties of its detection and denial of its abuse by the individual and his or her family. With respect to detection, there is the problem of mistaking symptoms of alcohol problems for the effects of old age. For example, the elderly often experience social isolation, malnutrition, falls, and overall physical deterioration, and these symptoms are often attributed to old age rather than alcoholism. In addition, what we have are two classes of elderly alcoholics: The long-standing excessible drinker, who has been able to survive despite many years of alcoholism, and the short-term or "reactive" alcoholic—the person whose excessive drinking and alcoholism was possibly precipitated by problems attached to the aging process; problems such as depression, retirement and social isolation.

Mr. President, it is time that we as a nation decide what our commitment will be toward the senior citizens of our country. If our goal is one where our citizens are to be treated with respect and dignity, and I certainly hope it is, then we must examine our policies, practices, and assumptions and determine if we are on the right track. It is with this in mind that I join the distinguished Senator from Missouri (Mr. EAGLETON) in holding these hearings.

The hearings will be held on Monday, June 7, at 9:30 a.m. in room 4232 in the Dirksen Senate Office Building. Any one desiring to submit testimony should contact the offices of the Alcoholism and Narcotics Subcommittee, room A–605 Senate Annex, 119 D Street, NE. Washington, D.C. 20510. Telephone 202–224–8386. Witnesses are required to submit no fewer than 50 copies of their testimony.

NOTICE OF HEARING

Mr. CANNON. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a hearing on Friday, May 21, 1976, commencing at 10 a.m., in room 301, Russell Senate Office Building, to hear testimony concerning the nomination of the Honorable William L. Springer to be a member of the Federal Election Commission. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Peggy L. Parrish, assistant chief clerk of the committee (202–224–6352).

ADDITIONAL STATEMENTS

WOMEN IN BANKING

Mr. TOWER. Mr. President, for the historically astute, I have a riddle. For those who have traced the vagaries of

public opinion and the evolution of social norms, I have a quotation to be dated. There are two substantial hints. The sex of the speaker will be immediately obvious, and it should be clear, too, that the source was a personage of some importance whose comments were considered worth recording. On the other hand, a certain haunting familiarity in the statement will serve to increase the challenge.

Who was it who said:

I consider that women are domestic animals which ought to be kept locked up in captivity; they should be well fed and cared for and beaten regularly.

It gives one pause to think, does it not? It could have been Thucydides, who thought that the best type of woman was invisible. It might have been Aristotle, who considered woman merely an inferior man. Or perhaps John Knox said it, since he believed that a woman in power was an affront to God. Alexander Pope simply thought they had no character, and Nietzsche considered them God's second mistake. But even in more recent times, Grover Cleveland believed that any responsible woman would decline to vote if she had the opportunity.

And so we range through the ages, finding it frustratingly easy to attribute the point of view to any number of notables variously placed in time and geography. Was the outrageous comment made in jest or complete sobriety? One thing we can say with tentative confidence: If the speaker is a contemporary, he is a brave man. Still, it seems more likely that the words issued from the pursed lips of some truculent misogynist of a more hoary past.

How hoary is 100 years ago? The speaker was in fact a French poet who wrote during the middle 19th century. He was also a literary critic of great perception and an art critic who proposed landmark theories of aesthetics. His name is Charles-Pierre Baudelaire. I have not resurrected this comment to subject the gentleman to unrelieved reproach. To those of us who have reformed, it should be a matter of some comfort to know that certain prejudices have been held by men of great intellect as well as by their less distinguished fellows.

At any rate, it is difficult to know the cast of Baudelaire's sentiments at the time. Though his attitude is not yet exactly a social fossil, still he would find it awkward to vent his spleen in this manner today. His female peers did not have the right to vote and lacked even the most nominal prerogatives with property. He was relatively free from any prospect of retribution. He wrote before women "gave up crying and fainting and took to swearing and smoking," as George Bernard Shaw described the turning point.

Times have changed. There is pervasive evidence of a new feminine vitality throughout our society. And as a member of the Senate Committee on Banking, Housing and Urban Affairs, I have noted with interest a recent development within the financial community. The cases in question are so few that I hesitate to call them indicators of a trend. At the same time, I expect that the feminine presence they exemplify will soon become so extensive that it will cease to provoke curiosity or conjecture as a novelty. I refer to the formation of financial institutions specializing in services to women.

At the present time, there are only two women's banks open for business in the United States, and those are the First Women's Bank of New York and the Women's Bank of San Diego. Their immediate predecessor was the First Women's Bank in Clarksville, Tenn. That institution was founded in 1919 by Mrs. F. J. Runyon, who wanted to prove that "Women can develop into efficient businesswomen; we are no longer clinging vines." She must have made her point. The bank functioned successfully until 1926 when physical disability forced Mrs. Runyon to retire, and the institution was dissolved.

The idea that women could competently manage their own funds and desired certain services absent from the male-dominated financial community lay dormant as a justification for feminine financial institutions in the United States for 50 years. In Auckland, New Zealand, however, a ladies' branch of a larger bank opened 14 years ago, and 4 years later, the Royal Bank of Scotland continued the experiment in Edinburgh. Obviously, the need to explore a new market was felt elsewhere in the world as well.

There are three main reasons why women today are gathering their resources to found their own institutions. First, in spite of the passage of the Equal Credit Opportunity Act, which became effective on October 29, 1975, the memory of credit discrimination is still strong in the minds of women who are becoming steadily more independent and more covetous of equal status in society. As a matter of fact, the desire to fight discrimination was a primary reason for the founding of the New York bank. The effort there was begun in 1972, and the complications of securing a charter and raising capital have occupied 3 years.

Second, the institutions are a hard-headed business response to the obvious lure of untapped markets. Madeline McWhinney, president of the First Women's Bank of New York, has pointed out that bankers "still have the Victorian notion that women don't want to bother their pretty little heads about investing and financial management." The feminine presence in business schools around the country would seem to expose this misconception, and the new feminine financial institutions intend to cater to and stimulate the interest that is already there.

Women in the United States have money, a great deal of money, but they have seldom controlled it. The 1972 Internal Revenue Service "Statistics of Income," indicates that 39 percent of the top wealthholders in the United States are women. There were about 95,000 women worth $1 million or more. About 2.2 million held between $1 million and $100,000. It is unlikely that such women would reject the offer to play a greater role in the financial institutions that affect their lives.

As Madeline McWhinney pointed out—

Times have changed; women are working and not depending on man-as-breadwinner. They're single, widowed, divorced, often supporting children, and critically in need of money-management information and personalized, specialized services. A woman's bank is obviously for them.

A woman who "feeds" herself, as opposed to Baudelaire's feminine dependent figure, is going to want to know how to make the most of her income just as any man would. Among the new services to be offered by the women's banks are consumer information programs, seminars on finance, and technical libraries.

The third major reason for founding a feminine financial institution is to provide women with career opportunities in executive banking positions. About 67 percent of all bank employees in the United States are women, but only 23 percent of them are bank officers or managers. As an example, only five of Bank of America's 805 senior executives were women at the end of 1974. The institution estimates that by 1979, 65 of its probable 1,268 senior executives will be women. That amounts to 5 percent of the total.

The route to an executive position is long and lightly traveled by women. For the new women's banks, this fact will create a practical chicken-and-egg problem. The institutions' success obviously depends on the management of experienced and astute officers. Such women are difficult to find because so few have been able to develop to this level. The search for qualified women was one of the major problems that the First Women's Bank of New York had to overcome before it opened its doors in October of 1975.

The three reasons for founding a women's financial institution do not alter the fact that this is first and foremost a business proposition. The new banks have no intention of abandoning prudence in favor of a crusade to right old wrongs, and of course they cannot turn around and discriminate against men. Their purpose is to capitalize in a neglected market, not a cause. They are determined to function in a competent and responsible fashion and to make money for their shareholders. Although the effort to capitalize has largely been a plea to women to invest in women, the general marketplace seems willing to support such ventures with confidence. Men have been heavy investors as well, and when New York's First Women's Bank opened, 40 major corporations were already among its depositors.

I have made a survey of this development among all the bank commissioners for the States and our territories and have also inquired about national institutions. The preliminary results are summarized in the accompanying table. As shown in the table, there are five commercial banks for women either in operation or with approved charters. In total, there are 5 State commercial banks, 13 feminist Federal credit unions, and 1 savings and loan association.

As mentioned earlier, the banks in New York and San Diego are the only State women's banks in operation. Applications

for the authority to organize have been approved for institutions in two other California cities—Los Angeles and San Francisco. Connecticut has also approved one application, and the founding groups in all three cases are presently trying to raise their initial capitalization. There are applications pending in Florida, and Virginia and Colorado are also pursuing charters. Although they are not termed women's banks, there are three banks in Kentucky which have all women officers and staff, and Pennsylvania has one bank which was founded by a woman who is chairman and president.

The first women's national bank will probably open its doors here in Washington early in 1977. The office of the Comptroller of the Currency is presently reviewing the application, and its proposed capitalization is set at $2 million. The only savings and loan association organized by and for women is presently applying for insurance coverage. The 13 feminist Federal credit unions scattered around the United States have total assets in excess of $2 million.

I would like to emphasize the fact that I do not take his new development as an indictment of the present financial system. Instead, it seems to me to be a very encouraging sign of the responsiveness of the marketplace. Obviously there was a need for a different type of service and new opportunities for employment, and the system is sufficiently flexible to rise to those demands. Where objections are raised, they are the objections typical of an uneasy anticipation of new competition. However, whatever innovations are introduced by these pioneering efforts can always be duplicated by existing institutions. Perhaps the women will set some very constructive and profitable examples about the ways they would like to be treated both as customers and as employees.

In short, I am pleased to see that women are beginning to play an even more active role in a banking system that I hope will continue to countenance such innovation. Economically speaking, it is in the best interests of us all that the institutions should survive and prosper. Socially speaking, historians and philosophers have widely considered the status of women to be a measure of the civilization of a people, and, therefore, this development can only be to our credit.

The principles of this endeavor have my best wishes for a serene and successful future. For, if we are to believe Alfred Lord Tennyson,

> The woman's cause is man's: they rise or sink
> Together, dwarf'd or godlike, bond or free.

Mr. President, I ask unanimous consent to have printed in the RECORD the table I have referred to which is entitled "Financial Institutions Organized to Meet the Financial Needs of Women."

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

FINANCIAL INSTITUTIONS ORGANIZED TO MEET THE FINANCIAL NEEDS OF WOMEN

State	Commercial banks		Credit unions		Savings and loans	
	Name	Assets	Name	Assets	Name	Assets
California	First Women's Bank	$1,500,000	California Feminist Federal Credit Union (FFCU).	$96,000		
	The Women's Bank	1,500,000	Bay Area FFCU	36,000		
	Western Women's Bank	1,600,000	Los Angeles FFCU	33,000		
Connecticut	The First Women's Bank & Trust Co	3,000,000	Connecticut FFCU	152,000		
District of Columbia			Washington Area FFCU	104,000		
Illinois			Chicago FFCU	?		
Massachusetts			Massachusetts FFCU	329,000		
Michigan			Feminist FCU	589,000		
New York	First Women's Bank	3,000,000	New York FFCU	27,000		
Pennsylvania			Freedom FFCU	12,000		
South Carolina			South Carolina FFCU	20,000		
Texas			Feminist Southwest FCU	15,000		
			Houston Area FFCU	23,000		
Washington			Washington State FFCU	?	Sound Savings & Loan Association.	$1,000,000

Source: Staff survey of State bank commissioners and Federal regulatory agencies.

Note: The institutions listed above are either in operation or have been approved for operation. The figures for the commercial banks and the savings and loan association are their initial required capitalization figures. The amounts in the asset column for the Federal credit unions were derived from the most recent audit by the National Credit Union Administration. The Washington and Illinois credit unions are too new to have been audited yet.

REGULATORY REFORM ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, yesterday I appeared before the Senate Committee on Government Operations and testified in support of S. 2812, the regulatory reform bill sponsored by Senator PERCY and myself. I ask unanimous consent that my statement be printed in the RECORD.

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

TESTIMONY OF SENATOR ROBERT C. BYRD

Mr. Chairman, I am pleased to have this opportunity to testify before the Government Operations Committee on S. 2812, the Regulatory Reform Act of 1976.

I need not recite for you the litany of costs connected with government regulation. The economic waste, the inflationary impact, the lost jobs, the delays—these are all well known to anyone who has given even the most cursory attention to the federal regulatory system.

Nor do I need to tell you how the public feels on this issue. As I read the mail from my constituents in West Virginia, and as I travel across the nation and talk to businessmen, to consumers, to laborers, to people from all walks of life, time and again I hear complaints about burdensome government interference.

"Get the government off my back" is one of the most common requests I hear these days, and I am sure that your constituents are sending you the same message.

The need for reform is immediate and compelling, and the only question is how best to go about overhauling the complex mass of government regulation that we have imposed upon ourselves.

Thus far, what little reform has been accomplished has been mostly in the nature of piecemeal or ad hoc proposals providing for changes in specific agencies. While any such reform is better than none, clearly these minor adjustments at the margin of a huge regulatory system are not going to solve the real problems connected with government out of control.

What is needed is a comprehensive plan for the reform of the entire range of federal regulation. It must go beyond individual agencies or particular regulations to deal with the full scope of the problem. It is toward this end that my distinguished colleague, Senator Percy, and I have developed S. 2812, the Regulatory Reform Act of 1976.

From my experience as Assistant Majority Leader, I am convinced that the kind of discipline and action-forcing mechanism contained in S. 2812 are absolutely essential if comprehensive regulatory reform is ever going to get off the ground.

Briefly stated, this bill mandates the President to submit to the Congress, by March 31 of each year for a five-year period, a reform plan in a specified sector of the economy. The appropriate Congressional committees are then mandated to report a reform bill to become the pending business in both Houses by September 15. If Congress has not enacted a plan by December 31, the President's plan automatically becomes law unless specifically disapproved by either House. If there is such a resolution of disapproval, and no comprehensive reform has been adopted by June 30 of the next year, then those rules of the affected agencies the major purpose of which is not the preservation of the public health and safety, will be rescinded.

This kind of discipline is patterned after the Budget Reform Act of 1974. Its success there shows that it can work. In the absence of these kinds of action-forcing procedures, reform proposals are likely to fall victim to the potent opposition of special interest groups.

Since these provisions should make it clear that reform will be enacted, it is our hope that all groups will come forward and participate positively in the reform process. And the procedure embodied in S. 2812 provides ample opportunity for this kind of active participation. We would expect the Administration to solicit all relevant viewpoints in the development of its plan, and there would be the usual opportunity for interaction during Congressional consideration. The action-forcing procedures should ensure that this participation will be in good faith, and not merely a self-interested effort to stall reform.

I would like to make a final observation, intended to put this legislation into perspective with the many other regulatory reform proposals currently under consideration, some of which are quite good. What I think best recommends S. 2812 is that it will provide a procedural framework through which we can more effectively implement the best of these other substantive plans, as well as the recommendations of the current joint study being conducted by the Government Operations and the Commerce Committees. Each year, we can examine the situation in the scheduled area and then use the timetable in S. 2812 to carry out what we find to be the most effective solution for the problems with government regulation in that area. And the definite timetable will allow the maximum coordination of effort—within the Executive branch, the Congress, the academic community, the affected interest groups, and society as a whole.

Of course, we are ready to institute some reform ahead of the schedule set forth in S. 2812, there is nothing in the bill to prevent that. Rather, the bill gives a latest possible date for the reform of Federal regulation in each of various areas subject to regulation.

I would like to take a few more minutes to discuss the advantages of S. 2812 over the President's plan introduced on May 13th.

Senator Percy and I applaud the President's support for regulatory reform, and his proposal incorporates the underlying concept contained in the Percy-Byrd bill: that there is a need for a comprehensive approach in which government regulations in different areas or dealt with systematically each year over a period of several years. The administration bill also accepts the proposition set forth in S. 2812 that certain action-forcing measures are needed to ensure that reform plans are submitted by the President and acted on by the Congress.

Here, unfortunately, the Administration bill does not include the "sunset" provisions of the Percy-Byrd proposal which are vital to assure that regulatory reform actually will take place.

Under the provisions of S. 2812 there are four action-forcing mechanisms which guarantee regulatory reform.

First, the President must submit a reform plan to Congress by March 31, or the committees will develop their own plan.

Second, the Congressional committees must report reform legislation to become pending business in both Houses by September 15.

Third, if Congress has not enacted reform by December 31, the President's plan automatically becomes law, unless specifically disapproved by either House.

Fourth, if there is such a resolution of disapproval, Congress has until June 30 to enact comprehensive reform, or most of the rules of the affected agencies become null and void.

The Administration plan contains provisions similar to the first two of the Percy-Byrd bill's action-forcing mechanisms—the President must submit a reform plan to Congress by January 31 and if no reform is enacted by November 15, the President's plan becomes the pending business in both Houses and remains such until acted upon.

The failure of the Administration bill to include the "sunset" provisions of S. 2812's approach is the basic difference between the bills and the critical flaw in the President's approach.

The stronger approach of the Percy-Byrd bill contained in the final two action-forcing mechanisms, or "sunset" provisions, of S. 2812 are essential if regulatory reform is ever going to be effective. By taking the teeth out of the Percy-Byrd approach, the Administration plan invites the full-scale opposition of interest groups who would have nothing to lose and everything to gain if they were able to kill the reform plan. Under S. 2812, the interest groups would risk losing everything by opposing reform, for if no comprehensive measure is enacted by June 30, all rules conferring economic benefits to the affected industry would be rendered inoperative.

Again, let me say that Senator Percy and I are pleased that the President has submitted a plan for regulatory reform which accepts the underlying concepts of our bill—but, I hope this committee and the Congress will recognize that without the teeth given S. 2812 by its "sunset" provisions, effective regulatory reform will be very difficult to achieve.

In concluding, let me say that I am pleased that these hearings are underway and that such an outstanding group of witnesses has been scheduled. I think that S. 2812 is an important measure, and I look forward to some insightful testimony and constructive criticism. Speaking for myself, and I know for Senator Percy, our primary concern is to come out of these hearings with the very best regulatory reform agenda that we can. Only then can we hope for truly comprehensive and truly successful reform to be accomplished in this crucial area.

ENVIRONMENTAL CONTROLS

Mr. TAFT. Mr. President, as we consider the Clean Air Act amendments which will come to the Senate floor next month, we must not lose sight of the fact that business and industry have made some worthwhile contributions toward cleaning up our environment, even as they have added to its problems. The public has contributed to both, too, by promoting and purchasing industrial products, yet by urging controls on the processes which manufacture them. The people of industry are also members of "the public" who suffer or profit from environmental controls. These forces must work together, not against each other, if we hope to achieve measurable environmental success.

Philip B. Wisman, business and industry liaison officer of the Office of Public Affairs at the EPA has written an article on this situation. It does not reflect the policy of the Agency, but is his own view. I commend it to my colleagues for their interest, and I ask unanimous consent that this material be printed in the RECORD.

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

PERSPECTIVE 1970–75

When the U.S. Environmental Protection Agency (EPA) was formed some five years ago, America had just awakened to the seriousness of the environmental pollution problem. Characteristically, some individuals and organizations overreacted, predicting imminent disaster. Looking for someone to blame, they concluded that business and industry were the bad guys whose greed and planless rape of nature had brought an innocent public to the brink of doom.

But who is the public? The simplistic concept of hero, villain, and victim overlooked the fact that the public is everybody, including 77 million people in industry—80% of our work force. The public, over the years, has democratically cast its votes (in the form of dollar purchases) for bargains made possible by mass production and achieved by manufacturing processes that involved pollution. Proclaiming private capitalism to be the culprit also ignored the fact, for instance, that once beautiful Lake Baikal in the USSR had become as polluted as our own Lake Erie.

The truth is that nobody here or elsewhere started out with the purpose of polluting; but for many years, pollution seemed not nearly so important as production.

As of today, the predictions of environmental demise have not come to pass and we can report some environmental improvement. The air in some locations is measurably purer, as is the water in many of our streams and lakes.

And this progress has resulted in large part because business and industry have made significant efforts to install improved, pollution-free processes, both on their own initiative and in order to comply with environmental regulations.

Industrial expenditures for pollution control have been impressive. According to the U.S. Department of Commerce, capital investment for this purpose was $4.9 billion in 1973; $5.2 billion in 1974; and approximately $5.9 billion in 1975. The Council on Environmental Quality has estimated that pollution control will take 2.5% of our Gross National Product over the next ten years, and that two-thirds of this burden will fall on the private sector. During 1974 four industries spent more than 10% of their total investment for pollution control.

Some companies have found that the new pollution-free methods have produced better products at lower costs; some have found it profitable to retrieve and reuse substances that were formerly considered pollutants.

These are good signs, although few would disagree that we still have a long way to go.

EPA has not found basic disagreement with business and industry on the desirability of reducing pollution. Differences of opinion do exist concerning milestones, timetables, percentages, and whether certain incremental benefits are in proper proportion to costs. But these are matters for rational analysis and evaluation. EPA is aware that although it may set the standards, it cannot by itself clean up one breath of air or drink of water. And no amount of rhetoric will do it. We are dependent on the people of industry to get the job done.

POLICY DECISIONS—CLEAN AIR ACT AMENDMENTS

Mr. MOSS. Mr. President, Congress continues to struggle with the related problems of the energy crisis and recovery from the unemployment generated by the recession. Most of the national Presidential candidates, major policymakers, writers, and local governmental leaders are convinced that these problems are the most pressing national issues presently before the country. Until we deal with these in a long-range and comprehensive fashion, much other current legislation is premature and can only lead to later retrenchment and reassessment. We simply must reach policy decisions in these critically important areas. Piecemeal legislation arising from one committee should not be enacted while we are struggling to resolve a greater national priority.

In this context, portions of the Clean Air Act amendments (S. 3219) proposed by the Public Works Committee, appear hopelessly out of step with more pervasive national concerns and needs. It is inconceivable to me that in a situation so potentially dangerous as that involving our current energy shortages, that the Members of Congress should be

asked to impose upon their States a policy of substantial economic and industrial curtailment. It is impossible to increase productivity to cut back inflation and at the same time throttle new industry development.

Though the Public Works Committee has said that their amendments are responsive to the need for growth and State management thereof, most of the studies being done suggest the contrary.

I asked a number of concerned agencies to make an analysis of the bill and report their findings to me. Today I received a response from the Administrator of FEA. His findings mirror and enhance my own concern about the effect of the bill. I ask unanimous consent that Mr. Zarb's letter to me be printed in the RECORD.

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

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 17, 1976.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: In your letter of April 15, 1976, you requested the Federal Energy Administration's (FEA) views regarding the significant deterioration (SD) including best available control technology (BACT) and non-attainment provisions of the proposed amendments to the Clean Air Act. Consultants retained by FEA have just completed two studies with respect to these provisions. An analysis of the overall impact of the SD provisions on energy and economic impacts was prepared by ICF, Inc., utilizing in part FEA's Project Independence Evaluation System (PIES). The implications of SD for surface mining of coal were analyzed by Environmental Research and Technology, Inc. (ERT). Summarized below are the major findings of the ERT and ICF studies and the principal areas of uncertainty with respect to the impact of the Clean Air Act Amendments pending in the Senate.

FINDINGS

1. Increased oil consumption

It is projected by the PIES model that the utility sector will increase its consumption of oil by about *1 million barrels per day* by 1990. Over the 1980–1990 period, this would mean that an additional 1.9 billion barrels of oil would be consumed, representing about $25 billion at $13 per barrel. One million barrels per day is equivalent to the total crude oil production from the Gulf of Mexico in 1975; it also represents an increase of 68 percent over 1974 utility oil consumption. By further comparison, the Trans-Alaska oil pipeline is scheduled to deliver 600,000 barrels per day in 1977 and 1.2 million barrels per day in 1978.

No authority currently exists to prevent the above projected increase in consumption of oil. The Energy Supply and Environmental Coordination Act of 1974, (ESECA) as amended, exempts combustion gas turbines and combined cycle units from its prohibition against new oil-fired utilities. FEA's authority to issue orders under ESECA expires on June 30, 1977.

If new ESECA legislation were extended and made applicable to all new base load and intermediate generation, (legislation of this type is hereinafter referred to as "New ESECA") the above mentioned energy penalties obviously would not be incurred. However, as indicated below, capital costs for additional sulfur dioxide pollution controls incurred by the utility sector would almost triple.

2. Increased capital costs

The utility sector would have to spend an additional $6 billion on sulfur dioxide control equipment in the period 1980–1990. Under New ESECA, these additional capital costs for pollution control equipment would increase to over $16 billion for the same period.

3. Reduced coal production

National coal production would be reduced by about *150 million tons* by 1980 from current projections of 1.3 billion tons per annum. This reduction represents about 25 percent of current coal production. Over the 1980–1990 period, 825 million tons of projected coal production would not be produced or consumed. Under New ESECA, coal production would approximate that projected for 1990. The regional impacts are important and are examined in the report.

4. Surface-mining

Production from new Western coal surface mines could be *severely constrained* by violation of applicable standards for suspended particulates if the SD increments were applied to such operations. About 90 percent of future Western coal production is expected to come from surface mines. The Senate Bill explicitly identifies a number of types of stationary sources exclusive of surface mining which would be subject to the SD increments, but also provides for "such other major emitting facilities as the [Environmental Protection Agency] Administrator determines to be significant potential sources of air pollutants."

5. Increased operating/consumer costs

Electricity bills would go up $4 to $6.5 billion over the period 1980–1990 depending on whether oil is allowed or not. This reflects an increase in electricity rates of 0.6 percent on a national average basis, and of 2.4 percent for the high percentage change geographic region, by the year 1990.

Uncertainties

1. Important uncertainties regarding the implementation of the proposed amendments, which could result in the understatement of their impacts, include:

how the Best Available Control Technology provisions would be interpreted,

which atmospheric dispersion models and meteorological assumptions would be employed,

what the effects of terrain and the location of other facilities would be on the emission reductions required of a single facility,

how many areas would be designated as Class I on a discretionary basis, in addition to those which would be mandatory Class I,

what percentage of the SD increments would be allocated by the states to each new facility.

For example, it is possible that emissions reductions below those achievable with scrubbers on high sulfur coal in the East could be required. This requirement, which would require scrubbers and low sulfur coal, could increase the impacts summarized above.

2. It is unclear whether the SD provisions would provide a substantial stimulus for urban development. Further, it appears that the non-attainment amendments would *not* substantially relieve the constraints of the current Clean Air Act on urban development.

3. The SD and non-attainment provisions could lead to substantial delays in siting new facilities.

4. Natural violations of National Ambient Air Quality Standards could inhibit industrial development.

We are enclosing for your reference a copy of the Executive Summary of the ICF report. We expect to deliver a copy of the full report to you when it is available. Also enclosed is a copy of the ERT report.

Finally, annexed to this letter for your information is a listing of additional on-going studies by Federal agencies related to the proposed amendments.

Transmittal of this letter has been approved by the Office of Management and Budget.

Sincerely,

FRANK G. ZARB,
Administrator.

ONGOING SIGNIFICANT DETERIORATION AND NON-ATTAINMENT STUDIES

A. FEA STUDIES

Growth Impacts in the Chemical and Petroleum Industries in Selected Areas where NAAQS are not Being Attained.

Interface of Significant Deterioration and Non-Attainment Requirements for Major U.S. Cities.

B. JOINT FEA/EPA STUDIES

Impact of Significant Deterioration on the Location/Size of Synthetic Fuel Facilities.

Impact of Significant Deterioration on the Copper Smelting Industry.

C. OTHER AGENCY STUDIES

Impact of Clean Air Act on Industrial Expansion [several major industries to be studied], including Impact of Non-Attainment Provisions on Expansion in Petro-Chemical, Petroleum Storage, and Petroleum-Refinery Industries (EPA).

Impact of Significant Deterioration on the Pulp and Paper Industry (EPA).

An Analysis of the Impact of Alternative Approaches to Significant Deterioration in the Non-Ferrous Metals Industry (DOC).

PROCTOR'S WASHINGTON

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that various articles written for the Washington Star—1928–48—entitled "Proctor's Washington," by John Claggett Proctor, LL.D., be printed in the RECORD.

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

CONGRESSIONAL CEMETERY. ITS CENOTAPHS AND NOTABLE BURIALS

It took Congress quite a while to wake up to its responsibility to care for its holdings in the Congressional Cemetery, which for so many years it has left to the committee managing the cemetery without making any appropriation to cover the necessary expense. Of course, the committee just had to cut the grass and, in a way, at least, to keep up the burial lots owned by the Government in order to keep the grounds from looking disgraceful and reflecting too harshly against the other parts of the property, but, naturally, it saw no special reason why it should keep up the Nation's cenotaphs any more than it would the monuments of other site or lot owners in this noted necropolis.

As to the wisdom of Congress in ever starting the custom of placing cenotaphs in this cemetery to the memory of deceased members of Congress there has always been a difference of opinion. They are there: and, in many cases, the particular member of Congress who died years ago is there, too, and it is now just as much a duty to keep up the respectable surroundings of their graves as it was in the first place to erect here the monuments to their memory.

No country with justice to itself can forget its honored dead, and no doubt all the people will be glad to know that the efforts of Representative Abernethy to have the Gov-

ernment care for and preserve "certain lands and monuments in the Congressional Cemetery" was not without avail, and it is hoped that future congresses will provide, if necessary, for keeping up the good work.

The Civil War changed conditions in many ways, and it was during this period that congressional appropriations for caring for Government-owned lots in Congressional Cemetery were stopped. However, every now and then an effort was made to renew national interest, but the movers in this good cause, becoming discouraged, were finally forced to give up the idea, and in this way the matter has rested until now.

A correspondent of an out-of-town newspaper, writing to his home town some 44 years ago, made some interesting statements which are well worth repeating today. He said:

"One of the largest cemeteries in this district is known as the Congressional Cemetery. The strange part of it is that it has no connection with Congress, and has not since 1864, when Lemuel L. Bowden, a Senator from Virginia, was buried there. This cemetery was established in 1807. Maj. Gen. Uriah Tracy of Connecticut being the first to be interred there. The cemetery was originally 10 acres in extent, but since then ground has been added from time to time until it now includes 30 acres. The original idea was to erect cenotaphs—empty tombs—in honor of deceased Congressmen who had been buried elsewhere. But 'the American Westminster Abbey,' as it was called for years, was forgotten during the war and no appropriations were made to keep it up. From 1807 until 1850 the appropriation bills regularly contained appropriations to build 'freestone cenotaphs at the Congressional Cemetery.' They cost about $150 each. There are now in the cemetery over 200 of them, one for each Senator or Representative who died during the interval. Under some of them, however, repose the remains of those they are intended to be a memorial of. George Clinton of New York, who was Vice President of the United States from 1805 to 1812, was buried there but later removed to New York. So was Elbridge Gerry, who also filled the office of Vice President. They were both buried there at their own request. Tobias Lear, the friend and private secretary of George Washington, was buried there, as was also Gen. Jacob Brown, who was commander-in-chief of the Army and died in 1828, and William Wirt of Virginia, who was Attorney General of the United States from 1817 to 1829. All the prominent Indians who died in this city for over a half century have been buried there. Gen. Rawlins, who was Grant's first Secretary of War, was buried there. The last cenotaph for a New York Representative was that of Silas M. Burroughs, who died in 1860. He was a member of the Thirty-fifth and Thirty-sixth Congresses. Some of these cenotaphs are already going to pieces in consequence of being constructed of a poor quality of sandstone.

"One of the gravediggers speaking on the subject said to your correspondent: 'The great majority of these stones will last for many, many years yet, but about 50 of them will waste entirely away inside of the next 10 years. They were most erected by contract, and as the contractors were not watched they made them of imperfect and often of condemned stone that could not be used for building purposes. Now and then some of the descendants of some of these Congressmen come to see these stones, and they say they will have them replaced with a better stone. But that is the last we hear of it. The stone in memory of John Quincy Adams over there is as good as it was the day it came here, just because some of the friends of Mr. Adams were particular in seeing that it was cut out of a good stone."

One of the many cemeteries which formerly existed within the lines of Washington as originally laid out, Congressional Cemetery is the only one today in which interments are made; all others having been removed. On April 4, 1807, a few persons, including Henry Ingle, George Blagden, Griffith Coombe, S. N. Smallwood, Dr. Frederick May, Peter Miller, John T. Frost and Capt. Thomas Tingey, purchased square No. 1115, between E and G, Eighteenth and Nineteenth streets southeast, for a cemetery. There seems to have been no desire upon the part of the purchasers to run the cemetery for a personal profit, for it was agreed by them that when the property became clear of debt it should be transferred to the vestry of Washington Parish. Accordingly it continued under its original management until March 30, 1812, when—the conditions of the agreement having been met—title to the land was transferred through Henry Engle to the parish as agreed upon.

The first Congressman to be interred in this cemetery was Senator Uriah Tracy of Connecticut, whose body is recorded as having been transferred from Rock Creek Cemetery on July 19, 1807, just a little over three months after its purchase by Henry Engle and those associated with him in this worthy undertaking.

Senator Tracy was born in Franklin, Conn., February 2, 1755. He was graduated from Yale College in 1773, following which he studied law, later being admitted to the bar. He became a member of the State House of Representatives, in which he served as Speaker in 1793. Subsequently he was elected as a Federalist to the Third and Fourth Congresses and served from March 4, 1793, to December 6, 1796, when he resigned, and entered the United States Senate as the successor to Jonathan Trumbull, and where he served for a while as president pro tempore of that body. The Biographical Congressional Directory gives the place and date of his death as "Washington, D.C., July 19, 1807," but it is evident that if his body was exhumed from Rock Creek Cemetery, his death must have taken place at an earlier date, since it would be unreasonable to suppose that they would bury such a distinguished man as he and remove his remains to some other cemetery the same day.

Besides being a United States Senator, Uriah Tracy had the distinction of having served in the American Revolution. In his article on "Patriots of the Revolutionary Period Who Are Interred in the District," Selden Marvin Ely tells us that the Senator's name is listed "in a company that marched from sundry places for the relief of Boston, etc., in the Lexington Alarm, April, 1775, and were formed into an independent company at Roxbury."

Though the first Congressman to be buried in Congressional Cemetery, Senator Tracy, was not the first member of Congress to die in Washington, for, on March 1, 1802—five years before the death of the Senator—Narsworthy Hunter, a Delegate from the then territory of Mississippi, passed away in one of the six buildings, still standing at 2107 to 2117 Pennsylvania avenue northwest. It was from his home in this block that the funeral took place, his body being escorted to the grave in the yard of the Presbyterian Church in Georgetown by members of the two houses of Congress, the heads of the several Government departments and others.

Following this was the death, on March 7, 1804, of Daniel Hiester, a Representative from Maryland, and who had served previously in a like capacity from the State of Pennsylvania. There seems to be some doubt as to his name. Bryan's History gives it as "Heister," and so does the Congressional Directory of February 15, just passed, while the Congressional Biographical Directory gives it as "Hiester."

Whatever may be the correct spelling of his name, he had a very interesting funeral. He died at Lovell's Hotel, on the north side of Pennsylvania avenue near Fifteenth street, and on the day of the interment, Congress adjourned to this hotel, where biscuits and wine were served. This expense, together with other incidental expenses was paid from the contingent fund of the House, which I believe is still customary in such cases—except as to the wine. Wilhelmus Bogart Bryan tells us: "On this occasion the members of the two houses walked in procession 'from Lovell's Hotel round the President's Square,' and from that point the body was taken on through Georgetown to Hagerstown, where the deceased had lived."

A year later, Mr. Bryan states—quoting Cutler's Life—"on a similar occasion, the members of the two houses instead of walking rode in carriages from the Capitol to the late residence and thence to the grave. At the house, wine, spirits and biscuit were provided as part of the cost of the funeral all of which was paid from the public funds."

In connection with the burial of Representative Hiester, another patent error presents itself. Cutler, as quoted above, gives his final resting place as Hagerstown, while the Congressional Record gives it as Congressional Cemetery. It looks as if the Angel Gabriel might have quite a time locating some folks when the great day comes.

Congress apparently did not pay very much for its burial lots in Congressional Cemetery, for we find the vestry of Christ Church at an early date assigning 100 sites in this cemetery for the interment of deceased members of Congress. It was not long before they were called upon for more ground, and 300 more sites were donated for the same purpose. Later Congress purchased other sites and began erecting the cenotaphs we see today.

Congress also made appropriations for improvements to the grounds designating the burial grounds as "Congressional Cemetery," by which name it is known today. Previous to this it was called "Washington Cemetery," which had taken the place of the earlier name of "The Washington Parish Burial Ground."

Christ Church was very glad to accept the burial ground presented by its vestryman, Henry Ingle, and others, since a lot purchased by it about this time had proved to be too low and damp, and was accordingly abandoned.

James Croggon, so well known for his reliable research work, in speaking of this cemetery some years ago in The Star, says:

"The Congressional Cemetery up to 1825 was, to all intents and purposes, in the county, for there was no settlement east of the Navy Yard, commons intervening between the plot set apart for burials and the town, although at long intervals there was some gardening and not a few squares of corn, oats, potatoes, etc. The square west, now included in the grounds, and some others south were so used, and it is related that the farmer thereof, with some of his family, repose on the ground he once cultivated—the spot on which a dance took place at the marriage of his daughter being now the family burial lot.

"But little improvement had been made to the avenues and streets, but the travel to the graveyard, the naval magazine and the naval hospital at Tenth Street had worn a passable road. Over this the funeral processions passed, for, owing to the few public conveyances obtainable, more people walked than rode, and when there was a military, naval or fraternal escort bands of music played 'Mary's Dream' and other marching tunes. It is needless to say that when the honors called for a salute by cannon there was ample room on the commons north."

In 1824 square 1102, to the northwest of the cemetery, was bought of Col. Elgar, the

commissioner of public buildings. This block contained about the same amount of ground as the Congressional, and was located between Seventeenth and Eighteenth and D and E streets. The price paid for this entire square was $150, which, at that, might have been quite a large sum 105 years ago.

It is probable that this block is the one which was later called the Naval Cemetery and which was used for burial purposes until the Civil War, subsequent to which the bodies buried here were removed to the Congressional Cemetery.

In his description of this cemetery, Mr. Croggon further tells us that:

"Congressional Cemetery, on E street between Eighteenth and Nineteenth streets southeast, to which had been added the square south in 1849, was in like condition to the others, all the lots being taken and most of the sites occupied. The square south of Georgia avenue between Seventeenth and Eighteenth streets was added in 1855. During that decade an addition eastward was taken on the authority of Congress, a section 200 by 478 feet of reservation 13 being conveyed to the parish in 1858, as well as square 1105, between Seventeenth and Eighteenth streets and G and H streets. The following year square 1106, south of the latter, extending to the circle and Water street, was taken, as was also square 1117, extended to Water street, and square 1123, between G and H streets and Nineteenth and Twentieth, directly south of that part taken from the reservation."

Of the 60,000 burials made in this cemetery, probably the most notable of all is that of Elbridge Gerry, Vice President of the United States, a signer of the Declaration of Independence and distinguished in many other ways.

He was born in Marblehead, Mass., July 17, 1744, and died suddenly on his way to the Capitol, Washington, D.C., November 23, 1814. In 1810 and 1811 he was elected Governor of Massachusetts and it was his party which, in 1812, divided Essex County into a dragon-shaped district for political reasons, a course which resulted in coining a new word for the dictionary—"gerrymander." He was active in his efforts for American independence, and after serving as a member of the Colonial House of Representatives from 1772 to 1775, became a Delegate to the Continental Congress, where he served from 1776 to 1780 and from 1783 to 1785. He was also a delegate to the Constitutional Convention of the United States, held in New York in 1789, but refused to sign the instrument upon the grounds that he felt it gave the President too much power. He was a member of the first and second Congresses, serving from March 4, 1789, to March 3, 1793. In 1797 he was one of the envoys sent to France on a secret mission to establish relations with that country.

His election to the vice presidency, on the ticket with James Madison, occurred in 1812, and he served as such until his death on November 23, 1814. His grave is covered with a handsome monument which was erected by an act of Congress passed in 1823. An iron railing fence incloses the burial spot.

Another man of considerable historic prominence interred here is Tobias Lear, Washington's private secretary, and the tutor of his two adopted children, George Washington Parke Custis and Nellie Parke Custis, afterward Mrs. Lawrence Lewis. He was born in Portsmouth, N.H., on September 19, 1762, and graduated from Harvard in 1783. In 1786 he became Washington's private secretary, and later married, for his second wife, the widow of one of Washington's favorite nephews. At Mount Vernon he lived on an equal footing with other members of the household, as the following letter, written by Gen. Washington, will testify:

"MOUNT VERNON,
"6 February, 1786.

"My Dear Sir: Mr. Lear, or any other who may come into my family in the blended characters of preceptor to the children and clerk or private secretary to me, will sit at my table, will live as I live, will mix with the company who resort to the house and will be treated in every respect with civility and proper attention. He will have his washing done in the family, and may have his linen and stockings mended by the maids of it. The duties which will be required of him are generally such as appertain to the offices above mentioned. The first will be very trifling, till the children are a little more advanced, and the other will be equally so, as my correspondences decline (which I am endeavoring to effect) and after my accounts and other old matters are brought up. To descend more minutely into his duties I am unable, because occasional matters may call for particular services, but nothing derogatory will be asked or expected.

"After this explanation of my wants, I request that Mr. Lear will mention the annual sum he will expect for these services, and I will give him a decided answer by the return of the stages, which now carry the mail and travel quickly. A good hand, as well as proper diction, would be a recommendation on account of fair entries, and for the benefit of the children who will have to copy it."

For his services as secretary to the first President he received the sum of $200 a year. In the city's infancy he tried to help it along by writing a pamphlet entitled "Observations on the River Potomac," etc., in which he no doubt received the encouragement of Washington. It was issued anonymously in 1793, and is probably the earliest monograph relating to the District of Columbia and the Potomac River.

Washington thought a great deal of Tobias Lear and in his will left him a life interest in a 360-acre farm, and though he had resigned six years before the general passed away, yet he had the distinction of being present at Washington's bedside during his last illness and was intrusted with the arrangements for the funeral, which took place at Mt. Vernon on Dec. 18, 1799.

After resigning as Washington's secretary he engaged in business in this city, which however, resulted in failure. He was later sent as consul to Santo Domingo and subsequently as consul general at Algeria, and at the time of his death, which was brought on by his own hand, was accountant of the War Department.

PUSHMATAHA, FAMOUS INDIAN BURIED IN CONGRESSIONAL CEMETERY

A most unusual character who was buried in the Congressional Cemetery back in 1824 was the Choctaw Indian chief, Pushmataha. He was a distinguished warrior of the Choctaw Nation, which had its principal residence in that part of the country East of the Mississippi River, which now forms the State of Mississippi and which about the time of Pushmataha's death numbered 25,000 souls.

Pushmataha, who died in Washington about 12 o'clock midnight on December 23, 1824, had come to this city with several other chiefs to see the President for the purpose of obtaining a settlement of the debt due from the Government, originating in the treaty held at Doak's Stand in 1820, and known as the "Net proceeds claim."

As is usual in such matters, three of the four chiefs who came here—including Pushmataha—died waiting for a settlement. The fourth, seeing what must await him if he stayed here, beat it back to the tall timbers and at least had the satisfaction of passing away among those who loved him more and appreciated him better than did the white man at Washington.

Of course the Government paid the debt—it always does pay its just obligations—but not until 1888, 64 years after poor old "Push" had gone to the happy hunting grounds, where even United States coins will not pass as currency; however, with the unfortunate result that the more than $1,000,000 paid by the Government could then only be used by the grandchildren and great-grandchildren of Pushmataha.

In the early days when the American Indian was learning the ways of the white man, it came much easier to learn the bad things rather than the good things, just as we find it among ourselves even today. The result was that by the time this celebrated Indian came to Washington his chief source of entertainment was in imbibing fire water, otherwise he would have lived longer and undoubtedly have been more useful to himself and to his people. Big dinners, champagne and red liquor were found too much even for the ironclad constitution such as no doubt was his, and he soon began to fail and lose his vigorous and picturesque presence and bearing.

While in Washington he was frequently the guest of the President at the White House and was often dined and wined by other public officials, notably Gen. Andrew Jackson, who was then serving in the Senate and was always glad to see him, for it was he whom he had joined with a large number of his warriors in the Creek War of 1813–14, engaging with distinction in all the battles of that eventful period—Talladega, Holy Ground and Pensacola—and later accompanied Gen. Jackson to New Orleans, where he witnessed the battle of January 8, 1815, though not as a participant.

While Pushmataha was in Washington, Gen. Lafayette was a guest of the Nation, and the Indian chief had the pleasure of meeting the marquis, to whom he is said to have made a brief but very eloquent address, closing with the following prophecy which was fulfilled before the close of the year: "We heard your name in our distant wigwams. I longed to see one who had come a long way to assist our friends of the white race when they were a small people. I have seen and shaken your hand. This is our last meeting on earth. Soon the great ocean will divide us. We shall see each other no more till we meet in the happy hunting ground."

Another report of this interview represents Pushmataha as having said to Lafayette: "Nearly 50 snows have melted since you drew the sword as a companion of Washington. With him you fought the enemies of America. You mingled your blood with that of the enemy, and proved yourself a warrior. After you finished that war, you returned to your own country; and now you are come back to visit a land where you are honored by a numerous and powerful people. You see everywhere the children of those by whose side you went to battle, crowding around you and shaking your hand, as the hand of a father. We have heard these things told in our distant villages, and our hearts longed to see you. We have come. We have taken you by the hand, and are satisfied. This is the first time we have seen you; it will probably be the last. We have no more to say. The earth will part us forever."

He delivered this speech with an eloquence for which he was noted, his musical voice, his fine command of language, and his oratorical gestures contributing to the solemnity of the occasion, so soon to be followed by his death. Indeed, so dramatically were his remarks delivered that it was even said that he was the peer of Daniel Webster.

The principal speech made by Pushmataha upon his visit to Washington was addressed to John C. Calhoun, then Secretary of War.

As recorded by McKenney and Hall, the following is what he said:

"Father, I have been here some time. I have not talked—have been sick. You shall hear me talk today. I belong to another district. You have no doubt heard of me. I am Pushmataha.

"Father, when in my own country I often looked toward this council house and wanted to come here. I am in trouble. I will tell my distresses. I feel like a small child, not half as high as its father, who comes up to look in his father's face, hanging in the bend of his arm, to tell him his troubles. So, father, I hang in the bend of your arm and look up in your face, and now hear me speak.

"Father, when I was in my own country I heard there were men appointed to talk to us. I would not speak there. I chose to come here and speak in this beloved house. I can boast and say and tell the truth that none of my fathers or grandfathers, nor any Choctaw, ever drew bows against the United States. They have always been friendly. We have held the hands of the United States so long that our nails are long like birds' claws, and there is no danger of their slipping out.

"Father, I have come to speak. My nation has always listened to the applications of the white people. They have given to their country till it is very small. I repeat the same about the land east of the Tombigbee. I came here when a young man to see my Father Jefferson. He told me if ever we got in trouble we must run and tell him. I am come. This is a friendly talk. It's like a man who meets another and says, How do you do? Another will talk further."

Pushmataha was born in what is now the State of Mississippi about the year 1764 and before he had reached his twentieth year he had distinguished himself on the warpath. He early joined an expedition against the Osages on the western side of the Mississippi and, so it is said, "because of his youth and propensity for talking, he was a good deal laughed at by the more experienced men of the party. Every night, after making their campfires, some of the more fluent warriors were wont to deliver speeches touching their intended movements and the boy warrior did not hesitate to express his views and intentions. But the older men shook their heads in derision. In due time the war party reached the Osage country and a desperate fight soon occurred. It lasted nearly a whole day and when concluded by the defeat of the Osages, it was whispered around that the boy had disappeared early in the conflict and he was condemned as a coward. At midnight he rejoined his friends at their rendezvous and they jeered him to his face for running away. To this he made reply by saying: 'Let those laugh who can show more scalps than I can.' Whereupon he took from his pouch no less than five scalps and threw them upon the ground. They were the result of a flank movement which he had made single-handed on the rear of the enemy. From that night they looked upon the young warrior as a great man and gave him the name of the Eagle."

At the beginning of the second war with Great Britain, Pushmataha took sides with the United States. At the 10-day council, which decided the course of the Choctaws, it developed that all of the warriors and leading men, except John Pitchlynn, the interpreter, and Pushmataha, were for neutrality.

Up to the last day of the council the latter had not uttered a word, but he then expressed himself by saying:

"The Creeks were once our friends. They have joined the English, and we must now follow different trails. When our fathers took the hand of Washington, they told him the Choctaws would always be the friends of his Nation, and Pushmataha cannot be false to their promises. I am now ready to fight against both the English and the Creeks. I have 1,700 men, who are willing and ready for battle. You who may wish to do so, can stay at home and attend to the pots. I and my warriors are going to Tuscaloosa, and when you hear from us again the Creek fort will be in ashes."

It was shortly before this that Tecumseh's brother, a reputed great prophet of the Shawnees, sought an audience with the Choctaw chief, and in the course of a speech which he made stated that the earthquake, which had lately occurred was due to the Great Spirit stamping his foot upon the ground; "that it was a signal for all the Indians to begin war against the Americans, whose powder would not burn; and that after the victory they were sure to gain, the buffaloes would come back again into their country."

Pushmataha made this reply: "Every word you have uttered is a lie. You are a prophet, but there are other prophets beside yourself. The cause of the earthquake no prophet can tell. If it had any meaning, it was a signal for Pushmataha and all his warriors to rush at once upon the English and all the enemies of the United States. If you were not my guest, I would make you feel my tomahawk. I advise you to leave this country at once."

Lannan tells us that the Creeks and Seminoles allied themselves to the British, and that "Pushmataha made war upon them with such energy and success that the whites gave him the title of the Indian general, which he and his people considered a decided advance on his previous titles of warrior, hunter, maneater and ball player. It was while helping the American cause, and playing the part of a general, that he one day struck a white soldier with his sword. When brought up by the officer in command and questioned as to his reasons for such conduct, he replied that the soldier had insulted his wife, and he only struck the offender with the side of his sword to teach him his duty; but that if the act had been done by an officer instead of a common soldier, he should have used the sharp edge of his sword in defense of his wife, who had come from a great distance to visit him."

The celebrated John Randolph of Virginia, who served in Congress, off and on, from 1799 to 1827, upon one occasion alluded to the Indian chief in a speech upon the floor of the Senate, and to his grave in Congressional Cemetery. He said:

"Sir, in a late visit to the public graveyard, my attention was arrested by the simple monument of the Choctaw Chief Pushmataha. He was, I have been told by those who knew him, one of nature's nobility; a man who would have adorned any society. He lies quietly by the side of our statesman and his magistrates in the region—for there is one such—where the red man and the white man are on a level. On the sides of the plain shaft that marks his place of burial, I read these words: 'Pushmataha, a Choctaw Chief, lies here. This monument to his memory is erected by his brother chiefs, who were associated with him in a delegation from their nation, in the year 1824, to the Government of the United States. Pushmataha was a warrior of great distinction. He was wise in council, eloquent in an extraordinary degree, and on all occasions, and under all circumstances, the white man's friend. He died in Washington on the 24th of December, 1824, of the croup, in the sixtieth year of his age.' Among his last words were the following: 'When I am gone let the big guns be fired over me.'"

In McKenney and Hall's biography of this noted warrior are the following concluding paragraphs:

"This chief had five children. His oldest son died at the age of 21, after having completed an excellent English education. The others were young at the time of the decease of their father. A medal has been sent by the President to the oldest surviving son, as a testimony of respect for the memory of a warrior whose attachment to our Government was steady and unshaken, throughout his life.

"The day after the funeral of Pushmataha, the deputation visited the office in charge of the Bureau of Indian Affairs. The countenances of the chiefs wore a gloom, which such a loss was well calculated to create. Over the face of one of the deputation, however, was a cloud darker than the rest, and the expression of his face told a tale of deeper sorrow. Ask that young man, said the officer in charge of the bureau, what is the matter with him. The answer was, 'I am sorry.' Ask him what makes him sorry. The loss, the answer was expected to be, of our beloved chief. But no—it was, 'I am sorry it was not me.' Ask him to explain what he means by being sorry that it was not him. The ceremonies of the funeral, the reader will bear in mind, were very imposing. The old chief had said, 'When I am gone, let the big guns be fired over me'; and they were fired. Besides the discharge of minute guns on the Capitol Hill, and from the ground contiguous to the place of interment, there was an immense concourse of citizens, a long train of carriages, Cavalry, military, bands of music, the whole procession extending at least a mile in length, and there were thousands lining the ways and filling the doors and windows and then the military honors at the grave combined to produce in this young chief's mind a feeling of regret that he had not been, himself, the subject of these honors. Hence his reply, 'I am sorry it was not me'; and so he explained himself."

One of the handsomest monuments in Congressional Cemetery is the one erected to the memory of William Wirt, Attorney General of the United States in the cabinets of James Monroe and John Quincy Adams. The wording on this monument tells us that this distinguished gentleman served as Attorney General from 1817 until 1829, or throughout Monroe's two administrations and the term of John Quincy Adams. He was born in an inn, which his father kept in Bladensburg, the site of which is not satisfactorily determined.

He was a lawyer of marked ability and President Jefferson, in 1807, appointed him one of the counsel in the prosecution of Aaron Burr, arrested and tried for treason for attempting to form a republic in the Southwest of which he was to be the head, but was acquitted.

William Wirt was a candidate for the presidency in 1832 on the anti-Masonic ticket, his running mate being Amos Ellmaker of Pennsylvania. Jackson, the successful candidate, winning out with a large plurality.

OTHER FAMOUS INDIANS BURIED IN THE CONGRESSIONAL CEMETERY

1. Ute-Male-Sin-O-Cum. A Nez Perce Indian who died in May 1888 while a tribal delegate who was in Washington at Government expense.

2. Scarlet Crow (Kan-Ya-Tu-Duta). A Wahpeton Sioux Chief who served as a scout for the United States during the Minnesota Uprising. Buried March 13, 1867.

3. John Looney. A Cherokee Indian who had served as a Captain in George Fields company, 1813-14, died in Washington while serving as a tribal delegate. Buried May 16, 1846.

4. Oak-Caw-Bu-Wis. (Shawbowis) A Chippewa delegate who died in Washington of smallpox. Buried March 20, 1866.

5. St. Germain. A Chippewa delegate who died in Washington of the smallpox. Buried March 20, 1866.

6. Little Bee. (A-Moose or Au Mouse). Indian buried during April 1866.

7. White Fisher (Waub) Perog. Indian. Died in Washington during March 16, 1863.

8. Peter Perkins Pitchlynn. A Choctaw Chief. Colonel in the Army of the U.S. Died January 17, 1881 while a tribal delegate.

9. Tazak. Apache. Son of Cochise. Died September 26, 1876 of pneumonia.

REMAINS OF DECEASED SENATORS AND REPRESENTATIVES[1] IN CONGRESSIONAL CEMETERY, 1959

Sites	Name	State	Senator	Representative	Other[1]	Died
		RANGE 24				
1–2	Uriah Tracy	Connecticut	×			May 4, 1800
3–4	Ezra Darby	New Jersey		×		Jan. 27, 1808
		RANGE 25				
1–2	Francis Malbone	Rhode Island	×			June 4, 1809
7–8	Thomas Blount	North Carolina		×		Feb. 7, 1812
		RANGE 29				
6	Tilman B. Parks	Arkansas		×		Feb. 12, 1950
9–11	Elbridge Gerry (also vice president).	Massachusetts		×		Nov. 23, 1814
12–13	Elijah Brigham	do		×		Feb. 22, 1816
14–15	Richard Stanford	North Carolina		×		Apr. 9, 1816
19–20	George Mumford	do		×		Dec. 31, 1818
21–22	David Walker	Kentucky		×		Mar. 1, 1820
28–29	Nathaniel Hazard	Rhode Island		×		Dec. 17, 1820
30–31	Jesse Slocumb	North Carolina		×		Dec. 20, 1820
32–33	James Burrill, Jr	Rhode Island	×			Dec. 25, 1820
34–35	William A. Trimble	Ohio	×			Dec. 13, 1821
36–37	William Pinkney	Maryland	×			Feb. 25, 1822
38–39	William L. Ball	Virginia		×		Feb. 28, 1824
40–41	John Gaillard	South Carolina	×			Feb. 26, 1826
42–43	Christopher Rankin	Mississippi		×		Mar. 14, 1826
44–45	Alexander Smyth	Virginia		×		Apr. 17, 1830
46–47	James Noble	Indiana	×			Feb. 26, 1831
48–49	Charles C. Johnston	Virginia		×		June 17, 1832
54–55	George E. Mitchell	Maryland		×		June 28, 1832
56–58	James Jones	Georgia		×		Jan. 11, 1801
59–61	James Jackson	do	×			Mar. 19, 1806
62–64	Levi Casey	South Carolina		×		Feb. 3, 1807
65–67	Philip Doddridge	Virginia		×		Nov. 19, 1832
		RANGE 30				
9–10	John Smilie	Pennsylvania		×		Dec. 30, 1812
11–12	John Dawson	Virginia		×		Mar. 31, 1814
13–14	Samuel A. Otis (Secretary of the Senate, 1789–1814).	Massachusetts			×[1]	Apr. 22, 1814
37–38	Thomas T. Tucker	South Carolina		×		May 2, 1828
51–53	Thomas D. Singleton	do		×		Nov. 25, 1833
54–56	Timothy J. Carter	Maine		×		Mar. 14, 1838
66–68	Warren R. Davis	South Carolina		×		Jan. 29, 1835
69–71	Littleton P. Dennis	Maryland		×		Apr. 14, 1834
72–73	James Blair	South Carolina		×		Apr. 1, 1834
		RANGE 31				
43–44	Joseph Anderson	Tennessee	×			Apr. 17, 1837
47–49	Theodorick Bland	Virginia		×		June 1, 1790
50–52	George Holcombe	New Jersey		×		Jan. 14, 1828
53–55	Joab Lawler	Alabama		×		May 8, 1838
56–58	Narsworthy Hunter (delegate).	Mississippi			×[1]	Mar. 11, 1802
62–64	Jeremiah McLene	Ohio		×		Mar. 19, 1837
		RANGE 50				
49–51	Mountjoy Bayly (Senate Sergeant at Arms).	Maryland			×[1]	
		RANGE 54				
104–106	John W. Hornbeck	Pennsylvania		×		Jan. 16, 1848
116–118	Henry Frick	do		×		Mar. 1, 1844
119–121	William Taylor	Virginia		×		Jan. 17, 1846
131–133	Albert G. Harrison	Missouri		×		Sept. 7, 1839
153–155	Benjamin Thompson	Massachusetts		×		Sept. 24, 1952
		RANGE 55				
101–103	Francis J. Harper	Pennsylvania		×		Mar. 18, 1837
107–109	Edward Bradley	Michigan		×		Aug. 5, 1847
113–115	Felix G. McConnell	Alabama		×		Sept. 10, 1846
140–142	Samuel L. Southard	New Jersey	×			June 26, 1942
162–164	William Upham	Vermont	×			Jan. 14, 1853
		RANGE 56				
101–103	William A. Burwell	Virginia		×		Feb. 16, 1821
104–106	Daniel Hiester	Pennsylvania		×		Mar. 8, 1834
137–139	Joseph Lawrence	do		×		Apr. 17, 1942
		RANGE 59				
82–83	John M. Thurston	Nebraska	×			Aug. 9, 1916
84–86	William N. Roach	Maryland	×			Sept. 7, 1902
87–89	Davidson (House page).				×[1]	
		RANGE 60				
57–59	James Gillespie	North Carolina		×		Jan. 11, 1805
60–62	Lemuel J. Bowden	Virginia	×			Jan. 2, 1864
		Total	14	42	4	

[1] Includes 1 Secretary and 1 Sergeant-at-Arms of Senate and 1 Delegate and 1 page in House.

WHAT IS IN OUR FOOD?

Mr. McINTYRE. Mr. President, my friend and constituent, Beatrice Trum Hunter, has written a new book on her favorite subject, just what kind of food are we eating?

This new work by Mrs. Hunter, "The Mirage of Safety," is directed at the Food and Drug Administration. Mrs. Hunter does not believe the FDA is doing its job.

I do not suggest that everything Mrs. Hunter says must be taken as gospel, but I think it is important that we have a continuing review of our regulatory agents because that is the way we make sure they do their job. I believe her book is important in this review and maybe the end result of her work will be that we will all end up eating a little better.

I ask unanimous consent that a recent review of "The Mirage of Safety" which appeared in the Washington Post be printed in the RECORD.

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

HUNTER'S QUARRY: FDA

(By Marian Burros)

Beatrice Trum Hunter would easily be swallowed up in a crowd. With her brown hair pulled back in a bun, her pleasant, calm exterior gives no clue to the outrage that goes on inside.

But even the outrage is so quietly stated that it takes awhile before one realizes what shocking things Mrs. Hunter is saying and the frightening enormity of their implications.

She never raises her voice even when she says that the U.S. Food and Drug Administration (FDA) has followed a policy of "consumer be damned."

She simply states the facts as she sees them, but the conclusions to be drawn from her latest book, "The Mirage of Safety," all about food additives and federal policy seem inescapable.

According to Mrs. Hunter, there is no one watching the store because the FDA has "relinquished its mandated control of food-additive safety testing to the very industries that it was supposed to regulate.

"FDA's ignorance—or lack of control—of industry's use of additives" have produced a "chaotic situation."

In "Mirage of Safety," Mrs. Hunter has catalogued incidences of the federal government's laxity and ineffectiveness in testing and approving food additives. As she cites case after case, it isn't necessary for her to shout about the wrongdoing or ineffectual behavior. They speak for themselves.

The book is a primer on the demonstrated harmfulness of many food additives, the uselessness of many testing techniques in determining safety, the conflicts of interest that arise in the testing data and the procrastination and fumbling by the FDA even when a food additive is suspected of causing adverse reactions in humans.

As she reports it, the difference between what an eminent scientist, often an FDA official, is quoted as saying about the agency and food additives and what the situation is, cannot be lost on anyone.

She quotes former FDA Commissioner Dr. Herbert L. Ley: "The thing that really bugs me is that people think the FDA is protecting them—it isn't. What the FDA is doing and what the public think it's doing are as different as night and day."

Another former FDA Commissioner, Dr. Paul B. Dunbar, is quoted: ". . . no new chemical that is subject to any question as to safety should be employed until its possible injurious effect both on an acute and long-term chronic basis, has been shown to be nonexistent."

That the FDA does not follow this rule, she writes, is exemplified in the continued case of DES (diethylstilbestrol), a known carcinogen, to fatten cattle.

The testing system used by the FDA to determine the safety of food additives comes in for a great deal of criticism on a number of grounds. Additives, Mrs. Hunter says, should be tested not only singly but for the way they interact with other additives or drugs.

She cites food-drug combinations which can be harmful and are already recognized: cheese, wine, beer or liver with a group of tranquilizers; dairy products with the antibiotic, tetracycline . . . etc.

"Such findings," she writes, "further demonstrate the limitations of any safety-testing program that examines a single substance without considering the total environment."

This is particularly true of "co-carcinogens." "Cocarcinogens are not carcinogenic themselves, but may promote cancer by acting synergystically if they are present with one or more substances that are carcinogens. Findings indicate," Hunter says, "that

saccharin, most probably, is a co-carcinogen."

Tests to determine teratogenic (birth defect) effects are also inadequate, she says. Thalidomide, which produced gross abnormalities in children whose mothers took it during pregnancy, and DES, are examples of chemicals which produce teratogenic effects.

"Present teratogenic studies with animals are limited," Mrs. Hunter writes. "Suitable techniques to recognize functional abnormalities in a fetus are not generally available."

In 1971, Sen. Abraham Ribicoff (D-Conn.) said: ". . . more than 1,000 chemicals regularly added to our foods have never been tested for their potential to cause . . . birth defects . . . Today there is only limited testing for birth defects."

The situation has not changed in the intervening five years.

Another necessary test for food additives, that for mutagenic effects, is voluntary, Mrs. Hunter continues. "Mutagens affect unborn generations. They damage the human gene pool. The magnitude of their effect is unknown.

"In recent years, three expert committees have unanimously recommended that mutagenic testing be made mandatory for food additives. To date, no regulatory action has been taken."

Dr. James Crow of the National Institutes of Health said, "Potentially irrevocable (genetic) damage might be done without immediate warning by some of the more than 10,000 natural and synthetic chemical agents now produced commercially . . . Fewer than 200 of these suspected mutagens have been systematically assayed."

"While important testing is left undone," Mrs. Hunter writes, "the potential danger of many food additives is known. Yet these additives are not removed from the food supply." She lists sodium nitrite and the synthetic antioxidants such as BHA and BHT as just a few such chemicals.

Part of the problem, as Mrs. Hunter sees it, is that the FDA does not make more stringent demands on the food companies which submit safety data, or examine it more carefully. Recent testimony before Congress indicated that some of that data is manipulated so that a food additive appears to have passed all the safety tests, when in reality it has not, Mrs. Hunter says, "It's very easy to manipulate the results."

Then there are a whole host of additives which never really have been tested at all, for a number of technical reasons.

There is the well-known Generally Recognized As Safe (GRAS) list which contains about 700 chemical additives. No one, including the FDA, is quite sure of the number, or how rigorously the substances have been tested, if at all. A reevaluation of the GRAS list, begun in 1969, is underway, but no end is in sight. The taxpayer is footing the bill for it even though, Mrs. Hunter contends, it should be the responsibility of the food industry which profits from these additives.

In her book she also finds fault with the use of the National Academy of Science-National Research Council (NAC-NRC) for evaluation of additive safety data. Mrs. Hunter quotes cancer researcher Dr. Samuel Epstein that a close identification of NAS-NRC Food Protection Committee with industrial interests, "makes it singularly inappropriate as a major source of 'independent advice' to the FDA."

This same problem, as Mrs. Hunter sees it, influences the FDA's overall ability to police the food we eat.

"The FDA, by repeatedly pleading shortages of funds and personnel, has conducted far too few safety tests itself. Instead, it has relied heavily on summary assurances from food and chemical companies or from their contracted private laboratories."

It is Mrs. Hunter's contention that "if food additives had to be tested for efficacy, as well as safety, we might be down to ten. In the meantime, until testing can be done, all the unnecessary ones should be taken out of the food supply. True, a lot of food would disappear from the shelves but those are junk foods."

Mrs. Hunter has been speaking and writing about these problems for a long time. She says her reception gets better every year. She has written several books on natural foods, but the precursor to "The Mirage of Safety" was "Consumer Beware" written in 1971. In it she catalogued the dangerous substances being added to food about which the general public had little awareness.

On a recent trip to Washington, she said she had first become aware of environmental hazards in 1933 when she read "100 Million Guinea Pigs." It exposed the potential dangers of food additives, which numbered only 300 at the time.

"It was a shocker and an eye opener," she said, "but now we are 200 million guinea pigs, (the American population) and faced with thousands of additives."

"The problem of food additives," she said, "is part of a larger problem of the environment. We're just beginning to see you can't spew things into it."

She admitted that she occasionally is overwhelmed by the enormity of the problems, but never enough to become discouraged. She said the situation today is both better and worse than it was five years ago.

"More and more food on the market is junk. The coming problem is fabricated foods—substitutes, limitations," she said, "but there is more awareness. More people who are enlightened are reading labels."

Mrs. Hunter is also encouraged because she is speaking "a lot more now to home economists, extension agents and dentists. Dieticians," she said, "I haven't reached yet."

The press has changed its attitude too. "It used to be much more skeptical," toward reformers.

For the present, Mrs. Hunter said, people are going to have to protect themselves from dangerous food additives. She is not expecting an immediate revolution at the FDA, nor in the use of food additives. "When it becomes a political issue, then maybe it will get solved in favor of consumers."

So she suggests that people "buy things that would have been familiar to their grandmothers." She shops mainly in the supermarket in Hillsboro, N.H., where she lives with her husband, but she chooses "very carefully."

Her practical solution to these seemingly insurmountable problems is best expressed in the inscription she writes in copies of "Mirage of Safety": "Don't stop eating, but choose wisely. You have to keep reading the labels."

Here are some recipes from an earlier book, "The Natural Foods Cookbook," by Beatrice Trum Hunter.

CRAB MEAT SPREAD

About 3 cups

1 cup crab meat shredded fine
1 stalk celery and top, chopped
1 onion, grated
½ green pepper, minced fine
1 cup alfalfa sprouts
1 cup cottage cheese
1 spring of parsley, minced
Favorite salad dressing

Blend all ingredients together, adding only enough dressing to moisten the spread.

Variations: Lobster, shrimp, tuna, etc., may be substituted for the crab meat.

MOLASSES CUP CAKES

Makes 12

1 cake or 1 tablespoon dried yeast
⅞ cup sweet cider, lukewarm
⅔ cup molasses
2 cups wholewheat flour
⅓ cup oil
Rind of 1 lemon, grated
1 tablespoon brewer's yeast
1 egg, beaten

Soften cake or dried yeast in cider. Add 1 tablespoon molasses and 1 cup flour. Let yeast mixture stand until bubbly. Add remaining molasses, flour and other ingredients. Beat thoroughly.

Turn batter into oiled custard cups, filling them halfway. Place cups in cold oven. Turn heat to 150 degrees F. and let batter rise. Remove cups from oven, raise temperature to 350 degrees F. and return them to oven to bake for about 20 minutes.

SEVENTY THOUSAND IOWANS RESPOND TO QUESTIONNAIRE

Mr. CULVER. Mr. President, this year, as during my previous service in the House of Representatives, I sent a questionnaire on a number of issues of particular interest to my constituents in Iowa. I am pleased that over 70,000 Iowans responded to the questionnaire, many of whom took the time to add personal comments to their replies.

While no public official ought to be guided by the results of polls alone, information on constituents' views—whether obtained from letters, personal visits, or surveys—is a vital element in the daily decisionmaking process in Congress. The Iowans who responded to this questionnaire represent a diverse and broad cross-section of viewpoints and interests. Thus, the results are not only valuable to me but also should be of real interest to my colleagues in the Senate.

The questionnaire suggests how Iowans view a variety of critical issues now facing Congress and the Nation. In their response to several questions, these citizens have expressed their concern about the disturbing trend toward concentration of economic power in the hands of large corporations, especially the huge oil companies and those corporations which buy or control the operation of farms. They strongly favor modification of the tax laws to discourage large corporate farming operations which, in many cases, are swallowing up the small family farm that is so much a part of our Iowa heritage.

Most Iowans also think the Federal Government is needlessly complicating the Federal forms required to be completed by each citizen. As one would expect, the Federal income tax return is most often mentioned. As a member of the Small Business Committee, however, I was not surprised to see how often constituents cited the complex forms necessary for filing in order to operate or receive assistance for a small business.

As a member of the Senate Armed Service Committee, I was particularly interested in the fact that 79 percent of those polled favored holding the line on defense spending. In fact, nearly half of those who answered this question wanted to decrease our Federal expenditures in this area. They also favored increasing

our spending on care for the elderly and law enforcement activities, while decreasing our foreign assistance spending.

The questionnaire results on several other isues are of individual interest. The key message, however, is clear. A majority of Iowans favor change in Government policies in several important areas. In our Nation where informed and articulate voters are vital to the success of democracy, the flow of such information to their representatives in Congress demonstrates once again the valuable function of a questionnaire. I am grateful to the citizens of Iowa who gave me the benefit of their views. I hope that the interest which they have demonstrated in public affairs will continue to increase the responsiveness of the Federal Government to their needs and concerns.

Mr. President, I ask unanimous consent that the tabulated results of my questionnaire be printed in the RECORD.

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

QUESTIONNAIRE

In the coming months, the Congress will be making decisions on many critical issues. This questionnaire is designed to help me assess the ideas and priorities of Iowans on some of these matters. I very much appreciate your willingness to take the time to consider these questions and to share your views with me. Please fill this out and mail to: 2327 Dirksen Senate Office Building, Washington, D.C. 20510.

	In percent		
	Yes	No	No answer
1. Should the Congress modify the tax laws to discourage large corporations from buying or controlling the operation of farms?	89.7	8.3	2.0
2. Do you feel that current efforts to exert more congressional control over the executive—especially in foreign policy—will increase public confidence in our government?	56.0	38.4	5.6
3. When the private sector of the economy cannot employ large numbers of people who are looking for work, should the Federal Government take action to employ them?	54.0	38.9	7.1
4. Should Government actively promote the preservation of historic buildings and neighborhoods?	55.5	37.8	6.7
5. Do you believe that the large oil companies should be broken up so that the companies that drill for oil, and those who refine it, and those who sell it become separate entities?	63.4	28.7	7.9
6. As a member of the Select Committee on Small Business, I have become concerned by the trend toward concentration of economic power in the hands of large corporations. Do you believe the Government should create additional programs to assist small businesses to offset this trend?	72.6	21.8	5.6
7. Do you believe the Federal Government is doing enough to promote the rights of women?	78.8	15.7	5.5
8. Do you think Federal Government forms are needlessly complex? (Income tax forms, social security, medicaid and medicare forms, agricultural census forms, business tax forms.) If yes, which specific forms?	69.5	13.9	16.6

	Increase	Decrease	Same	No answer
9. Often in Government, the question is not whether to fund a worthy program, but which of many goals ought to receive higher priority. With that in mind, should the following areas receive a budget increase, a decrease, or should they remain about the same funding level?				
(a) Agriculture	24.9	21.2	47.3	6.6
(b) Care for the elderly	51.1	6.0	37.0	5.9
(c) Conservation and environment	36.2	14.9	43.1	5.8
(d) Consumer protection	40.1	19.2	35.4	5.3
(e) Energy research	68.1	5.8	20.4	5.7
(f) Foreign assistance	3.4	74.0	18.7	3.9
(g) Health care	36.0	14.9	43.0	6.1
(h) Highways	14.8	24.0	54.9	6.3
(i) Law enforcement	52.8	6.0	36.3	4.9
(j) Military spending	15.5	45.6	33.4	5.5
(k) Railroad assistance	40.0	24.5	28.3	7.2
(l) Revenue sharing	20.7	23.9	46.0	9.4
(m) Rural development	19.9	22.3	50.0	7.8
(n) Veterans programs	18.5	21.9	53.8	5.8
10. In view of the changing global situation, do you feel the United States should increase or decrease its active responsibilities overseas or maintain them about the same?	8.3	44.4	42.3	5.0

A TRIBUTE TO SENATOR CLIFF HANSEN

Mr. THURMOND. Mr. President, our distinguished colleague from Wyoming, Senator CLIFF HANSEN, was recently the subject of an article in the May 9, 1976, Sunday Wyoming Tribune-Eagle concerning his work in the Senate.

In my 22 years in the Senate, I have known no finer, more considerate, or more outstanding individual than CLIFF HANSEN. He is a man of character, courage, and capacity, who always stands up for his convictions.

The article on Senator HANSEN outlines his philosophy of life and of government, and to those of us who already know of his dedication, it serves as a reminder of his outstanding contributions to the Nation by his work in the Senate.

Mr. President, in order to share this excellent article with my colleagues, 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:

CLIFF HANSEN: HORSES AT 4; A BATTLE WON; DISTINGUISHED CAREER

(By Ralph Partridge)

Cliff Hansen started riding a horse solo at about age 4.

By the time he was 10 he was working cattle on the family ranch in the Jackson Hole country. Today he's still lean and fit and has the carriage of a cowboy.

Since those early years, however, he's been Governor of Wyoming and now he's a U.S. Senator. He doesn't have time to ride much anymore but he does occasionally on visits home. He recalls he learned to ride as a child on a part-Morgan, well-broken horse named "Old Billy."

He still likes to hunt, when he can, in the Jackson Hole country as he did when he was a boy.

Hansen is 5 feet, nine inches tall and weighs 145 pounds. He stays fit by running in place 500 steps and doing 45 pushups almost every day.

He doesn't smoke and he drinks only very moderately.

He's also a man whose first grade teacher told his mother she couldn't educate him because he stuttered so badly. He was sent home and his mother took over the teaching while he stayed out of school that year.

Then he returned to school, he made it, and he recalls with affection a fourth grade teacher "who instilled confidence" in him.

When he was almost 15 he stayed out of school another year and attended a speech clinic at Indianapolis, Ind. The clinic and, his wife, Martha points out, his perseverance whipped the problem.

A brochure of Hansen once said "He has been a cowboy, a cattleman, a businessman and a public servant. He is a husband, father, grandfather, and hard-working member of the world's most exclusive governmental body—the United States Senate."

He has devoted some 35 years to public service. He served 21 years, including four years ex-officio membership as a member of the Board of Trustees of the University of Wyoming, and for more than six years was president of the board. In 1965 he received an honorary LLD degree from the university.

He was elected 26th Governor of Wyoming in 1962 and served four years.

Famed historian Dr. T. A. Larson of the University of Wyoming, in his book "A History of Wyoming," referred to Hansen as the most progressive Governor the state had seen in more than a half-century. Larson singled out increased educational assistance, governmental reorganization, upgrading of state institutions, and changes in the tax structure as examples of Hansen's forward-looking philosophy.

Hansen was elected to the United States Senate in 1966 and reelected to a second six-year term in 1972. He says he intends to run again in 1978.

One of Hansen's convictions after his years in office is that Washington must return "more decision making responsibility to the state and local levels because the answers are going to be more relevant than from any other place."

He lists the point among what he considers the most important issues of the day.

He has had a big share in local decisions during his career. During the years at the ranch, Cliff and Martha were active in projects and organizations affecting their way of life, their community and their state.

He is a former President of the Wyoming Stock Growers Association. He was President of the Board of Trustees of St. John's Hospital during the years when it was being built at Jackson. He is a charter member of the Teton County Farm Bureau. He helped organize the Jackson Hole Chamber of Commerce and was President of Rotary Club at the time. He has served on many kinds of committees and advisory groups.

And, governmentally, he was a member of the Teton County Board of Commissioners 1943–51. He also served on the local school board.

In Washington Senator Hansen serves on the Senate Finance Committee, Interior and Insular Affairs Committee, Veterans' Affairs Committee and the Senate Select Committee on the Aging. He is ranking Republican member of Veterans' Affairs.

He has moved up the Senate seniority ladder to the 48th ranking position among the 100 Senators. Of the 38 Republicans in the Senate, he ranks 13th in seniority.

He also is a member of the new Committee on Committees. He explained the committee was set up to "exam the organizational structure of the Senate to see what can be done to make better use of our time."

Along with his emphasis on more decision making at the local and state levels, Hansen, in an interview, cited several others of what he sees as the most vital issues of the day. He noted they were not necessarily stated in the order of their importance.

One is the halting of inflation, which he said "has got to come from more fiscal responsibility by the United States government. The organization of a Budget Committee was a step in the right direction but it will take time for it to become effective."

He said "Politicians try to cast around and point at all kinds of straw men, but they should point at themselves—Congress is primarily responsible when it spends more than the government takes in."

Another, he said, "is to move government out of business and to reduce the throttling effect government regulation has on business. I don't mean to say we don't need any regulation, but it has become excessive." He spoke of it as an "albatross."

Another issue, he said, is to maintain a strong national defense.

"The thing that concerns me," he said, "is that we have assumed that the horror and catastrophe that would follow a nuclear exchange with Russia would be such that no leader would unleash such a war."

He said "We've been told that each nation could kill off two-thirds of the population of the other," and no such war would be fought.

He said "what kills the validity of that theory is that the Russians apparently have done a far better job on civil defense than we have. Russia has pursued a conviction that it shouldn't rule out any type of exchange."

He said expert briefings indicate the Russians have contrived a vast network of shelters touching nearly every city and town and within walking distance of residents.

He said such briefings indicate a nuclear war might mean the loss of 100 million. Americans while seven to eight million died in Russia. And he noted 20 to 30 million Russians reportedly died in the purges there.

"We just can't afford to take the chance," Hansen declared.

He also said he is convinced we ought not to rely on a single weapon, and, secondly, if we are going to deter spreading Russian influence we've got to back up our strength with conventional weapons and manpower in such a way as to leave no doubt as to the outcome of any war.

"Whatever we spend is going to be cheap compared to another war."

Sen. Hansen touched also on another issue. Encouraging more jobs in the private sector as one remedy to unemployment and inflation.

Clifford P. Hansen was born at Zenith, Wyo. October 16, 1912. His father homesteaded in 1898 in the Jackson Hole country south of Yellowstone National Park and established a cattle ranch there.

The Homestead place today is a part of Resor Ranch. But the family still owns the ranch where he was born, embracing his mother's and sister's estate.

The present family ranch is in Spring Gulch in an area west of Jackson, the home located three miles from Jackson. The partially contiguous properties bring family holdings to about 5,000 acres, with Cliff and Martha owning about 3,500.

Hansen married the former Martha Close of Sheridan, whom he met in college, Sept. 24, 1934. There are two children, Peter Hansen and Mrs. Mary Mead, and five grandchildren. The Meads operate about 4,500 acres of the family ranch land. Pete Hansen is an accountant and businessman.

Cliff Hansen was educated in the public schools of Jackson and received a Bachelor of Science Degree in agriculture from the University of Wyoming. He is an Episcopalian and a 33rd degree Mason.

NAM ON BUSINESS ETHICS AND MORALITY

Mr. CHURCH. Mr. President, as chairman of the Senate Subcommittee on Multinational Corporations, I am aware that the subcommittee's investigations and revelations have not been well received in certain quarters. Some seem to argue, incredibly, that revelation is more damaging than the acts themselves. It was, therefore, most gratifying to read an open letter, "On Business Ethics and Morality," by Richard C. Kautz, chairman of the board of the National Association of Manufacturers, in the April 19 NAM Reports newsletter. The views that Mr. Kautz expresses are exactly in consonance with the objectives of the subcommittee's efforts in these areas:

While bribery, kickbacks, illegal political contributions and similar practices are abhorrent to most businessmen, the business community generally has been stigmatized by public disclosures of violations of certain U.S. laws and other practices that may be acceptable abroad but which are morally unacceptable here at home . . . Business leaders, as the focal point of large numbers of employees, stockholders, suppliers and customers, as well as of the public generally, occupy a unique position of trust and responsibility in our society. They must, therefore, set exemplary, high standards throughout their business operations—and maintain vigilance in helping assure that their associates also live up to these principles.

Mr. Kautz adds:

A determined and continuing effort to remove doubts about the moral commitment of American business is of paramount importance—and never more so than at this time in history. The task is up to you, me and other business leaders to implement, company by company.

He concludes:

The American public looks to—and depends on—all business managements for guidance and leadership in setting the finest example we can attain within our own firms. We must not fail in this historic undertaking and opportunity.

I commend Mr. Kautz's views, in which I completely concur, and ask unanimous consent that his entire letter be printed in the RECORD.

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

AN OPEN LETTER FROM NAM'S CHAIRMAN—ON BUSINESS ETHICS AND MORALITY

(By Richard C. Kautz)

To NAM Member Company Executives:

The decline in public confidence that has affected virtually all American institutions in recent years has recently been intensified in regard to the business community through press disclosures of questionable practices here and abroad.

I address this message to you because I share your concern over the gravity of this problem and seek your help in dealing forthrightly and promptly with the issue in all aspects of your inidvidual business operations.

While bribery, kickbacks, illegal political contributions and similar practices are abhorrent to most businessmen, the business community generally has been stigmatized by public disclosures of violations of certain U.S. laws and other practices that may be acceptable in many places abroad but which are morally unacceptable here at home.

I realize that this latter problem is an especially difficult one to deal with because of the highly competitive international marketing environment—but perhaps this is all the more reason why businessmen must face up squarely to its challenges. Business leaders, as the focal point of large numbers of employees, stockholders, suppliers, and customers, as well as of the public generally, occupy a unique position of trust and responsibility in our society. They must, therefore, set exemplary, high standards throughout their business operations—and maintain vigilance in helping assure that their associates also live up to these principles.

The need for this renewed dedication is overriding not just to set a better tone in the society we live in but for many practical reasons. I believe that the declines we suffer in public confidence severely handicap business in making an effective contribution to public policies. Yet, we all know that if America is to resume solid, long term economic growth, effective business participation is critical. The views of knowledgeable business leaders must be respected and acted upon if the nation is to succeed in combating inflation, high unemployment and other economic ills.

We've all expended great effort in trying to persuade government to lighten the burden imposed on business operations by excessive regulations and outmoded tax policies. To get relief from such impediments and play our needed role in creating an improved climate for economic growth, we in business must demonstrate to the public that we are worthy of confidence and support.

A determined and continuing effort to remove doubts about the moral commitment of American business is of paramount importance—and never more so than at this time in history. The task is up to you, me and other business leaders to implement, company by company.

You will recall that the Board of Directors of the National Association of Manufacturers at our Feb. 18 meeting urged all members companies to adopt individual codes of conduct and to adhere to the highest standards of business practice. The board felt that adoption of individual codes of good business conduct by member companies represents by far the most practical and viable approach to effective enforcement. Individual company managements are in the best position to take the leadership in making commitments, defining derelictions and applying censure to those who may violate standards.

It is worthy of note that the preamble to our NAM Code of Business Practices has stated for many years, "While there can be no question as to the right of American citizens to engage in private business under our Constitution and form of government, this right like all rights has accompanying responsibilities. Business organizations must serve the public interest, as separate entities and in the overall sense, if this right is to be respected and maintained."

The code, to which all NAM members are urged to subscribe, goes on to include statements that "We will strive at all times to conduct the affairs of this company to merit public confidence in American business and

industry" and that "We will compete vigorously to serve our customers and expand our business, but we will avoid unfair and unethical practices."

The NAM Code of Business Practices is as sound today as when it was written—and in today's environment is, I believe, more significant than ever. The American public looks to—and depends on—all business managements for guidance and leadership in setting the finest example we can attain within our own firms. We must not fail in this historic undertaking and opportunity.

WHO GOT FLEECED?

Mr. GOLDWATER. Mr. President, on April 15 the distinguished Senator from Wisconsin (Mr. PROXMIRE) issued, "My Tax Day 'Golden Fleece of the Month Award'" for the month. The claimed fleecing was a NASA request for $2.8 million to construct a curatorial facility for the rocks brought back from the moon by the Apollo astronauts.

In his press release, the Senator from Wisconsin claimed that NASA had spent $20,544,258 for lunar activities since the fiscal year 1965. I am uncertain as to what a tax day golden fleece award amounts to, but I do know when I see apples and oranges mixed together.

Mr. President, I ask unanimous consent to have the Senator's press release printed at this point in my remarks.

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

PRESS RELEASE

Senator William Proxmire (D-Wis) in a statement from his Washington office Thursday announced, "My Tax Day 'Golden Fleece of the Month Award' for April goes to the National Aeronautics and Space Administration (NASA) for requesting $2.8 million to construct an addition to the existing Lunar Receiving Laboratory at the Johnson Space Center to house 100 pounds of Moon rocks. The fiscal irony of NASA's request is that it is not needed. In 1971 after spending $8.7 million to house the Moon rocks, NASA Curator, Dr. Michael Duke, indicated that the existing building would be '. . . the permanent facility for storage, handling and doing detailed studies of the rocks.'"

Proxmire is Chairman of the Senate Appropriations Subcommittee on NASA. The "Fleece of the Month Award" goes to the biggest, most ridiculous or ironic example of wasteful, unneeded, or low priority government spending. It culminates in a "Golden Fleece of the Year Award."

"It is appalling to think that the American taxpayer, who shelled out nearly $15 billion for the Lunar Exploration program, now is being asked to pay another $2.8 million to construct an addition to a perfectly adequate, $8.7 million concrete structure to house a wheelbarrowful of Moon rocks. In spite of Dr. Duke's statement NASA is back at Congress' doorstep, asking for the extra millions to add to a facility that only five years ago was considered to be the final resting place for the Moon rocks.

"What makes this budget request all the more shocking is that since 1965 the space agency has paid out $9,757,582 for the existing Lunar Receiving Laboratory plus $10,786,676 in research and development expenditures for lunar sample examination and study. The following table gives the history of NASA spending for lunar sample activities since FY 1965:

Fiscal year	Construction costs	R. & D.	Total costs
1965	$664,025	0	$664,025
1967	8,097,161	$10,001,255	18,762,441
1970	0	469,808	469,808
1971	0	145,375	145,375
1972	0	74,023	74,023
1974	57,896	96,215	154,111
1975	518,500	0	518,500
1976	420,000	0	420,000
Total	9,757,582	10,786,676	20,544,258

"What this table shows is that NASA already has over $9.7 million of existing lunar sample facilities stocked with expensive storage and research equipment, plus a $500,000 Remote Storage Facility at Brooks Air Force Base in San Antonio, Texas, to store a representative portion of the lunar sample collection. The taxpayer must surely be asking, 'how much is enough?'

"NASA argues that the new addition to the laboratory is needed 'to insure that the lunar samples are adequately protected against natural and man-made hazards for the foreseeable future.' This statement closely follows NASA's assessment that 'the present Curatorial Facility has operated successfully since 1971 to support an active lunar sample research program that involves several hundred scientists mostly from American universities.' At the same time, it is still unclear what 'hazards' NASA has in mind. The present building is a massive concrete structure. Most observers grant that almost nothing short of a bomb blast or massive earthquake could penetrate the maze of concrete buildings that make up the mammoth Johnson Space Center in Houston.

"If the space agency is so concerned about 'natural' or 'man-made' hazards, they might consider the use of several empty Titan I silos, lying dormant in the hills of Montana, that the Air Force has been trying to unload for years. These silos can withstand the force of an atomic bomb, as well as the possible disasters that might befall the Moon rocks in the quiet suburbs of Houston, Texas.

"The landing on the Moon was one of Man's greatest achievements, and we are all proud that American footprints were the first on the lunar surface. But NASA has a perfectly adequate facility in which to house and study the present supply of lunar samples. The space agency has already soaked the beleaguered taxpayer for $20 million for lunar sample research, and he shouldn't have to spend another dime on this wasteful, unnecessary addition to the space complex at Houston.

"Fortunately, the House of Representatives has voted to delete funds for this Lunar Curatorial Facility in FY77. Unfortunately, the Senate voted on April Fool's Day to keep the money in. As Chairman of the Senate Appropriations Subcommittee on NASA, I intend to fight hard over the next few months to assure that it will be 'many moons' before the American taxpayer has to put up another $2.8 million for NASA's latest whim—the House of Many Moon Rocks. NASA is a worthy recipient of the 'Golden Fleece of the Month Award' for April."

Mr. GOLDWATER. Mr. President, the Senator from Wisconsin has confused spending for the lunar receiving laboratory which essentially was a clean room facility to prevent contamination of the Earth by returning astronauts. It had nothing to do with providing a facility where the Nation's scientists can study moon rocks.

In the Senator's press release he states that the purpose of the lunar curatorial facility is to house 100 pounds of moon rocks. Actually, the amount returned from the Apollo mission is 832 pounds. Readily available in the offices of the Appropriations Committee are the NASA budget books for fiscal year 1977. If the Senator chooses to, he can check Volume II, Construction of Facilities, and on pages CF 3–2 through CF 3–7 there is a complete description and justification for the lunar curatorial facility. In addition there are drawings and diagrams that show precisely where this facility is to be located.

Here are the facts disregarded by the Senator from Wisconsin:

First. NASA's $2.8 million request for a lunar curatorial facility is not to construct an addition to the existing lunar receiving laboratory at the Johnson Space Center.

Second. The addition proposed is to the existing lunar sample curatorial facility which is presently in a building separate from the lunar receiving laboratory. The lunar sample curatorial facility did not cost $8.7 million. It was created in 1971 as a renovation of part of an office building which also housed the Earth and space science activities at the Johnson Space Center. The total cost was $376,000.

Third. The total weight of the material returned from the moon by the Apollo astronauts is 832 pounds. About 15 percent of this collection has been placed in safe remote storage at Brooks Air Force Base. The remainder, or more than 700 pounds will be stored and made available to scientists in the new lunar curatorial facility.

Fourth. The Senator's press release mistakenly quotes Dr. Duke of NASA. The quote appeared in a New York Times article dated September 7, 1971. In this article Dr. Duke was referring to the lunar curatorial facility which cost $376,000 and not to the lunar receiving laboratory which had a cost of $8.7 million. Dr. Duke's full quote is:

We will have what we hope will be the permanent facility for storage, handling and doing detailed studies of the rocks.

Fifth. The lunar receiving laboratory was specifically designed and constructed for biological quarantine of the Apollo astronauts and returned samples. Its major function was biological containment, and it was neither suitable for nor designed for long-term curation and handling of lunar samples. This laboratory has not been used for lunar sample activities since the completion of the present lunar curatorial facility in 1971.

Sixth. The figures of almost $10 million for the construction costs for the lunar receiving laboratory plus almost $11 million for R. & D. expenditures in Senator PROXMIRE's press release are accurate regarding the lunar receiving laboratory. However, they are not accurate regarding their being spent for lunar sample examination and study. The great majority of this money has been spent for the quarantine activities outlined above. Only a very small portion of this money has been spent on lunar sample examination and study.

Seventh. The remote storage facility at Brooks AFB did not cost $500,000. A total of $19,000 was spent on design for this facility and a total of $220,405 was spent on construction cost for this facility. It should be noted that the samples in this facility are almost inaccessible for scientific research, as would be samples stored in such other places as unused missile silos.

Eighth. The present curatorial facility is of standard office building construction, with a steel frame, concrete panels, and gypsum board interior walls. Except for a few specialized structures such as the Centrifuge Building and the Mission Control Center, the majority of buildings at the Johnson Space Center are of similar standard construction.

Ninth. The major natural hazard recognized at JSC is massive flooding and high winds associated with a gulf coast hurricane. This hazard is combined with slow ground subsidence which is occurring over the entire Houston region. Earthquakes are not considered a significant hazard for the JSC area. The present curatorial facility is not adequate to protect against man-made hazards such as accidents or deliberate vandalism.

Tenth. The inadequacy of the present curatorial facility to insure long-term security for the lunar sample collection against natural hazards has been repeatedly stressed by NASA scientific advisory committees and by NASA officials in testimony to the Congress. The construction of the proposed addition to the lunar sample curatorial facility to provide the necessary protection for the collection has been endorsed by advisory committees and by hundreds of concerned lunar and planetary scientists.

Eleventh. Prior to asking the Congress for the funds to add to the present curatorial facility NASA investigated all other options for storage and handling of the lunar samples. In each case the cost associated with these options were found to be several times higher than the $2.8 million requested by NASA for addition to the present facility. In addition these other locations would not provide the critical support function required for lunar sample study and analysis such as photo labs; analytical labs; computer support; chemical labs; engineering design services; meteorology labs; and special maintenance.

Twelfth. The merit of this facility item is fully supported by its inclusion in the conference agreement between the House and the Senate on H.R. 12453, the NASA Authorization for fiscal year 1977, although at the slightly reduced amount of $2.2 million rather than the $2.8 million as originally requested.

It makes little sense to me to spend $20 billion on the Apollo program and then to refuse to spend less than $3 million for a facility to study the materials brought back from the moon.

The last paragraph of the Senator's press release states:

Fortunately, the House of Representatives has voted to delete funds for this Lunar Curatorial Facility in FY77. Unfortunately, the Senate voted on April Fool's Day to keep the money in . . .

I will pass over the implication of the Senate having approved the NASA authorization on April Fool's Day. Knowing the Senator from Wisconsin to be an honorable man, I can only conclude that he has been fleeced by whoever provided him with the information for his press release.

COPYING FEES CHARGED BY FEDERAL AGENCIES

Mr. METCALF. Mr. President, last year I asked the General Accounting Office to survey the fees charged the public for copying information from public files. My query arose from complaints that have come to me from persons who have been charged what appear to be unreasonable amounts for copying services.

Some agencies appear to be unmindful of both Public Law 93–504, the Freedom of Information Act Amendments of 1974, and section 11(a) of the Federal Advisory Committee Act—Public Law 92–463. This section, in effect now for more than 3 years, provides that—

Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts and agency proceedings or advisory committee meetings.

The GAO report shows that copy fees vary a thousand percent, from 3 cents to 30 cents a page.

I note that the highest fee is charged by the Federal Maritime Commission, which assigns 27 cents of each copy charge to "personnel." Having noted previously the general policy of that Commission against disclosure of the innocuous information in its files, I suspect that the Commission is charging the public for its lawyers' and administrators' preparation of negative responses to information requests.

The GAO study shows that copying machine charges are generally less than a nickel a page, down to as low as a little over a penny. It also shows that agencies have a good deal of leeway in waiving or reducing charges that do not require more than routine employee effort.

This GAO letter report should be helpful to persons who need to copy information from agency files. And it will also be helpful to agencies, which I encourage to follow both the Federal Advisory Committee Act and the Freedom of Information Act Amendments of 1974. I therefore ask unanimous consent to have the report printed in the RECORD.

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

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 12, 1976.

Hon. LEE METCALF,
Chairman, Subcommittee on Reports, Accounting, and Management, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: As you requested on June 2, 1975, we questioned certain Federal agencies about the fees charged to the public for fulfilling requests for information when searching and copying is required. All agencies questioned have established fee schedules which differentiate between costs for searching for information and costs for copying information. We have summarized in three enclosures the various agencies' searching and copying fees.

Search fees are expressed as hourly rates with most agencies having two sets of fees: one to cover searching by professional employees and a lower fee to cover searching by clerical personnel. Many agencies provide search time free of charge if it is less than stipulated minimum charges based on time consumed.

Copy fees range from $0.03 to $0.30 a page. The Department of Defense uniformly charges $0.05 a page for copying. About 70 percent of the civilian agencies charge $0.10 a page for copying. We questioned the responding agencies with the lowest and highest copy fees. The Commission on Civil Rights charges $0.03 a copy which, it said, is made up mostly of copier costs; however, it did not have a breakout of the personnel costs included. The Maritime Commission said that its $0.30 a copy fee was made up of $0.04 copier costs and $0.27 personnel costs, and the total is rounded to $0.30. Both agencies used lease arrangements for their copying equipment. Information obtained by our Office in 1974 showed that costs for 42 copiers in use in the Cincinnati Federal Office Building varied from $0.0116 to $0.3517 a copy. These costs did not include personnel costs. Machines with low usage had the highest copier costs. Twenty-six of these copiers had costs under $0.05 a copy.

Although departments have established fee schedules, certain organizations within the departments may not follow the schedule. For example, although the Department of Health, Education, and Welfare has established fee schedules for searching and copying, some of its constituent organizations do not charge for fulfilling information requests. Also, some agencies do not consistently apply their established fee schedule. For example, the Commission on Civil Rights has a fee schedule but seldom charges for its information because the information it distributes is gathered for the purpose of making it available to the public. Many agencies do not charge for fulfilling small requests if the total charge is under a certain amount. For example, the Energy Research and Development Administration, which charges $0.10 a page for copying but no charge if it is less than $10, will provide a 99-page document free of charge, if searching for the document is not required.

Many agencies questioned also have additional fee schedules for more complex types of searching and copying, such as searching a computerized file and copying microfilmed information. We did not attempt to summarize the fees for these techniques. Also the information summarized in the appendixes pertains only to copying standard sized paper.

You requested that we comment on the desirability for uniform duplicating fees throughout the Federal Government. Although a great deal of uniformity already exists for copying fees, in our opinion, a Government-wide uniform fee schedule would not be authorized under the present terms of the Freedom of Information Act, 5 U.S.C. 552, as amended. In amending the act

in 1974, the Congress tried to overcome the use of excessive fees which may deter individuals from having access to records by requiring that each agency set fees that include only direct costs of searching and copying. Any Government-wide fee schedule could not meet this requirement unless the fees were set at the level of the direct costs for whatever agency had the lowest such costs. This situation would necessarily produce the result of underpricing or "subsidizing" the administration of the act in other agencies. We believe that the Congress did not intend that a general subsidizing of fees be usd to provide maximum access to records because an additional provision does exist in the statute for waiving or reducing fees in specific cases.

We shall be glad to meet with your staff to answer any further questions.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

SEARCHING AND COPYING FEES CHARGED TO THE PUBLIC BY THE DEPARTMENT OF DEFENSE

	Search fees					
	Hourly rate		Minimum			
	Professional	Clerical	Professional	Clerical	Copy fees (per page)	Minimum copy fee
Air Force:						
General requests	(1)	$5.00	(1)	$3.00	$0.06	[2] $2
Freedom of Information Act and Privacy Act requests	$11	5.50	$5.00	2.75	.05	[2] 2
Army:						
General requests	(1)	8.00	(1)	5.00	.05	[2] 2
Freedom of Information Act and Privacy Act requests	11	5.50	5.50	2.75	.05	[2] 2
Defense Supply Agency:						
General requests	(1)	8.00	(1)	5.00	.05	[2] 2
Freedom of Information Act and Privacy Act requests	13	6.50	10.00	3.50	.05	[2] 2
Navy:						
General requests	(1)	8.00	(1)	5.00	.05	[2] 2
Freedom of Information Act and Privacy Act requests	13	6.50	10.00	3.50	.05	[2] 2
Office of the Secretary:						
General requests	(1)	8.00	(1)	5.00	.05	[2] 2
Freedom of Information Act and Privacy Act requests	11	5.50	5.50	2.75	.05	[2] 2

[1] Professional search fee is determined on each individual case. A minimum of ½-hr search time is charged.
[2] Minimum fee is applicable to 1st 6 copies only.

SEARCHING AND COPYING FEES CHARGED TO THE PUBLIC BY CIVILIAN DEPARTMENTS AND AGENCIES

Department or agency	Search fees (hourly rate)			Copy fees (per page)
	Professional	Clerical	Any agency employee	
Department of Agriculture	$9.00	$4.00		[1] $0.10
Department of Commerce			$10.00	.07
Energy Research and Development Administration	[2] 16.00	[2] 5.70		[3] [4] .10
Environmental Protection Agency			[5] 5.00	.20
Federal Energy Administration	[6] 15.00	[6] 5.00		[7] .10
General Services Administration [8]	[5] 8.00	[5] 4.00		.10
Department of Health, Education, and Welfare			[5] [9] 3.00	[9] [10] [11] .10
Department of Housing and Urban Development			[2] [12] 5.00	[13] .10
Department of the Interior	[2] 8.40	[2] 4.40		[14] .10
Department of Justice	[2] [15] 8.00	[2] [15] 4.00		[7] .10
Department of Labor			5.00	.10
National Aeronautics and Space Administration	10.00	4.00		[7] .10
U.S. Postal Service			[2] 2–2.75	.10
Department of State	[2] 11.00	[2] [5] 6.00		.10
Department of Transportation			[16] [17]	[1] .25
Department of the Treasury			[18] 3.50	.10

[1] All copies after the 1st copy are 5 cents a copy.
[2] Applies to Freedom of Information Act requests only.
[3] No charge if fee is less than $10.
[4] Copy fee 8 cents if done at Energy Research and Development Administration public document room.
[5] First ½ hr free.
[6] First ¼ hr free.
[7] No charge if fee is less than $3.
[8] Does not include National Archives and Records Service.
[9] No charge by certain Department of Health, Education, and Welfare organizations.
[10] Department of Health, Education, and Welfare Office of Planning and Evaluation charges for Freedom of Information Act requests only.
[11] No charge if fee is less than $5.
[12] 1st hr free.
[13] No charge if fee is less than $1.
[14] Freedom of Information Act requests and Privacy Act requests are 25 cents for the 1st copy and 5 cents for extra copies. Bureau of Land Management charges 10 cents for extra copies on Freedom of Information Act requests.
[15] 1st ¼ hr free on Freedom of Information Act requests.
[16] $2 search fee for reasonably described records. All other search fees determined on an individual case basis.
[17] Federal Railway Administration does not charge for searching on Privacy Act requests.
[18] Comptroller of Currency only—search fee $5 an hr. Minimum charge $5.

SEARCHING AND COPYING FEES CHARGED TO THE PUBLIC BY COMMISSIONS AND BOARDS

Commission or board	Search fees (hourly rate)			Copy fees (per page)
	Professional	Clerical	Any agency employee	
Civil Aeronautics Board	(1)			$0.15
Civil Service Commission			$5.00	.10
Commission on Civil Rights	[2] $17.76	[2] $4.09		[4] .03
Consumer Product Safety Commission			5.00	[5] .10
Federal Communications Commission			[6] [7] 8.00	[8] .08
Federal Deposit Insurance Corporation	10.00	4.50		[9] .10
Federal Maritime Commission		[2] 4.50		[10] .30
Federal Power Commission	(1)			[11] .10
Federal Reserve Board		10.00		.10
Federal Trade Commission	[6] 11.00	[6] [2] 4.20		[12] .10
International Trade Commission	[2] 11.65	[2] 5.35		[14] .10
Interstate Commerce Commission	[15] 12.00	[15] 4.00		[16] .25
Nuclear Regulatory Commission	[6] 12.00	[6] 5.00		[17] .10
Renegotiation Board	9.00	5.00		.15
Security Exchange Commission			[2] 5.00	[10] [18] .15

[1] No charge.
[2] 1st ½ hr free.
[3] 1st ¼ hr free.
[4] No charge if fee is less than $5.
[5] No charge if fee is less than $25.
[6] 1st hr free.
[7] Freedom of Information Act requests only are $5 an hour.
[8] No charge if fee is less than $4.
[9] No charge if fee is less than $2.
[10] Minimum charge of $2.
[11] Minimum charge of $3.
[12] Paraprofessional search fee—$5.20 an hour. 1st hr free.
[13] No charge if fee is less than $10.
[14] No charge if fee is less than 50 cents.
[15] Search charge for Freedom of Information Act requests only.
[16] No charge for 1st set of copies for Privacy Act, additional copies 10 cents. Freedom of Information Act requests are 10 cents a copy; all other requests 25 cents.
[17] Different fee schedule applies to requests presented at the Nuclear Regulatory Commission document room.
[18] Different fee schedule applies to self-service and priority service.

SOLAR ENERGY HEATS MOUNTAIN HOME BUSINESS

Mr. McCLURE. Mr. President, as a longtime advocate for solar energy, I am pleased to learn that former Air Force Capt. Jim Burchfield, of Mountain Home, Idaho, has successfully applied solar heat commercially. At a time when the development of domestic energy resources is crucial to our Nation's well-being, efforts such as these are most encouraging. Captain Burchfield's success in capturing the Sun's energy efficiently and economically deserves recognition and commendation—and I ask unanimous consent that an article, derived from the newsletter Idaho Image, describing his accomplishment be printed in the RECORD.

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

SOLAR ENERGY HEATS MOUNTAIN HOME BUSINESS

Scrubby's Cafe in Mountain Home is the state's first commercial application of solar heat.

Its owner, former Air Force Captain Jim Burchfield, conceived the idea when he picked up a science book his son brought home from school.

At present, the system heats water and air in his 3,300 square foot building off the air base highway. The solar heating system cost about $5,500 above original construction costs, but it is estimated that the system saves approximately $175 in heating costs per month.

The building has three gables with roofs facing just west of south and tipped at an angle of 53 degrees.

The facing puts the most sunlight on the panels, summer or winter and the pitch of the roof has been determined the best for catching the flattest and most direct rays of the sun.

The system also works as an air conditioner to keep the place cool in the summer.

The roofing is sheets of corrugated aluminum with the furrows running up and down and painted flat black with the kind of paint used inside cameras to prevent glare and reflection.

The aluminum sheets are covered with "Tedlar" fiberglass panels, that are made with a "greenhouse film". The film traps light rays between aluminum sheets and the fiberglass.

Copper pipes run along the tops of the three sun-facing roofs and water pumped from the basement trickles from them down the furrows in the alumium sheets, picking up the heat and draining back to the basement at 150 degrees.

In the basement there is a concrete cell 10 feet wide, 24 feet long and 8 feet deep. In one corner is a 275 gallon steel tank with a 42 gallon water tank inside.

There is a 2,000 gallon steel tank in about the center of the cell. A layer of cinderblocks is on the bottom and the remaining space is filled with cantaloupe-size river rock to a depth of five feet.

The heated water coming from the roof panels goes into the 275 gallon tank, heating the water in the smaller enclosed tank to 110 degrees. At this temperature the water is pumped out and a booster heater puts it up to 140 degrees to meet health department regulations and it is used for washing utensils and dishes, as well as in the restrooms.

The balance of the 150 degree water from the roof goes into the 2,000 gallon tank where it takes a few days to heat the rocks to 90 to 100 degrees. Air circulation from the preheated rocks is then blown into the restaurant as a heating source.

SELECTING THE NATIONAL COLLEGIATE DEBATE TOPIC

Mr. NUNN. Mr. President, it has come to my attention that America's colleges and universities are considering adopting as their official 1976–77 debate topic the proposition: "Resolved: that members of NATO should adopt a common procurement policy for all weapons systems." Few topics could be more timely or more worthy of discussion. The absence of standardized and interoperable arms and equipment within NATO has conferred upon the Atlantic Alliance a major disadvantage vis-a-vis the Warsaw Pact. Indeed, Gen. Andrew J. Goodpastor, former Supreme Allied Commander, has stated that the combat potential of NATO's general purpose forces has been degraded by 30 percent as a result of failure to standardize. Moreover, the economic penalties to NATO members stemming from predominantly national approaches to weapons design and procurement total an estimated $10 billion per year.

The growing interest in standardization on both sides of the Atlantic is evident in a plethora of studies, conferences, and official pronouncements on the subject. Congressional interest is manifest in the Nunn amendment of 1974 and Culver-Nunn amendment of 1975 which:

First. Impose upon the Secretary of Defense the requirement to "initiate and carry out procurement procedures that provide for the acquisition of equipment which is standardized or interoperable with equipment of other members of the North Atlantic Treaty Organization whenever such equipment is designed primarily to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty," and

Second. Require the Secretary of Defense to report annually to the Congress "on the specific assessments and evaluations made under the above provisions as well as the results achieved with the North Atlantic Treaty Organization allies."' This year, the Senate Armed Services Committee approved an amendment proposed by Senators TAFT, CULVER, and myself which, among other things, encourages the development within NATO of common procurement requirements and greater reliance upon licensing and coproduction agreements.

Obstacles to standardization—parochial economic interests, considerations of national prestige, varying perceptions of the threat, differences in doctrine and tactics—are formidable. Moreover, some of these considerations are legitimate and require thoughtful analysis before the feasibility of standardization can be determined. Thus the question of whether the members of NATO should adopt a common procurement policy for all weapons systems is eminently suited as a topic of debate. It is my strongest hope that it be selected.

STATE LEGISLATURES SUPPORT S. 3219 VERSION OF SIGNIFICANT DETERIORATION

Mr. BUCKLEY. Mr. President, our distinguished ranking minority member of the Committee on Public Works, Mr. BAKER, recently received a letter from the National Conference of State Legislatures. That letter strongly supports the provision of S. 3219 relating to significant deterioration of air quality. Because the Senator from Tennessee is necessarily absent today, and because of the significance of this letter, I ask unanimous consent that a copy of his remarks and a copy of the letter be printed in the RECORD.

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

STATEMENT BY SENATOR HOWARD H. BAKER, JR.

Mr. President, in the near future the Senate will be considering S. 3219, the Clean Air Amendments of 1976. Much time and effort has been spent on these Amendments by the Committee on Public Works. Faced with many difficult decisions in the preparation of these amendments, our Committee worked hard to balance the concerns of all interested parties. And I believe that the Committee has been able to strike an equitable balance in the reported language of S. 3219.

Probably the most controversial of the issues in this bill is the one that defines "no significant deterioration" in clean-air areas. I am sure that each of my colleagues has been inundated with diverse and often conflicting information regarding this provision. I recently received a letter analyzing this provision that I think should prove helpful to my colleagues in their deliberations. The letter which is from the Intergovernmental Relations Committee of the National Conference of State Legislatives. It states most succinctly some of the problems and concerns of the states with regard to recent opposition to the Committee's proposal on no significant deterioration.

It should be noted, of course, that the thrust of our bill is to transfer the responsibility for implementing the significant deterioration provision from the Federal bureaucracy to the States.

In conclusion, I might also point out that my good friend Tom Jensen, Minority Leader of the Tennessee House of Representatives, is president of the National Conference. He has done a fine job in that post, as well as in his excellent work in the Tennessee House.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, D.C., May 17, 1976.

Senator HOWARD H. BAKER, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR BAKER: On behalf of the Intergovernmental Relations Committee of the National Conference of State Legislatures, I urge you to oppose the amendments offered by Senator Moss of Utah to S. 3219, the Public Works Committee bill amending the Clean Air.

The Senator's amendments would delete the existing section of the bill preventing significant air quality deterioration in areas cleaner than federal standards. Instead, the Senator proposes a one-year study by the National Commission on Air Quality to determine the effect of implementing any non-significant deterioration requirements. The Senator contends that there is not enough information to forge a balanced non-significant deterioration policy.

As the policy-formulating body for the full National Conference, the 650-member Intergovernmental Relations Committee op-

poses the Moss amendments for several reasons. First, and most important, the IRC believes that Congress should establish federal policy on this question—not the courts. Since the Environmental Protection Agency's existing regulations are under litigation, the effect of the Moss amendments would be to let the court decide the requirements to which states will be expected to conform. Given the inadequacy of existing Congressional guidance on this question, there is no assurance that resulting court-ordered policy will take account of the states' need to balance environmental with other concerns.

Depending on the court ruling—and a decision favoring EPA is considered unlikely—enactment of the Moss amendments could thus subject states to three different regulatory regimes in the next few years: the existing Agency regulations, a court-ordered revision of them, and whatever policy Congress eventually enacts after the Commission completes its study.

State governments cannot operate effectively under such discontinuity. Stable federal policy is essential for realistic long-range state planning for the infrastructure needs of industrial development and attendant commercial and residential growth.

The prospect of fitful tampering with such a delicate regulatory mechanism is doubly unfortunate because it is so unnecessary. There is already an adequate basis for responsible Congressional action, and the proposed Commission study would probably add little of significance to the information currently available. EPA has already spent eight months and $1 million evaluating the possible economic impacts of Senate and House proposals, and the Federal Energy Administration has spent about $150,000. The electric utility industry also commissioned a study by the National Economic Research Associates (NERA).

None of the studies projects anything near a crippling impact on the power industry, which by all accounts is expected to be mostly heavily impacted. NERA estimates that from 1975 to 1990, the industry would have to spend about 3 per cent more in capital investment to comply with the non-significant deterioration provisions now in S. 3219. Allowing for variations in terrain and meteorological conditions, EPA has concluded that a 1,000 megawatt power plant could locate as close as 5 miles, and no more than 60 miles, from a Class I area without violating its air quality increment. If the location of the plant would not violate air quality values over the federal lands, the plant could be sited even more closely.

To keep perspective on the likely impact of the Senate proposal on the expansion of electric utilities, one should also keep in mind that the federal lands earmarked for mandatory Class I designations in S. 3219 total only 1.3 per cent of all U.S. land area.

Nor would S. 3219 appreciably escalate consumer prices, the studies find. Assuming the most probable case, the industry-financed NERA study concludes that the average additional yearly cost to the average household in 1990 would be 3.7 per cent. Under worst-case assumptions, the average per household additional cost in 1990 is put at 4.26 per cent.

Cumulatively from 1975 to 1990, the non-significant deterioration proposals in S. 3219 would raise average household costs 1.85 per cent a year under the industry's study's most-probable-case assumptions, 2.16 per cent under its worst-case assumptions. Some of these assumptions have been challenged by EPA analysts, who estimate that the impacts would be slightly smaller nationwide, and much smaller in particular regions projected to be most affected in the NERA study. All studies include in their cost impact estimates not only the direct effect of the proposals on electricity bills, but the indirect effect of higher electricity costs on other products.

In sum, none of the findings in any of these studies confirm the assertion that the Senate proposal would "effectively curtail much of our general industrial output and most of our new energy development." There is however, a growing body of scientific evidence suggesting that industrial pollution at levels below existing federal standards may damage commercial crops. The U.S. Forest Service, concerned in 1973 about a substantial reduction in timber volume from sulfur dioxide and acid rain, urged a cautions approach to allowing any further deterioration in air quality. Damage to wheat, potatoes, spinach, apples, spruce trees, and white pine has been traced to sulfur dioxide pollution at levels below secondary standards. EPA has reported that this pollutant at concentrations below the 3-hour secondary standard may also damage alfalfa, broccoli, and radishes by reacting with other pollutants.

Finally, there is evidence that public health is adversely affected by chronic exposure to sulfur dioxide and particulates at levels below standards. The National Environmental Research Center, for example, has found aggravation of respiratory symptoms in asthmatics and the elderly.

Thus, to widen the margin of safety for our health and welfare, as well as to provide a reasonably stable set of rules for state and local economic planning, we need a Congressional policy on non-significant deterioration now. Given the existing evidence, the Intergovernmental Relations Committee believes that further study would produce more delay than useful data. While we would like more state flexibility than the bill now provides, we urge you to vote against the proposed amendments of the Senator from Utah.

Sincerely,

NANCIE FADELEY,
Oregon Chairman, Natural Resources Task Force, National Conference of State Legislatures.

MAY IS OLDER AMERICANS MONTH

Mr. CHURCH. Mr. President, our Nation has officially designated May as "Older Americans Month" for over a decade.

At this time, ceremonies are conducted throughout the 50 States to honor our elderly and pay tribute to their many contributions.

This year—the year of our Nation's Bicentennial—Older Americans Month takes on added meaning.

It provides an appropriate benchmark to take stock of the great progress in the field of aging during the past 200 years.

When our Nation declared its independence in 1776, there were only about 50,000 persons 65 or older in the United States, just 2 percent of our entire population. Life expectancy at birth then was probably 38 or 39 years.

By 1900, there were 3 million older Americans, representing nearly 4 percent of our total population. Today there are approximately 23 million elderly persons, or more than 10 percent of our population. Life expectancy has also increased to 72 years.

Our Nation can look back with pride upon these accomplishments. But we must also look ahead in responding to the problems and challenges facing the aged of today and tomorrow.

We must come to grips with the retirement income crisis that affects so many.

We must improve our health care system to make medicare more comprehensive.

We must be more innovative in providing job opportunities for elderly persons who want or need to work.

At many State capitals throughout the Nation, senior citizen groups and their representatives are grappling with these problems and other issues.

One such example is in Idaho, where Gov. Cecil Andrus proclaimed May as "Older Americans Month" and the week of May 9 as "Employ the Older Worker Week."

His message, it seems to me, has special meaning and application now.

Mr. President, I ask unanimous consent that the Governor's two proclamations on "Older Americans Month" and "Employ the Older Worker Week" be printed in the RECORD.

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

PROCLAMATION

Governor Cecil D. Andrus has proclaimed the week of May 9, 1976, as "Employ The Older Worker Week," and the entire month of May as, "Older Americans Month."

Here is the language of the Proclamation:

"Whereas, this Bicentennial Year Americans have been reflecting upon the achievements of our ancestors; and

"Whereas, consideration should be given to a group of Americans and Idahoans who has a great record of achievement and who can continue to contribute to our heritage if they are just given the opportunity—our older citizens: and

"Whereas, during their years of work they have learned a great deal, gained invaluable experience, and have come to appreciate a good job and to be proud of accomplishing such; and

"Whereas, now the task of our older Idahoans is to clarify, deepen, and find use for what they have already attained in a lifetime of learning and adapting; and

"Whereas, in honor our our older Idahoans who have so ably contributed to the growth and development of the State of Idaho throughout the years, now in this Bicentennial Year, we are desirous to recognize them and put forth our efforts to be of service to them;

"Now, therefore, I, Cecil D. Andrus, Governor of the State of Idaho, do hereby proclaim the month of May 1976 to be Older Americans Month and the week of May 9, 1976, to be Employ the Older Worker Week in Idaho, and I call upon the people of the State of Idaho to recognize, reenforce, and encourage the strengths and potentials of our older citizens to insure that society as a whole will continue to benefit from the learning and experience of age. I further endorse all efforts on behalf of older workers and encourage all agencies who work with them in job placement, counseling, training and retraining services to intensify their efforts during the year."

The Proclamation coincides with the annual awards meetings of Mayor's Committees on behalf of the elderly throughout the state.

WILL THERE BE A TRICENTENNIAL?

Mr. McCLURE. Mr. President, there will be a lot of Bicentennial speeches this year, but none more appropriate than the one delivered by Mr. James D. McClary at the Awards Dinner of the Moles in New York City, January 28.

Mr. McClary is chairman of the board of the Morrison-Knudsen Co. and the title of his speech was "Will There Be a Tricentennial?" He answered that

question by saying there will if everyone of us got involved in the political process.

Because of its pertinence to the Bicentennial celebration, I ask unanimous consent that Mr. McClary's address be printed in the RECORD.

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

WILL THERE BE A TRICENTENNIAL?

(An address by James D. McClary, chairman Morrison-Knudsen Co., Inc., at the 1976 Award Dinner of the Moles New York Hilton Hotel, New York, N.Y., January 28, 1976)

Gentlemen, I trust all of you know that this year the United States of America is observing the Bicentennial of its founding—it has been in all of the papers! Preparations are in progress at all levels of society to make certain this milestone in our history doesn't slip by unheralded, unnoticed and uncelebrated. Any notable occasion, from a garage sale to the forthcoming political conventions, will be suitably festooned with red, white and blue bunting, enlivened with a plethora of patriotic rhetoric and emblazoned with the significant date, 1776 to 1976—200 years—just in case our ability in higher mathematics should fail to provide us with that number and in case, also, that we are not familiar with the word Bicentennial.

We are being subjected, and we will continue to be subjected for the rest of this year, at least, to vignettes from our past, reminders of earlier glories and intimate glimpses into the lives of the founders of this great Nation. Every politician, minister, entertainer, do-gooder, demogogue, editor, columnist, car salesman and random speaker will find some parallel from our embryonic days to bolster whatever cause he may be espousing.

If you aren't beginning to get a bit weary of it by now, I feel confident you will before it is over—and we still have five months to go before that all-important anniversary of the signing of our Declaration of Independence arrives.

To my notion, there is a distressing note in most of the outpourings in this carnival atmosphere, one topic with which we should be concerned probably will not be explored in much depth. That topic is this—OK, so we have come this far, we have weathered a lot of storms, but are we prepared to go on—will we celebrate a Tricentennial?

The first two hundred years of the existence of this Nation truly have been a miracle. But what about our role during the next one hundred years—or the next one thousand years?

Oh, sure, July 4, 2076, will dawn, and so will July Fourths in succeeding centuries. But will the world of those distant anniversaries know and be brightened by the continuing growth of the belief in the dignity and the freedom of man? The concepts of man's dignity, man's humanity to man, and the freedom of the individual are as old as man himself, but two incidents in history—the writing of the Declaration of Independence, followed by the adoption of our Constitution—gave man, for the first time, the guidelines and the machinery to make those concepts a reality.

The signers of the Declaration of Independence and the drafters of the Constitution believed in some rather basic precepts—precepts, which in some quarters today are held up to ridicule. They believed that government should be the servant of the people—that government which governs least governs best. They believed in equality of opportunity. They believed that diligence and work should be rewarded. They had respect for law and believed that transgressors should be punished. They held in high esteem the concepts of honor, loyalty, decency and morality. They put their trust in their belief in the existence of a Supreme Being. Their word was as good as their bond. They knew compassion, practiced courtesy, valued tradition and revered time-honored customs.

The Declaration of Independence was a one-time statement about conditions then existing and not subject to later modification. The Constitution, surprisingly, has been amended only twenty-six times since its adoption in 1787—and one of those deleted an earlier hysterical mistake dreamed up by the do-gooders of the time, leaving a net of twenty-four additions. The first ten amendments constitute the Bill of Rights and were passed by the First Congress to remedy what was considered a defect in the Constitution because it contained no code of fundamental civil rights.

It is interesting to note that one new amendment—the eleventh—was adopted before 1800. Four were added in the 1800's. The eleven remaining have been added in this century. It has proven to be an enduring document indeed, one that William Gladstone called ". . . . the most wonderful work ever struck off at a given time by the brain and purpose of man."

After the adjournment of the constitutional convention, Benjamin Franklin was asked by a lady, as he was leaving the Pennsylvania Statehouse, ". . . and what have you designed for us, Mr. Franklin?" Franklin reportedly replied, "A Republican, madam, if you can keep it." It is important to remember that this Nation of ours was founded as a *Republic* and not as a Democracy.

I have grave doubts that we are keeping Franklin's Republic. That is why I pose my question, "Will there be a Tricentennial?" Remember, the Founders of our Nation saw fit to amend the Constitution only once in the eighteenth century. It was amended only four times in the next one hundred fifteen years. Yet, it has been amended *eleven* times in this twentieth century and within the lifetime of many in this room. Two of these later amendments probably did more to endanger the survival of the Republic than all of the others—they are the sixteenth, which legalized the income tax, and the seventeenth, which provides for the direct election of U.S. Senators.

This trend itself should be a matter of concern. How many attempts to further change the Constitution will be made in the remaining years of this century or by the time of the Tricentennial?

We have created, through legislative action, executive fiat and judicial interpretation of the Constitution, a massive, horrendous, unmanageable governmental structure that goes far afield from the intent of the Founders as expressed in the Constitution and well beyond the wishes of a substantial majority of our people.

We have a government that not only threatens our individual freedoms—it is taking those freedoms away from us at a frightening pace. What is even more alarming, most of those individuals who are involved in government are *not* elected. Most of government today is composed of a faceless, appointed bureaucracy that is responsible only to itself. Congress passes legislation outlining a general intent to do something—something that sounds good, has the perfume of motherhood and looks like apple pie. The legislation contains language which provides for the establishment of a commission, an authority, an administration or a department and goes on to charge that ill-begotten agency with the task of developing its own rules, regulations, the manner of enforcement and the penalties for noncompliance. These become the law of the land by the simple device of publishing them in the Federal Register for all to see and obey. Interpretation of them is left to the various levels of the Judiciary, another appointed class of "lawmakers", who are not elected either, and who, unfortunately, have taken on the self-determined task of expanding and innovating new and far-reaching law by their own decisions.

Here are just a few examples:

Who can argue with the principle that employers should be required to provide a safe and healthful place for employees to work? Good intent, but is OSHA the solution?

Who can argue that providing for the health, education and general well-being of our people is not a proper concern for our government? Good intent, indeed, and prescribed in general terms in the Constitution. But are massive welfare rolls, social security, unemployment insurance, food stamps, child care, aid to unwed mothers, aid to unemployed strikers, aid to indigents, a college education for all regardless of academic ability, called for in that constitutional phrase "promote the general welfare"?

How about "provide for the common defense"? Does that mean expanding social programs at the expense of the defense budget year after year to the point where already we may be a second rate power? Does that mean "Detente," which means, at least to me, "keep talking, while they build up their strength and we decrease ours to the point where all we can do is talk"? And all of this in the face of poll after poll after poll that reports the public as desirous of being number one regardless of cost?

Do we "provide for the common defense" when we publicly parade our intelligence agencies across the world stage and systematically catigate and castrate them? How idealistic and unrealistic have we become when the chairman of a Senate sub-committee publicly declaims it is his intention to have his committee so restructure and regulate our intelligence agencies that they will never again be able to do anything that we wouldn't be proud of if it were exposed to public view? Can't you imagine how effective our intelligence gathering effort would be if all of the activities had to have the prior approval of a Congressional Committee and the results be fully reported to that committee, as has been approved? The members of that committee would trample each other to death trying to be first out of the committee room to "meet the press"!

Who can argue that we don't want clean air and clear water and a healthy environment and respect for the world's ecology? Good intent—motherhood and apple pie! But does that mean "Stop the world, I want to get off"? Does that mean no further advance in our standard of living—that we've gone about as far as we can go? Does that mean don't utilize the resources and technology we have to increase our electrical generating capacity by the use of our own fossil fuels and by fusion? Does that mean no more industrial development, no new products? Does that mean pure air everywhere and pasturized water in our streams and our lakes? If you can believe EPA it does!

Years ago a banker asked Harry Morrison, the 1947 recipient of your non-member award, "How on earth can a contractor go broke?" Harry's reply was short and sweet, "He simply runs out of money!" Gentlemen, a Nation goes broke the same way. No one—individual, company, state, or nation—can long support a champagne appetite on a beer income, and that is what we are trying to do today in these United States. Our Congress and our Executive Branch have pandered far too long to the demand of a noisy few just to stay in office. Let some vocal minority demand something and our elected officials fall all over themselves like a litter of puppies to be first to meet the demand. *They* are selling *our* birthright for *their* mess of pottage.

I am just as compassionate as most and probably more so than a lot of people. I be-

lieve I can see the ills of our Nation and of the World through sympathetic eyes. I know that social injustice and economic oppression prevail in many places—and I also know that they have existed in varying degrees since the dawn of time. I also know that we in the United States have done more in our short span to alleviate them than has any other people in history. Not only at home, but all over the World and all of it has been done with no thought of repayment, and hardly any respect for having done it.

But, I also know that no magic wand exists which, by a simple wave, will allow the correction of all the unpleasantness at once. And I'm very sure we won't help the situation by spending ourselves into insolvency and bankruptcy, leaving not only ourselves, but the rest of the World to the tender mercy of our "Brothers in Detente".

Without the achievement of fiscal responsibility in government—and soon—it won't be necessary to make preparation for a Tricentennial!

Now, what has all this been leading toward—what is the import of these remarks?

To put it simply, I want to encourage you to think about where we are, where it appears we may be going and what we—you and I—can do about it. You and I have been letting someone else attend to the business of our government. We have been content to contribute a few bucks to this political contender or that one—maybe shell out a little for the Party of our choice—buy tickets to a dinner and maybe go, or maybe we're too busy to go. Then we sit back and say, "Thank God, I don't worry about *that* again for two years" (or four as the case may be). In short, we have been content to let "George" do it. I have news for you, "George" has been doing a lousy job!

We have allowed the politicians and the bureaucrats to scare us away from fulfilling our obligations and exercising our right as citizens to become involved in the business of governing ourselves, which was one of the principal reasons for the Revolution in 1776. We have been too busy doing the business of business to realize that the American Dream is being eroded systematically.

I don't know if what is happening to our country has come about through accident, stupidity or design—I suspect it is some of all three. But I do know it has been allowed to happen through inattention on our part—yours and mine.

In recent years, laws have been passed which make it difficult—but not impossible nor illegal—for us to financially support candidates for Federal offices. The laws governing contributions for State and local candidates vary from State to State. Maybe, in one way, this restriction of contributions in a Federal election is a good thing, because, if anyone feels he has "bought" a senator or representative, he has received precious little for his money, based on recent performances of the Congress in general.

And let's be honest (even if our representatives aren't), labor has a stronger position under existing law than does business.

So, what can we contractors do? What can any American do?

Let's start by each of us getting to know our elected representative at all levels. Find out what makes him tick—find out where his support comes from—determine how he stands on the basic issues affecting what each of us believes. Go listen to him talk—check his voting record—determine whom he follows or leads among his peers.

If he stacks up in your judgement on all points, then do your utmost to get him reelected. If he doesn't then do your best to defeat him. Go find a better candidate.

See him at home during recesses or visit him in his office. Let him know how you feel on the issues of the day. Do this on a continuing basis, not just when you want something. If you can't see him, write him. Get to know the members of his staff—they are very important in passing on ideas or providing access to him.

Contribute to his campaign to the extent of the legal limits or to the limit of your own resources.

Work for him in his campaign—encourage your friends and your employees to do the same for the candidates of their choice.

Get to know and understand the issues so you can discuss them intelligently with him and with those you are trying to influence.

Join political action groups of your persuasion.

Get the members of your family working as hard among their friends as you should be among yours.

Discuss the issues of the day with your family so your children and grandchildren will learn.

If you feel so inclined, take a run at it yourself. You don't know if you could win unless you try. Try it—you might like it and you might bring a new outlook to the political arena.

And last, but certainly not least, vote—early and often!

Gentlemen, I am talking about involvement—total, personal involvement in the the political process. You are acknowledged as leaders in our industry and, presumably, in your communities. A leader's task is to lead, and to lead intelligently, one must be involved and informed.

Someone once said, "I am only one. But I am one. I can't do everything, but I can do something. What I can do, I ought to do. And what I ought to do, by the Grace of God, I will do."

If, in the years to come, we adopt that philosophy—all of us, maybe, just maybe—we can keep Mr. Franklin's Republic and there indeed will be something to celebrate during the Tricentennial year.

Thank you.

GENOCIDE: A CONVENTION, WHOSE TIME HAS COME

Mr. PROXMIRE. Mr. President, on April 29, the Committee on Foreign Relations favorably reported the Genocide Convention. This represents the fourth time that the committee has urged the Senate to act promptly to ratify this important human rights document.

This year I believe that the Senate has the best chance ever to provide that prompt ratification. There are a number of important developments in the past 6 months that make ratification inevitable, in my opinion.

First, the Senate has at long last begun to recognize the important human rights treaties that have been awaiting action. When this second session opened in January, the Senate promptly acted upon the treaties dealing with the political rights of women.

Second, the Genocide Convention has now received the strong backing of the American Bar Association, at their February Convention in Philadelphia. The bar association had been the only major organization that had serious reservations regarding the treaty over the past few years and the bar has now recognized that their concerns have simply not withstood the test of time.

Third, the Defense Department has now clearly established its position in support of the treaty. On March 16 I inserted in the RECORD letters from the General Counsel of the Defense Department and the three Judge Advocates General of the three services letters of strong endorsement.

Mr. President, the Genocide Convention has the wholehearted endorsement of numerous civic, religious, and civil liberties groups. It deserves our support as well this year.

BREAK DOWN THE BARRIERS

Mr. FANNIN. Mr. President, recently Discover America Travel Organizations, Inc.—DATO—held its national conference in Pittsburgh, Pa. At that conference, Mr. James L. Kerrigan, president of Greyhound Lines, which has its national headquarters in Phoenix, delivered an interesting and thought-provoking address on the importance of tourism to the American economy. I am certainly aware of the impact of tourism on Arizona's economy and the significant role played by private carriers like Greyhound.

Mr. President, I believe Mr. Kerrigan's remarks will be of interest to the Members of the Senate, and I ask unanimous consent that the complete text of his address "Break Down the Barriers" be printed in the RECORD.

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

BREAK DOWN THE BARRIERS

(By James L. Kerrigan)

Thank you very much. It's good to be here today. And I don't mean just here, in Pittsburgh. I mean here, in this great, glorious country of ours. America.

We're big. We're beautiful. We're glittering. We're golden. We've got it all. America is beautiful. And as bountiful as everyone of us wants to make it. We, in this room, have the greatest product in the world to sell. America. From sea to shining sea.

Gathered together here today is a cross-section of the leadership of one of America's greatest industries . . . tourism.

Let's take a look at what actually happened. Our business has grown—but . . .

Why do you see so many wide-bodied jets in mothballs? Where are all the passengers who were supposed to fill those seats?

Another gloomy picture is familiar to our hotel and motel friends. Empty Rooms. Especially on weekends.

The empty bed blues . . .

And remember all the grand talk about AMTRAK and a resurgence of rail travel in America?

I include my own business, too—no important growth in bus passenger miles.

The story is the same for automobiles, and gas and tires . . . and restaurants, and travel agents, and luggage manufacturers.

But there is a glimmer of light.

Looking at the booming cruise business.

Look what happened when a lot of production lines closed down last year.

People took their unemployment checks and went traveling.

People want to travel! The motivation is there! People have the desire, the time, the freedom to travel.

What went wrong?

It's just a couple of months until the Fourth of July, 'Seventy-Six. So let's hear some fireworks.

Let's hear the boom I've been talking about. The boom that bombed!

So why has it been so quiet?

Let me pause and spell out something we all know.

Tourism is a great and growing industry.

And when I say tourism, I mean you! And me. Everyone in this room.

We carriers, who say we are in the transportation business, are truly in the tourism business. We don't just transport people—we carry them to the places they want to go; to do the things they want to do.

You in the automobile business—or tire—or oil—are equally in tourism. Of course, our Travel Agents know what they are selling is tourism. You who are in the hotel or motel business are not selling rooms and services. You are selling tourism.

You who represent a City or a State or a Region or an Attraction, are also selling travel and hotels and everything else that makes up tourism.

And all the rest of us—we may think we are selling sightseeing or meals, or rent-a-cars, or luggage, or cameras, or credit cards, or magazine space. . . . But we are all selling tourism in America. So while I review the data about this dynamic business, I include all of us. Because each of us separately and all of us together have but one product. One on-going purpose. Tourism. Let me restate the facts. Most of us know them well, but they are so important that we must repeat them, underscore them, dramatize them.

It is a common prediction of our economists that America's greatest prospect for growth lies in our Service Industries. And the most viable of the Service Industries is tourism.

Let's quote a few facts: But, first, let's make clear what we mean by the word "tourism." How our data are calculated. To put it simply, tourism includes any trip, for any reason, over 100 miles.

18 million international travelers are expected to spend 6.6 billion dollars in the United States in 1976.

Private investment in hotels and motels during the '70s alone is estimated at $20 billion.

Combined investment and consumer spending for tourism is estimated at a trillion dollars in the 1970's.

Foreign governments spend over $20 million in each year—which adds up to $200 million in the '70s in U.S. advertising media to promote travel abroad. Total tourism media advertising in the U.S. is estimated at $250 million per year.

Tourism contributed about $60 billion to our Gross National Product in 1974. More than $70 billion in 1975.

That's more than agriculture.

Twice as much as the communications industry.

Three times as much as the mining industry.

And the National Tourism Resources Review Commission, perhaps optimistically, forecasted that figure would rise to about $127 billion by 1980.

But perhaps more important than any of these factors is that tourism creates employment. . . .

Jobs! More than four million jobs in 1975.

A lot more in the years to come.

And that's important. Important to you. Important to me. Important to our government. Important to America. Now let's ask ourselves a sober question. Or two. Why are we falling behind the glowing forecasts of a few years ago?

What must we do to make sure we achieve the greater growth we expected and must have?

We must identify what has slowed our path of progress. We must identify the barriers to our "bigger boom." Then we must break down those barriers.

Let me dramatize for you, as I see them, exactly what the barriers are, to these people traveling.

First, there are the emotional barriers: Fear, frustration, and lack of confidence.

Then there are the practical barriers: Peaks and valleys, no one voice in Government, unawareness, and parochialism.

Let's talk about the Emotional Barriers for a moment. Fear, for instance. Fear of the unknown. Hesitation to leave familiar surroundings. How many people never travel at all unless they can climb in their cars and drive to a relative's house?

How many Americans stay at home—right in their own back yards—because they are afraid to expose themselves to even the most simple and basic elements of travel? How much to tip? How to secure a hotel reservation? How to plan an itinerary? How to allocate available vacation funds for maximum value? How to make travel connections?

And then there is frustration. Frustration over the inadequacy of our front-line information service. The difficulty in planning a trip that involves more than one method of transportation. The frustration over surly or indifferent employees who confuse service with "Servitude"; with those who represent Labor, who sometimes forget that they can have no success unless the industry is successful.

Now, look at lack of public confidence. Whether we like it or not, our industry does not enjoy strong public confidence.

It's an unwarranted and unjustified public attitude, but nevertheless, very real and caused by our failures to more aggressively and sincerely attack and solve such problems as misinformation, missed connections, overbooking and effective quality control of the services we offer.

Now, what are some of the practical barriers?

We all have the problem of peaks and valleys. In all our businesses.

Airlines must maintain air craft and personnel to handle summer and holiday traffic surges, then watch their overcapacity eat up profits during slower periods.

Our intercity bus lines have the same problem, with minor variations.

Hotels and motels could increase their business tremendously if they could bring weekend room occupancy anywhere near the mid-week figures.

And how about our resorts, and regions, and attractions and Parks that are closed half the time?

Peaks and valleys. A serious barrier that affects us all. A Barrier that will always be with us—but about which we can do a lot more than we have been doing.

Our government has many Agencies, Commissions and Bureaus whose aims and desires are the same as ours.

That's the problem. There are too many. There are dozens. And Tourism has No Single Voice in Government. No single Agency to speak to us . . . or for us to speak to. No single government agency to speak for us.

Just about every Cabinet post is represented.

In the Department of the Interior we have the Bureau of Land Management and the Bureau of Outdoor Recreation.

The National Park Service . . .

In the Department of Agriculture we have the U.S. Forest Service.

Even the Department of Defense has its public lands, controlled by its Corps of Engineers.

Then, too, of course, there are the agencies that regulate the transportation aspect of Tourism. The DOT, the CAB, the FAA, the ICC. Not to mention the Federal Energy Administration and the Environmental Protection Agency . . .

In the Department of Commerce, we have the Bureau of the Census . . . and very importantly, the United States Travel Service, where Discover America Travel Organization works closely with Assistant Secretary of Commerce for Tourism, Creighton D. Holden.

Each of these bodies operates independently of the others—and independently of the overall interest. Each is capable, through lack of coordination and communication, of inadvertently causing serious problems for the others. And it happens. Often.

Look in your pocket or purse. Select a coin—any coin—nickel, dime, quarter even a penny. You'll find on every one the phrase, "E Pluribus Unum." It means "From Many, One." And that is exactly what the Tourism industry needs so desperately—a single Federal Voice within government which will speak loudly and clearly—and sensibly for all facets of our great industry.

The President's Review Commission recommended this in 1973, asking for a new Bureau to be headed by an Undersecretary.

Tourism has had enthusiastic support from (Some Members of Congress). Bill Toohey of DATO has testified before the House Appropriations Sub-Committee, advocating an increase in the level of funding for both foreign visitor and domestic tourism promotion.

In spite of their efforts, all that has happened is that our U.S. Travel Service has had Domestic Tourism added to its responsibilities. And I believe that, as of now, the Administration has not requested funding for Domestic Tourism after October of this year.

Fragmentation, divisiveness, lack of unity of purpose are the products of the current system . . . a system which has thrown up a major Barrier in the path of an industry which is vital to our country.

The next great BARRIER could be called "lack of information"—but I prefer the less pleasant but more graphic word—"Unawareness". . . Unawareness on the part of the Industry. Unawareness on the part of our Government, Unawareness on the part of our customers.

Some may disagree when I talk about Unawareness on the part of the Tourism Industry. There's far more Research done in this area than any of us have time to read. Especially in recent years, the Travel Data Center has done an outstanding job. And the Travel Research Association has been very effective in collecting and disseminating this information.

But the really basic study, conducted by the Bureau of the Census, was last carried out in 1972 . . . and did not include many areas of importance to us.

The next study is not scheduled until 1977.

What about unawareness on the part of our government? How else can we explain the decisions that have been made by these well-meaning and intelligent people?

The reluctance of our bureaus and agencies to communicate with each other . . .

Our delay in up-dating our antiquated, 50-year-old system of visas; and our all too frequent indifferent and inhospitable welcome to foreign visitors . . .

Our cliff-hanging crises with our Energy and Environmental agencies . . .

Our failure to provide adequate funding for the United States Travel Service for Tourism . . . especially Domestic Tourism.

Perhaps the Unawareness that hurts us most is that of our prospective customers.

I'm talking about Marketing. About Advertising and Public Relations. We are all doing our own promotion. It's hard to avoid seeing ads that tell us how much better one airline is than another . . .

How much more convenient one bus is than another . . .

How one hotel has a better location or nicer rooms than another . . .

How much more scenic or friendly one region is than another.

That's fine. That's the way it is . . . and always should be. But when did we last see an advertisement in newspapers or magazines that sold the basic idea of seeing America first?

When did we last see a television commercial which depicts America in all her splendor as the ultimate vacation objective, again, without an airline—or bus line—or hotel chain—or automobile manufacturer promoting their own interests?

Sure, we've seen the fine advertising material developed and produced by DATO. And the "Discover Bicentennial America" campaign carried out by DATO through a grant from the American Revolution Bicentennial Administration.

But our exposure has mostly been limited to tourism trade publications or internal meetings within the tourism industry.

Even though DATO has continuously emphasized its importance, there has never been a Tourism promotional program of sufficient magnitude to be effective.

Now don't misunderstand me. I'm not for a moment suggesting that the carriers, hotel and motel people, or the states and regions—or any element of the tourism industry—submerge their own identity and stop promoting their own competitive advantages. Such an idea would be ridiculous and totally inconsistent with what America is all about.

Not selling the whole pie but, rather, bits and pieces, has created another significant Barrier to Tourism growth in America.

I call that Barrier Parochialism.

Parochialism means narrowness. Narrowness of thought. Narrowness of scope. And I accuse all of us in this room of being guilty of Parochialism. Myself included.

Another way of saying it is that too many of us are wearing Blinders. We see it in the promotional activities of regions and hotels apparently caring only about dividing up the patronage of people, once they decide to take a trip.

We see it in the activities of our ancilliary business, such as banks and luggage companies, who don't seem to realize that they, too, are selling Tourism.

But we see it mostly in my own area . . . the carriers . . . airlines, railroads, bus lines. Carriers who are blinded to the fears and difficulties and frustrations of the traveler, except in their own narrow sphere.

How many trips require more than one mode of transportation? Yet, have you ever tried to get rail information in an airline office? Or airline information in a bus terminal? Or to coordinate a trip by all three modes with a travel agent?

Why do you have to visit as many as three separate ticket offices to buy a simple ticket?

Who helps the traveller to get his luggage from terminal to terminal to terminal?

The fundamental principle in selling anything is to make it easy to buy.

One of our greatest Barriers is the fact that we are not making it Easy to Travel.

. . . On the subject of Barriers, let me highlight some new ones which could be very serious.

For example, the environmental extremists are talking about eliminating the lodging and camping facilities in our National Parks and public lands. This would make them unavailable, in effect, to anyone but our backpacking hiking "athletes"—and not to all our children and older people, our handicapped people—unavailable, in fact, to most of our customers.

Then there is the attack on our Monday Holidays . . .

We've already lost Veterans' Day . . .

The "no growth," "stay away" policies being considered and adopted by many of our cities, states and regions . . .

The I.R.S. move to further restrict travel expense deductions on trips abroad, which would surely result in reciprocal action by foreign governments.

I have spent some time identifying the Barriers to the vital growth of Tourism.

Now I call upon the industry to destroy them—to Break Down These Barriers.

And here are the big guns that we can bring to bear to smash them: Research; Education; Cooperation among Ourselves, and Effective Partnership with Government.

Our first big gun to break down the barriers to Tourism is Research. The Bureau of the Census has scheduled a major travel study for 1977; one involving sufficient funds to do the job that's needed. This is what we have been waiting for.

Hearings on this study were held by the Senate Tourism Subcommittee for Foreign Commerce and Tourism.

DATO was able to submit our views at these hearings, and they were well received. We were able to underscore the fact that past plans for Tourism Research were grossly inadequate. That we need Tourism Research every year.

The most recent study will be five years old in 1977!

The content of these studies is also vital. Research may be a helpful answer to our problems of Peaks and Valleys. For example, we tend to think of Senior Citizens as our prime market for off-season travel. But do we really know? Let's identify this market. Who are they? Not just retired people. How about young people? Handicapped people? Teachers on Sabbatical? Who else? Male? Female? Age? Income? Reason for travel?

DATO was also able to impress on the Committee the need for accurate data on expenditures for Tourism . . . and on employment in the industry.

But perhaps our most important contribution to this Research is in the area of Methodology, the need for Uniformity. The ability to cross-reference our Research so that when any of us quote figures we are all talking the same language.

These are some important areas where Research can smash the Barriers!

Our next big gun is Education.

Education of our Employees. Education of American Industry. Education of our Children. Education of our Educators.

You've probably heard the expression: "The Front Line is the bottom line." It expresses so graphically the need for better training of our people who meet the public.

We must foster, promote and educate American Industry to include in their planning the changes that would do so much to solve our problem of Peaks and Valleys. For example:

Off-season vacations; vacations in the Fall and Winter; during school breaks, etc.

The four-day week, which so many companies have found to work so well.

The long weekend, with days off tied to Holidays. We must educate our children to travel . . .

With travel as a classroom subject . . . with class trips as part of the curriculum—not just a graduation treat.

We must educate our Educators . . .

With a much more organized system for travel credit. With promotion of the year-around school system.

There is nothing sacred about the traditional June, July or August vacation. People travel in summer for two reasons. Weather and school vacations. Neither reason should be a deterrent to travel.

Year 'round use of educational facilities would permit school vacations to be enjoyed throughout the year, levelling the Peaks and Valleys which are so costly to our industry. With any destination in America only several hours away, weather no longer should have the impact on vacation decisions that it once had.

But most of all, we must work toward a new degree of respect for the travel industry.

With Tourism recognized as a Profession.

With the establishment at many more of our colleges of a continuing program of Tourism as a Major course of study, such as those at Michigan State, the University of Hawaii, Florida International University and the Institute of Transportation, Travel and Tourism at Niagara University, culminating in a degree in Tourism.

The next big barrier-breaker is one we, in this room, can accomplish without help from anyone but ourselves. And that is:

COOPERATION AMONG OURSELVES

We can start right here to "make it easier to travel" . . . to break down the barriers of fear, ignorance and frustration. To do so through what I call the Intermodal Concept, which means: One Terminal, One Ticket, One Baggage Check . . . regardless of the length of the trip or number of transportation modes involved.

The tourism industry does not have an effective marketing program to stimulate domestic travel. We never have had such a program. We do have a marketing Barrier. The government is not about to do it for us. DATO cannot do it for us—alone. But we, you and I and every component in this great industry of ours can get it done.

Using DATO as our national forum and our catalyst, we can aggressively call upon government to work with industry on a well funded program to promote Tourism in America.

I propose that, under the auspices of DATO, we, the individual companies that comprise the U.S. Tourism Industry, develop a definite plan to accomplish this. I propose that we establish a budget for this program. I suggest that the amount of that budget be determined by careful study and that we, as individual companies, make a definite commitment to spend a specific share of our own advertising budgets to provide the required funds.

I propose that we authorize DATO to present our commitment—our pledge—to the proper governmental agency, with the proviso that its implementation depends on a similar commitment from the Congress and the Administration.

Together with government, we can create a promotional umbrella which basically would sell America—and under that umbrella permit us to continue to advertise the respective virtues of our own services and attractions.

I challenge the DATO Board of Directors to establish immediately—at this Conference—the mechanism to carry out these objectives.

Possibly the hardest to achieve, but the biggest gun in our arsenal is: "An Effective Partnership With Government."

For too long we have been bemoaning the multiplicity of governmental agencies and bureaus, the lack of government support for Tourism, the unnecessary governmental barriers to travel.

Now, if ever, is the time to do something about it.

Because right now . . . the Senate is conducting a study aimed toward the establishment of a National Tourism Policy.

This is what we have been looking for! One place, one forum to plead our cause with government. To make clear to the right eyes and ears and minds the facts about:

The importance of Tourism to the national economy, particularly in terms of jobs and employment.

The *need* for a single, high-level advocate for tourism in our government. We need a separate Department of Tourism. A Secretary, or Czar, of Tourism.

But we here in this room cannot just sit back and wait for these things to happen.

We have the situation we have been waiting for in the Senate's National Tourism Policy Study. The people who are making the study have asked for our input. Let's give it to them in a way that counts.

We have a perfect catalyst in the Discover America Travel Organization.

Now it's up to us in the Tourism Industry. We must unite right now, with a firm commitment to partnership with our government... through DATO.

Responsible people from key organizations represented here must join together to commit: Their time; Their money; Their resources; and Their talents—to be a strong and equally committed partner in an effective, unified program to break down the Barriers.

So that we will achieve our goals of growth in the prosperity of our businesses; in the economy of our country; in jobs for our people... in a new knowledge of America by all Americans. Let's put Americans in touch with America!

THE MIDDLE EAST

Mr. HASKELL. Mr. President, my colleague from Illinois, Senator STEVENSON, recently addressed the Anti-Defamation League of B'nai B'rith in Chicago about the present situation in the Middle East. In his remarks he asked the question to which none of us has an answer: Where do we go from here?

We must find an answer to that soon; the alternative is a war that will serve no one's interests.

As Senator STEVENSON said in his speech:

Continued stalemate in the Middle East sooner or later will lead to another outbreak of war. It will be a war in which there will be no winners. Neither the U.S. nor the Soviet Union would win a nuclear confrontation. A war means, at the least, another oil embargo and a depression in the Western world. It means intense suffering and loss of life on all sides. And it might mean another war which decided nothing. The stalemate must be ended short of war.

Mr. President, I could not agree with Senator STEVENSON more. We must fashion a Middle East policy based on the realities of the situation and work toward a just settlement for all.

I ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF SENATOR ADLAI E. STEVENSON OF ILLINOIS

REALITIES IN THE MIDDLE EAST

Remarks by Senator Stevenson at the Annual Dinner of the Anti-Defamation League of B'nai B'rith, Chicago, May 6, 1976:

I am not an outspoken admirer of Secretary Kissinger's style or policies. His step-by-step diplomacy in the Middle East delayed progress toward an overall settlement. It required tangible concessions by Israel which were not reciprocated by Egypt. I was one of a small minority in the Senate to vote against the Sinai Resolution. But when the Secretary of State says, as he did a month ago before a kindred gathering, that "the survival and security of Israel are unequivocal and permanent moral commitments of the United States," my response is a firm Amen.

Whatever else may be said about it, the step-by-step diplomacy of Secretary Kissinger has run its course. It is ended. The deadly impasse has resumed. In Jerusalem recently not one Israeli official among many could answer my question, "What next; where do we go from here?" Nor can American officials answer the same question—Where do we go from here? The U.S. has no policy in the Middle East.

The starting place for any sound policy is with reality. No sound policy can be based on anything else.

It is as a friend of Israel that I speak to you about realities in the Middle East. They are realities which we allow at Israel's peril and America's to be obscured by dangerous myths and wishful thinking. Unless there is movement toward peace, there is movement toward war.

The Sinai Accord represented no major departure for the U.S. in the Middle East. It was another expensive and impulsive effort to buy time. It bought another pause between battles in a long, continuing war. With each purchase of time, the lines hardened, the radicals gained influence. The Arabs in the main became more dependent on the Soviet Union—and the levels of violence for the next battle were raised. The nuclear threshold has now been reached in the Middle East.

American actions in the Middle East have not been founded on reality since the earliest days of Israel's secular existence. They have been dictated by expediencies in America and myths in Israel. All we did was buy time. And time was against everyone, except the most immoderate elements. The U.S. never had a policy in the Middle East; it hid from reality.

Now Israel is isolated in world councils; it has no other source of support, only the U.S. That is a reality.

Now the Arabs have virtually unlimited financial resources at their disposal. The burdens of war depress the economy and divide the people of Israel. That is another reality.

Now the moderate Sadat Government has little authority in the Arab world, except what it recovers by being immoderate. The Sinai Accord excited high expectations in Egypt which have been disappointed. So the Sadat Government's authority within Egypt may be diminishing. Without substantial aid, including military sales, Sadat could fall and Egypt be returned to the Russian orbit. With aid, Egypt, its strategic passes and oil in the Sinai recovered, could turn on Israel—again. Authority in the Arab world lost by Egypt was gained by Syria and the PLO. Their influence is large in Lebanon, which may be partitioned or join the ranks of Arab militants.

The support of oil-rich Arab states has given the PLO an unaccustomed measure of affluence. The Rabat summit in 1974 deprived King Hussein of his role as spokesman for the Palestinians and gave it to the PLO. Now Palestinians speak for Palestinians. And the PLO wins favor among those willing to forget, perhaps too quickly, the horrors of Munich and Lod airport.

The oil embargo of 1973 forced the Arab world upon Western consciousness as never before. So has the Arab boycott. The Yom Kippur war destroyed the myth of Israeli invincibility and Arab inferiority.

Americans are not about to sell Israel for a barrel of oil. But now it is easier to concede a legitimacy to Arab interests. An impulse, about as basic as the instinct for survival, seeks to accommodate forces upon which life depends.

The Arab image is improving. That is another reality.

I am not here tonight to say what I would like to say—and what you would like to hear. There has been too much of that.

Now American support for Israel depends on Israel. It is no longer automatic. America will not abandon Israel; but it will ask if Israel has abandoned itself.

The Israeli image is not improving.

Two months ago Israeli officials spoke to me with pride of the trusting relationship between Jew and Arab in Israel and the tranquil Arab acceptance of the military occupation of the West Bank. The municipal elections, scrupulously free of coercion, were an act of political courage and wisdom. A confident and trusting relationship with Arabs who are citizens of Israel and Arabs under Israeli administration was of inestimable worth.

Why has peace been put at risk by the continued establishment of Israeli settlements in the West Bank in violation of the Fourth Geneva Convention which states that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies"?

Why provide agitators with a tailor-made issue with which to incite riots in the streets of Nazareth by confiscating Arab-owned land?

Why permit the secret purchase of land from West Bank Arabs, in contravention of the Jordanian law which applies to them?

Why an ostentatious holiday march through the West Bank by thousands representing a militant Israeli minority? The predictable response was more rioting—and at a time when the Lebanese crisis had already heightened the possibility of another Middle Eastern war.

I ask these questions because some friend must. Israel has not been well served by those who hide from reality, nor by those who, perceiving the truth, have whispered their warnings. Now the hour is late.

I am grieved by an Israel isolated; an Israel protected on more than one occasion by only slender margin of an American veto from censure by the United Nations Security Council; an Israel, which a scant few years ago counted almost every Black African country a friend, welcoming to Jerusalem the leading apostle of apartheid.

Some of these actions are the free exercises of genuine democracy. Israel must respect minority opinion and minority rights, or Israel *will* have abandoned itself. Its ideals and its competence must measure up to standards we set for no other, or its claim to a special place in the conscience of the world and a special relationship with the U.S. will be compromised.

I am not casting bame on excusing others. The tendency to blame others—other officials, other countries, always someone else—is deeply disturbing. Analogies between Israel and South Vietnam have been made before—and they are not helpful to Israel now. It all signifies a new disorder in the ranks and an inability to accept responsibility.

There is little in what I say that is not obvious. Much of it is history already. My suggestion is to face the obvious. But who is prepared to do so?

Having sketched a cheerless picture of realities in the Middle East, I hasten to add that there are also rays of hope and promise. Some are prepared.

Many within the governing Israeli Labor Party recognize that the continued military administration of a million restless Arabs is not in Israel's strategic interest. Many in Israel believe it is time for the Israeli Government to recognize that the Palestinian people have a right to national self expression in the West Bank and in Gaza, either with a state of their own or with a semi-autonomous state within Jordan. The dangers of irredentism are real; but the dangers of continued stalemate, they realize, are greater. Of what avail, after all, are nuclear weapons and 'defensible" boundaries when the enemy is within? Demilitarized territories and internationally guaranteed boundaries offer Israel greater security.

Brave voices in Israel are raised in favor of accommodaing legitimate Palestinian interests. They do not suggest—nor do I—any move which would endanger Israel's future. They recognize that Arab hostility to Zionism has been an open sore for fifty years. It

has been the root cause of five wars. It is a sore which cannot be healed by an agreement or by the passage of another generation. Any settlement must provide for security guarantees of undoubted valitdity.

I do not suggest unilateral concessions by the Israelis—nor do those in Israel who seek accommodation. Most Arabs do not require it—except in the heated rhetoric of Middle East war.

The common interests of Arabs and Israelis alike are often unperceived. Communication proceeds on separate public and private planes. It frequently has little to do with reality or the communication of truth. Public utterances by Arab leaders are distorted by the exaggeration and hyperbole which are a characteristic of Arab language and culture. The 1968 Palestinian National Charter calls for "the elimination of Zionism in Palestine," which can only mean the destruction of the State of Israel. In private most Arab governments accept, with a condition, the continued existence of the State of Israel. Arab leaders reaffirm their commitment to Security Council Resolution 242; compliance with that resolution is their condition for recognition of Israel. That resolution itself accepts the right of an Israeli state to exist. And no one, except the most extreme groups, like the Iraqis, rules out simultaneity—simultaneous recognition on the one side and withdrawal from occupied territories on the other.

For all the publicly expressed stubbornness and belligerance, most Israeli and Arab leaders want peace.

The Arab states, like Israel, set a high priority on internal development. They would like to use their new-found oil wealth to raise their people from centuries of malnutrition, inadequate housing and lack of education. Most Arabs—like Israelis—are weary of the burdens of an armed camp. All seek national independence and freedom from external influences. Arab nationalists seek independence of the Soviet Union as much, at least, as do Israeli loyalists independence of the U.S.

A way must be found to overcome the suspicions and provocations on all sides, and it could be. If a direct Arab-Israeli negotiation is not feasible—and some authorities say Arab culture requires settlement of disputes through middlemen—then outside powers with important stakes in the Middle Eastern peace must facilitate negotiation, at Geneva or in another forum. They cannot impose a settlement, but they could establish the principles to guide a settlement and initiate the process by which it is reached. Only outside powers can appeal to the common interests in peace and overcome the widening gulf of self-inflicted fear and suspicion which divides the warring parties.

In all of this the Soviet Union has a potential to foster peace—or to block it. Russia's purpose in the Middle East is not entirely clear. It may see a Middle East settlement as serving its interests. Recent statements from Moscow indicate as much. But the obsequious pursuit of detente by Secretary Kissinger and the Presidents who have served under him has produced the reverse of detente—tension. Russian imperialism is moving, as we have seen in Angola. It is pushing to the limits, and we are establishing no limits. If Russia views continued instability in the Middle East as best serving its interests, then it must be made to understand it cannot enjoy American imports, credits and access to American markets and other benefits of detente without accepting the responsibilities of detente. Russian participation in a common effort to bring about a settlement would be welcome proof that detente has some meaning to the Soviet leadership.

There are those who believe that it is too late for peace in the Middle East. Some respected authorities say the conflict must move to war and to the brink of a nuclear exchange. Then, so the theory goes, the superpowers will be forced to intervene; to impose a settlement and save themselves.

I disagree.

I do not believe it is too late; certainly it is not too late to try.

Continued stalemate in the Middle East sooner or later will lead to another outbreak of war. It will be a war in which there will be no winners. Neither the U.S. nor the Soviet Union would win a nuclear confrontation. A war means, at the least, another oil embargo and a depression in the Western world. It means intense suffering and loss of life on all sides. And it might mean another war which decided nothing. The stalemate must be ended short of war.

Let there be no misunderstanding. America's commitment to Israel is unequivocal. The day America abandons Israel will be its last day as a great power. But America's will is not now tested; Israel's is tested.

Peace requires Israel to act greatly. It requires the understanding and the humility of which the prophets spoke. It requires preparedness and firmness. It requires your continued support and mine. Peace requires leadership in America and Israel which acts from a recognition of moral obligations, true self-interest—and from a perception of reality.

The elements of a lasting settlement are there—waiting to be put together by men brave enough to make peace, instead of war.

So let us be brave—and then we will look back to this as the time when the process of peace was started; when the walls began to topple; when men learned again to esteem brotherhood and truth—and the honor of a generation was saved.

A FLEET TO MATCH OUR REAL NEEDS

Mr. TAFT. Mr. President, I would like to bring to the attention of my colleagues an article which appeared in the Sunday Washington Post, by Vice Adm. George P. Steele, entitled, "A Fleet To Match Our Real Needs."

Admiral Steele's article is one of the most perceptive analyses I have seen of the needs of our Navy and of the capabilities and limitations of certain types of warships. The views which the admiral presents in this article are, in a number of cases, parallel to my own. In particular, I agree with Admiral Steele about the strike cruiser, and about the capabilities of the modern nuclear powered attack submarine. As I noted in my additional views to the report of the Armed Services Committee on the Defense authorization bill, the nuclear submarine is not seriously threatened by antisubmarine warfare based on cruisers, destroyers, and frigates of traditional design.

I do feel there are some possible weaknesses in what Admiral Steele has suggested in his article. I concur with him that we cannot put our high-value forces into the high threat areas until hostilities have begun; our carrier task forces in particular are too vulnerable to a Soviet pre-emptive attack in such situations. However, if we withdraw the carrier task forces from these areas and assign their antiship duties to submarines, we have in effect handed the Soviets a tactical victory; while the submarine is a very effective antiship platform, it has no capability to project power ashore. For this reason, I proposed in my White Paper on Defense that this forward role be given primarily to low-mix carriers designed for VSTOL aircraft. These ships would have a projection capability. Supplemented with submarines and ships such as hydrofoils and surface effect ships, they would provide a flexible and multipurpose force in forward areas, while permitting the retention of the carrier task forces in safer rear areas.

This difference notwithstanding, I think Admiral Steele has, in this article, made a major contribution to the ongoing debate about what our Navy should look like. I urge my colleagues to read this article with attention, and I ask unanimous consent that it be printed in the RECORD.

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

A FLEET TO MATCH OUR REAL NEDDS

(By George P. Steele)

Even Americans who follow the news of defense spending rarely glimpse the contrary views of professional military officers on costly programs. Military alternatives to weapons systems proposed to the Congress have been discussed earlier and discarded behind the secure doors of the Pentagon. Decisions involving huge sums are made, supported by highly technical, classified information and profession experience that cannot be made public. In the disciplined ranks of senior active duty personnel there can be no room for the maverick who publicly opposes an official stand on major procurement.

But U.S. naval officers are by no means of one mind on the need stated by the Navy for a $2 billion aircraft carrier or a $1.3 billion strike cruiser. Many officers hold that these great ships could not prevail at sea but would dominate the budgetary process, soaking up so much money that little of real consequence could be afforded. The very nature of the U.S. Navy's future role is involved in the controversy.

The World War II American fleets, in which the aircraft carrier forced out the battleship as the capital ship, emerged victorious to face no significant threat at sea for over 15 years. In that period of American naval supremacy, the Korean War marked the beginning of a preoccupation with the projection of naval power ashore that has continued to this day. The present generation of senior naval officers was schooled in that war, in the Cuban and other crises and in the long Vietnam conflict. Not in 30 years has an aircraft carrier group come under significant enemy naval attack. It is perhaps natural that this experience would exert strong influence on development of U.S. Navy doctrine and hardware, producing a fleet ideally suited to intervention in a land battle while operating from a privileged sanctuary at sea.

Knowing this, the Soviet Union has constructed a fleet heavy with submarines and guided-missile ships, backed by a highly effective, missile-equipped maritime air force. It is a fleet which can prevent American seapower from getting at its shore objectives. Instead of swinging around to confront the Soviet Navy with an effective counterforce able to defeat and push it out of the way, the U.S. Navy continues to program large and very expensive surface ships which are in great danger from both submarines and surprise missile attack.

For three decades the major U.S. Navy surface combatants have been subordinated to the defense of the aircraft carrier. This has shriveled the Navy's fighting ability on the surface until it is now incapable of

standing up to Soviet cruisers armed with potent, long-range cruise missiles.

A comparison of the latest U.S. nuclear-powered cruiser alongside that of a new Soviet Kara class cruiser shows the remarkable lag in U.S. weaponry. This weakness takes on great significance in remote areas such as the Indian Ocean or the South Atlantic, where the United States no longer can be certain of representation by aircraft carriers—there are simply not enough carriers. And without air support, a U.S. Navy surface force can be defeated easily by a Soviet surface force of lesser tonnage.

Evidence of the pervading influence of American naval experience with projecting power ashore while unopposed at sea is easy to find. The F–14 Navy fighter, a magnificent aircraft with its Phoenix weapon system, is designed primarily not for defeating enemy sea forces, but for besting the most capable land-based aircraft. Underway replenishment ships have grown to great size while shrinking in number because of the efficiencies involved; the Camden-class combat support ship is capable of carrying prodigious quantities of fuel, ammunition and stores—but if one is sunk, it is a grievous loss indeed.

Newer surface fighting ships are not well constructed to trade blows with other ships. Armor for key systems and compartmentation have not been emphasized enough. Redundancy of vital equipment, such as power supplies, and shock-resistant qualities, so important for continuing in action after sustaining damage, too often have been economized out of design. Operational security has retreated steadily before the long-term trend to more and more powerful radars and sonars and continuous data and information exchange by radio, all of which disclose precise position and other intelligence to an alert enemy.

IF WAR COMES

Soviet naval authorities have capitalized wonderfully on U.S. Navy weaknesses in the construction of the modern Soviet Navy and maritime air force. Under the long-term leadership of the brilliant Soviet Navy commander-in-chief, Admiral of the Fleet S.G. Gorshkov, forces have been built to fit a concept of surprise attack during which many missiles would be launched from coordinated air, surface and subsurface platforms. The attack is designed to overwhelm U.S. aircraft carrier groups.

It would work like this: Coming from many directions with different flight profiles, supported by heavy electronic jamming of American radars, the variety of Soviet missiles appears with breathtaking suddenness. Corridors of chaff mask the missile-launching Soviet aircraft and surface ships from U.S. radars. A variety of Soviet defensive missiles and rapid-firing light weapons works to prevent successful counterattack. (Soviet submarines need no such protection, unless they are old and must surface briefly to shoot; even then their exposure to counterattack is brief.) The American formations may well destroy a number of the incoming missiles, but Soviet designers have a good appreciation of U.S. Navy capabilities, and they expect mass attack to achieve an early saturation and many assured hits.

The surprise-attack strategy was tested in 1970 during a worldwide Soviet Navy exercise, the largest naval exercise ever held. Soviet forces played the roles of both attackers and defenders, with the fascinated Western allied navies taking ringside seats. A crisis was simulated, during which Soviet units maneuvered in close proximity to others playing the enemy role. Suddenly, a radio command from Moscow simulated the triggering of scores of missiles aimed at enemy aircraft carriers and other ships. It looked like another Pearl Harbor attack—but against forces underway at sea instead of moored in port.

Once missiles are launched in such numbers, U.S. Navy aircraft carrier groups as now constituted have no adequate defense against them. Retaliation by aircraft already airborne undoubtedly would hurt the Soviet forces badly, but the critical denial of American ability to project power ashore already would be accomplished. The only way U.S. forces could win such an engagement at close quarters would be to strike first, perhaps motivated by certain knowledge of impending attack—a highly improbable circumstance.

In times of heightened tension in the Mediterranean, such as the 1973 October War, the U.S.S.R. has moved strong surface and submarine forces into position next to American aircraft carrier groups, in effect holding a pistol to each of their heads. The eastern Mediterranean is within comfortable land-based air range from the Soviet Union, and the 6th Fleet is easily outnumbered in a Mediterannean submarine buildup because of greater Soviet resources. Building another nuclear-powered aircraft carrier and a strike cruiser is no way to redress that imbalance. And yet a balance in the Mediteranean is critical to resolution of disagreements in the Middle East in a way not inimical to the interests of the United States.

Even when Soviet naval forces are not concentrated for a devastating first blow, there is acute danger to the aircraft carrier group and its logistic support ships from Soviet nuclear submarines. These powerful underwater craft are guided by various independent sensors whose locating information is furnished to the underseas craft by radio. In spite of almost frantic efforts and brave talk by the Navy over many years, the submarine threat to U.S. surface forces is grave.

Attempts to increase the power of the echo-ranging active sonars of American surface ships sufficiently to detect an enemy submarine in time to kill it beyond the range of its torpedoes have served, unfortunately, to identify U.S. warships better to enemy submarines and to provide an aiming point at a great range for listening submarines with guided missiles. The improved active sonars have not been adequate even to guard against torpedo attack in many areas of the oceans where unfavorable conditions inhibit the pulsing surface ship sonar far more than they do the submarine listening sonar.

Antisubmarine fixed-wing aircraft and helicopters employing sonobuoys and other devices have enjoyed some success in favorable sea areas. But reliable, all-direction, continuous air protection for surface forces, including aircraft carriers, is still not possible. Two or more nuclear-powered attacking submarines can saturate the defenses of an aircraft carrier group, and it is not difficult for the Soviet Navy to use several submarines in concert.

The effect of weather is very important. Flight operations must be curtailed or cancelled in heavy weather. Surface ships can proceed only at moderate or slow speed and, even then, with great difficulty in areas such as the North Atlantic and North Pacific during protracted periods of the winter months. Icing conditions and extreme cold add to the adversity. But the nuclear-powered submarine is not much affected by weather. It can continue to make top speed, and its periscope and antennae, should it elect to use them, are nearly invisible to the eye or radar in spray or waves. The submarine's guided missiles do not need a relatively steady flight deck. Nor do its launching tubes ice up. Its torpedoes are effective except in the mountainous waves of a big storm.

The question of fatigue of men and machines also must be considered. Around-the-clock flight operations required to stay in top defensive posture, or to keep a constant offensive punch airborne, can stretch into weeks during crisis or war. The strain was eased in the Vietnam war by using two aircraft carriers, each with a 12-hour flying cycle, with perhaps another carrier or so in the area to assist if need be. With fewer carriers now, it is likely that we have seen the end of such a practice, particularly in the presence of threatening Soviet forces at sea. Each carrier, because of the concentration against it, will probably have to keep its guard up at all times. As a crisis continues, time will work for the Soviet submarine, surface and air forces. The numbers of operationally ready aircraft on American carriers on continuous alert can be expected to decrease; spare parts will dwindle, maintenance men will be hard-pressed. By contrast, Soviet missiles in their launch tubes are not strained by any problem of accumulating flight hours.

A U.S. decision to make first use of nuclear weapons at sea would not significantly improve America's naval position. Nuclear weapons could not successfully ward off surprise attack, and the gain in kill capability against the enemy would be much more than offset by the vulnerability of large U.S. ships to nuclear counterattack. And the use of nuclear weapons at sea will intensify the conflict, increasing the possibility of escalation to full nuclear weapon exchange.

MEETING RESPONSIBILITIES

The pressing problem for American naval commanders is how to go to the aid of our treaty partners in the North Atlantic Alliance and the Pacific or to support our friends, with the present and projected forces available, in the teeth of the formidable new Soviet forces. The obvious areas where naval aid would be needed at the outset of a NATO war with the Warsaw Pact powers would be the waters off Norway, Denmark and the Mediterranean nations. U.S. treaty commitments are heavy in the Korean-Japanese area, and naval power is indispensable to successful defense there.

Where treaties do not exist there are still very real responsibilities that could bring the United States into direct confrontation with the Soviet Union at sea. Latin America and Africa may well be the scenes of future contest between the superpowers regardless of the present prevailing public mood against involvement anywhere.

The most recent behavior of the United States Navy in confrontation with the Soviet Union—in the October, 1973, crisis—is best described as force posturing. Soviet commanders must have been gratified by the positioning of major American aircraft carrier forces in the Mediterranean where they are easy marks for carefully orchestrated surprise missile attacks. However reassuring the posturing American fleet may have been to the Israelis, or threatening to the Arabs, the truth is that the 6th Fleet was staked out for sacrifice, deprived of enough sea room for defensive maneuver.

Given that example, it is not hard to imagine U.S. aircraft carrier groups ordered to move into the Norwegian Sea, and the Sea of Japan in some future crisis, while others maintain the desperately dangerous posture in the Mediterranean. The situation would bring to mind the movement of the United States fleet to Pearl Harbor just before World War II, over the objection of its commander-in-chief. The principle of civilian control of the armed forces, obviously, is both sound and essential, but civilians are not trained to make tactical decisions. To abuse the principle of civilian control by requiring force posturing in crisis—in defiance of sound military advice—can lead only to disaster.

It is fair to ask whether there is any alternative, both in the crisis handling of our presently structured sea forces and in the

balance of types of ships and aircraft that should be purchased for the future. Must we conclude that our teeth are drawn, except when we take on a lesser power with the assent of the Soviet Union? Must we continue to buy the kinds of forces that continue currently exploitable weaknesses?

If the aircraft carrier groups of the U.S. Navy were not formidable, the U.S.S.R. would not have gone to so much trouble to develop a counter. There is no other way to keep potent airpower across the seas without dependence on foreign bases which are fixed in place, easier to attack than a carrier, and which can suddenly be denied to us for political reasons. The aircraft carrier has by no means outlived its usefulness, but it is no longer a "line-of-battle" ship that, protected by lesser vessels, can hold its own against all comers. It must be held back, hidden to the extent possible in the vastness of the ocean until the way is prepared for it to perform its unique service.

The "strike cruiser," as yet unbuilt, would not be a line-of-battle ship either because it is not capable of operating within range of hostile Soviet air concentrations or of defeating Soviet submarines. This vastly expensive weapon, too, would have to be held back to await employment against surface forces. But the irony is that those surface forces can be destroyed more easily by carrier-based aircraft or submarines.

BATTLE-WORTHY SUBS

Today, and for many years to come, the really battle-worthy capital ship is the nuclear-powered submarine. It has the unique ability to get close enough to destroy the enemy surface ship, using missiles or torpedoes, without great risk, regardless of how much air power is ranged against it. The only adversary that it really need fear is another and better submarine, down in the sea with it, using the same advantages of mobility and stealth.

Suppose that this thesis had been accepted and acted upon in the crisis of October, 1973, in the Mediterranean. We would have withdrawn our aircraft carrier groups as quickly as possible, while U.S. nuclear-powered attack submarines steamed into the area in strength. Each major Soviet warship, surface ship or submarine would have been tracked down by one of these American submarines. With sufficient strength in place, American submarines could show themselves in sequence to their adversaries and then break the contact to remain in the vicinity.

What a different outlook for the Soviet Mediterranean commander in these circumstances. The knife is at his throat, not the American commander's. The important Soviet ships are being dogged by submarines that can sink them in short order. Yet the Russian commander's capability to inhibit this attack or even to keep track of U.S. submarines is slight, given the qualitative superiority of the American undersea craft over Soviet counterparts and countermeasures. He cannot place his surface ships in contact with the vulnerable U.S. aircraft carriers and other surface units because they are well out in the Atlantic Ocean.

If hostilities begin, he can envision the destruction of most of his fleet, followed up by the reentry of the American aircraft carrier groups into a Mediterranean cleared of most surface and submarine opposition and blockaded by American submarines against new Soviet naval forces at the Atlantic and Black Sea entrances. Soviet maritime air power would remain a threat to the U.S. aircraft carirers, but one *they* are best capable of defeating.

In recent years the United States and the Soviet Union each have maintained a squadron in the Indian Ocean where the oil lifelines of Japan and Western Europe originate. Due to the great distances involved from U.S. bases and the lack of emergency landing fields for carrier aircraft, the Indian Ocean would seem, at first glance, to be an ideal operating area for the proposed strike cruiser. If, however, the strike cruiser is built for the purpose of being a surrogate aircraft carrier when and where our thinly spread carriers cannot be present, it faces a Mediterranean-like threat.

As with the aircraft carrier, Soviet surface and submarine forces have vulnerable targets for surprise attack in the strike cruiser, its escorting surface ships and the ubiquitous logistic support ships required by surface forces. The best American tactic to guard against surprise attack is to withdraw from the area, but the difficulty of locating Soviet submarines is such that a very considerable withdrawal would be required. Even then, there would be no certainty that the submarine missile threat had been shaken off unless U.S. submarines stay protectively close to American surface forces; but it would be better to put our subs near the opposition.

U.S. submarines stationed near a Soviet surface squadron in the Indian Ocean would not need to hightail it away to avoid surprise attack. Remaining hidden until commencement of hostilities, they could sink their surface adversaries without fear of the enemy's guided missiles. Only the Soviet submarines would be dangerous; so far, however, U.S. submarines are markedly superior. Should Soviet forces be on the point of some intervention in another nation, the presence of a number of nuclear-powered U.S. submarines would let them know that the U.S. Navy had the power present to destroy the Soviet units without significant risk to itself.

This is not to say that the presence of surface warships in such remote areas is undesirable. There are times when the flag must be shown. And the submarine, powerful though it is at sea, is not the symbol which the apparently formidable surface warship provides to the peoples of unsophisticated nations; an unreasonable fear of nuclear propulsion also can inhibit port visits by nuclear-powered subs. Force posturing does have its uses, so long as we do not delude ourselves as to the fighting capability of the ships involved. We certainly will not delude the Kremlin.

The Chief of Naval Operations, Adm. James L. Holloway III, recently wrote, "We need ships *in proper balance* among types: carriers, surface combatants, submarines, amphibious and support ships. And, within a constrained budget, we need a *careful balance* between high-performance, general-purpose forces and less expensive limited-mission ships we can procure and deploy in greater numbers. It is these two kinds of balance that go into the careful development of our shipbuilding programs. These programs will enable the Navy to maintain a modern fleet, sized to the needs of our future security requirements." (Italics added for emphasis.)

That statement is sound. The quarrel can only be over just what constitutes a "balance" and, perhaps, just what constitute our "future security requirements." There can be no doubt about the reality of constrained budgets and, if we err in striking the balance by building great, expensive, vulnerable surface ships, there surely will not be enough money left to build an adequate number of "line-of-battle" submarines, the only type of ship that alone can stand up to the Soviet air-sea threat.

Our future naval security requirements can be boiled down to a first-priority need to be able to control the seas. If that requirement is not fulfilled, then all of our allies and friends, all of our overseas interests and all of our vital imports are subject to Soviet control. If the Soviet government successfully denies us the use of the sea, expensive but vulnerable forces for power projection ashore would be useless, if not already sunk. Our only recourse would be a self-defeating nuclear exchange—there would be no other way to get at the U.S.S.R.

Even without building the $2 billion aircraft carrier, we have a substantial number of aircraft carriers on hand. These ships and their embarked aircraft are individually much more potent and sophisticated in projecting power ashore than the older ships and planes that were recently retired. Considering the size of the threat to NATO, it may be advisable to concentrate the greater number of the carriers in the Atlantic Fleet, placing only those with nuclear power in the Pacific Fleet to be able to go to the aid of the Republic of Korea and Japan.

But we would first have to use our submarines to sweep away Soviet surface and submarine forces in NATO waters and the Pacific. The rub is that for years the rate of U.S. submarine building has been so low that we do not now have enough in being or programmed for effective action. These are the warships that count the most today and, without enough of them, the U.S. Navy does not and will not control the seas.

A NAVAL FORMULA

To regain control at sea, first emphasis in U.S. Navy shipbuilding should be placed on building a powerful force of nuclear-powered attack submarines. It is not necessary that they all be high-performance submarines; less expensive, limited-mission submarines are suitable for many tasks, but nuclear power is essential for all. Submarines alone cannot provide the flexibility required to exercise the control of the seas, and they cannot be allowed so much of the construction budget that other types of modest-sized ships are crowded out. But surface ships that cost enormous sums, such as the large aircraft carrier and the proposed strike cruiser, should be eliminated.

We must redouble our efforts to regain supremacy for our surface forces in electronic warfare and in variety and sophistication of missiles. New surface ships should be designed to absorb punishment and still be able to fight. Since the present and projected Soviet sea forces are the clear danger, every decision about the fleet and aircraft we build should be tested for effectiveness in sea combat before capability in a land battle is considered.

Adm. Gorshkov has demonstrated the power of a tactical concept when implemented in the construction of sea forces. We must revise our tactics and modes of operation to meet the realities we now face at sea, taking particular care to free ourselves from the burden of our successful past naval actions against shore targets which has the U.S. Navy in a dangerous rut.

There is no reason why American innovation and technology cannot master the Soviet challenge at sea—if we have the brains, the vision and the will to use our money wisely.

Mr. TAFT. Mr. President, I especially commend Vice Admiral Steele's comments on the necessity of increasing our submarine building capacity even to the extent of eliminating "surface ships that cost enormous sums, such as the large aircraft carrier and the proposed strike cruiser."

A NEW CLIMATE OF COOPERATION NEEDED

Mr. HUMPHREY. Mr. President, there is scarcely an American who is not affected in his or her daily life by one or another of a host of Federal regulations. Time and time again we have all received complaints from businessmen

swamped with unnecessary paperwork requirements from Federal regulatory agencies. The underlying problem is not with the concept of regulation, but with its execution. And too often that is the result of outmoded Federal personnel policies that give insufficient incentives for employees to perform responsively.

The job of reforming the operation of the Federal bureaucracy to encourage greater responsiveness and accountability is clearly a big one. It cannot be done by government alone, but requires the support and input from all segments of society. There is definitely a need for help from the business community in the effort to reform the procedures of government. Too often in the past we have failed to take advantage of the incentive systems and other management techniques developed in industry to see if some of them can be applied to government.

Mr. President, the distinguished junior Senator from Vermont has for some time been in the forefront of those seeking remedies to make the Federal bureaucracy more responsive to the needs of the people. He recently wrote an article which appeared in the Burlington Free Press on April 26, 1976, detailing the need for a better working relationship between the public and private sectors in that effort. The article points out some concrete ways in which this can be accomplished, and I ask unanimous consent that it be printed in the RECORD.

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

A NEW CLIMATE OF COOPERATION NEEDED

(By U.S. Senator PATRICK J. LEAHY)

Inevitable enemies.—Many would agree that this is an apt description of the relationship between business and government. It is easy to understand why.

The Federal Government has fallen into the habit of regulating business by fiat. Business is often weighted down by a host of federal restrictions they played little role in devising. Congress, I must admit, has made matters worse by falling into the habit of blaming business for every public problem from the energy crisis to pollution to high unemployment to inflation.

Business has been characterized by equally inflexible attitudes. It has become a standard litany for executives to attack every new environmental regulation as misguided and likely to aggravate unemployment. The oil companies clearly encouraged polarization with their "damn public interest" attitudes during the energy crisis. A more immediate example is provided by Allied Chemical's failure to take adequate precautions to prevent Kepone poisoning at their Hopewell, Virginia, plant. As a Senator who participated in the recent Kepone hearings, I'll admit that it was sometimes hard to maintain an evenhanded attitude toward business after some of the testimony.

When they are not at loggerheads, business and government have tended to take an ostrich-like stance towards each other's problems. From the failure of the Penn Central to the Lockheed Loan, many in Congress have taken the attitude that the problems of giant businesses are only of concern to the private sector. Similarly, few on Capitol Hill have given serious consideration to the future capital needs of American business.

Business has taken an equally passive role in response to governmental crisis. The financial difficulties of New York City are a prime example. Our leading banks continued to lend New York City money, long after it became obvious that the public interest required that they should blow the whistle and try to urge the city to mend its fiscal ways before it was too late.

I strongly believe that this continual hostility between business and government is not the result of any inevitable dialectic. As we stumble from one national problem to another in the mid-seventies, it is easy to hunt for scapegoats. But I strongly believe that little is served by trying to make either business or government the "fall-guy" for our current dilemmas.

This continued polarization between business and government has had serious national consequences. It may be heresy for a Democratic Senator to say this, but I strongly believe that there are many areas where the public can benefit from close collaboration between government and business.

Let me give two examples. Despite a federal budget of about $400 billion, less than $150 million annually is spent to assess the effectiveness of government programs. Put another way—$1 is spent on evaluation for every $2,667 the government spends on programs. What makes matters worse is that many of the evaluations are never even seriously looked at. Often a government agency is asked to assess its own programs—not the best way to get an impartial evaluation. As the old catch-phrase goes, "This is one hell of a way to run a business."

Obviously, quality control at General Motors or IBM is different from quality at HEW But many of the techniques employed by business to effectively manage far-flung operations are also applicable to government. In recent years some progress has been made. Government executives now read Peter Drucker and have heard of management-by-objectives. But often this is about as far as things go. The growing friction between business and government has worked to prevent any further cross-fertilizations in the area of management.

Another major example is provided by the Civil Service. Once they enter government service dedicated workers are instantly transformed into the hated bureaucracy. Part of the problem is that the government is without an effective incentive system to encourage superior performance. A small example—the last time the Presidential Award for Distinguished Federal Service was given out was in 1970.

Hiring presents equally serious problems. Despite the existence of an elaborate civil service system to encourage hiring based on merit, the system rarely works with total equity. It is common knowledge in Washington that a good way to get a middle-level job in government is to have a friend tailor the job description to fit your resume.

In contrast, business has always had a reputation for being able to recognize and promote dedicated officials. It has also been able to instill in its workers far more company loyalty than is common in the corridors of the federal government.

No one would seriously argue that the personnel problems of government are identical to those of private industry. Nor would I contend that the solution is to run "government like a business." But one doesn't have to sound like a character out of Sinclair Lewis' "Babbit" to argue that government could learn many valuable lessons from studying the personnel policies of many leading corporations.

I have cited just two examples. But I hope they illustrate the larger point that government has much to learn from business. Similarly, I recognize that business executives often feel frustrated by their inability to take advantage of the unique expertise of the federal government. Clearly, the answer is not an expensive new federal program to spur cooperation. Rather, the solution may be childishly simple. Isn't it time we began trusting each other again?

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

Mr. HUGH SCOTT. Mr. President, I have today decided to join Senator HARTKE and Senator SCHWEIKER as cosponsor of S. 3192, the Consumer Communications Reform Act of 1976. I have long advocated the cause of competition in the U.S. economy. The marketplace mechanism has served this country well, and vigorous competition results in high quality service, lower prices, and innovative products. Without such competition, the Government must step in with its heavy regulatory hand to prevent the inevitable abuses.

The telephone industry has been the most successful of the Government-sanctioned monopolies. Its success, of course does not suggest that increased competition will not improve service to telephone users. To the contrary, an increase in competition in the equipment market may well increase the diversity of products and services available to the consumer.

However, several current practices of the Federal Communications Commission, which were designed to promote competition in the telephone industry, have come under attack. It is alleged that these practices allow certain competitors to skim the cream from the Bell System's highly profitable markets. Since these high profit markets, it is argued, subsidize the low rate paid by the homeowner and rural user, it follows that these rates will have to be raised to make up the revenue lost in the high profit market.

At this point, disagreement exists as to whether or not these policies if continued will result in rate increases. As a matter of fact, the President's communications experts in the Office of Telecommunications Policy have informed President Ford that home and rural rates need not rise. Presumably these experts are disinterested observers who have at heart the best interests of the country as a whole.

Notwithstanding these assurances, I believe that all parties to the controversy should be provided a congressional forum before which they can present their views. I can best promote the cause of full and frank discussions by joining as cosponsor. We have every reason to be proud of the achievements of our telephone industry, and want to do nothing that would imperil it.

It is my earnest hope that hearings will be scheduled at the earliest possible time. S. 3192 raises basic issues of profound import to the telephone industry—issues that impinge on our philosophical commitment to vigorous competition in a free market economy. Let all views be heard.

SENATOR WILLIAMS' REMARKS BEFORE NATIONAL COUNCIL ON ALCOHOLISM AND AMERICAN MEDICAL SOCIETY ON ALCOHOLISM

Mr. HATHAWAY. Mr. President, as chairman of the Subcommittee on Alcoholism and Narcotics, I have come to appreciate the great contribution to the cause of helping stem the tide of alcoholism made by the chairman of the

parent Committee on Labor and Public Welfare, the distinguished Senator from New Jersey (Mr. WILLIAMS).

In 1970, he coauthored the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act and helped guide it through the Senate. He has been a strong advocate of adequate funds for the treatment and prevention of alcoholism. His continued efforts to bring relief to the more than 10 million Americans who suffer from this disease have been an inspiration to us all.

On Tuesday, May 11, Senator WILLIAMS addressed the National Council on Alcoholism and the American Medical Society on Alcoholism at the Shoreham-Americana Hotel. I ask unanimous consent that Senator WILLIAMS' sensitive and compassionate remarks be printed in the RECORD.

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

REMARKS BY THE HONORABLE HARRISON A. WILLIAMS, JR.

I am enormously pleased at this opportunity to address this large gathering of persons dedicated to the simple principle that alcoholism is a disease and that alcoholics are sick people to be healed—not punished.

A Century ago an English Author, Samuel Butler, wrote a book about an imaginary Utopian society called "Erewhon."

Erewhon is an anagram for "nowhere."

And in this mythical society, when people got sick, the authorities put them in jail.

We don't have to look far to find modern-day Erewhons.

More than 20 States in this Union still put alcoholic people in jail for the sole reason that they get sick in public.

But this is our Bicentennial Year.

What an appropriate time to rededicate ourselves to freeing our citizens from the bondage of alcoholism—bringing them from nowhere to someplace; a place where they can be treated for what they are—real, live human beings who have a health problem and want to be helped.

First, I want to thank all of you who have worked so hard and accomplished so much, in a cause that means a great deal to me and to the wellbeing of the nation.

And second, I want to comment on where we have come in the last half-dozen years and to make some candid observations as to where we are and where we should be headed.

Last week, the National Institute on Alcohol Abuse and Alcoholism celebrated its 5th Anniversary.

The Institute was created by the comprehensive alcoholism legislation which I was privileged to co-author with Senator Harold Hughes in 1970.

For the 30 years prior to the passage of the 1970 Act, Congress had enacted an enormous number of statutes designed to establish, maintain, and improve federal health, rehabilitation, and social welfare programs.

But before 1966, none of these statutes specifically mentioned alcoholism.

None of the programs Congress had established had been sufficiently utilized to mount a coordinated and effective Federal attack upon the problems related to alcohol.

Nor had the issue been given the stature, visibility, and funding within the Federal Government which was so vital in light of its importance to the health and well-being of our citizens.

Yet alcoholism was—even then—recognized as the third largest killer of our citizens.

Doctor Roger Egeberg, then the top health official of the United States government, testified before a Senate Subcommittee in 1969 that alcoholism was our number one health problem.

It is my opinion that if you consider the deaths from suicides, accidents, and other health problems—many of which are really caused by alcoholism—it is far and away the largest cause of death in America.

By 1969, the public began to admit its concern about alcoholism.

Medical authorities were nearly unanimous in their recognition of alcoholism as a disease.

Two U.S. Courts of Appeal had held that alcoholism could no longer be handled by the criminal process.

The U.S. Crime Commission had recommended elimination of drunkenness as a criminal offense.

A report by a special advisory committee to the Secretary of Health, Education, and Welfare, had concluded that traditional punitive measures could be expected to have little effect on behavior that arises from illness.

And that report recommended a massive Federal program concentrating on the disease of alcoholism.

With the passage of the 1970 Act, the people's representatives in Washington unanimously declared that alcoholism would be treated as a disease—not a crime.

We unanimously declared our determination to bring this disease under control.

The organizational structure was created to begin what we knew would be only the first small step in the necessary massive effort.

From that beginning has grown a concerted national effort, built on the foundation of largely private endeavors of many years standing.

Many of you helped to build the foundation, and you know how difficult has been the task.

But the progress we have made has been inspiring.

In 1970, only a handful of States had viable alcoholism treatment programs.

Now, there are 55—in all of the States and Territories.

At least 27 states have adopted important elements of the uniform state law for treating alcoholism as an illness and not a crime.

Over 150 major hospitals have been accredited to deliver a full range of treatment and rehabilitation services to alcoholics.

Insurance companies have begun to include alcoholism as a covered illness in their health policies.

Hundreds of corporations have established occupational alcoholism programs for their employees.

But most important—we have shown that alcoholism can be treated—that insanity or death need not be the inevitable result.

But make no mistake—our work has only begun.

Most professionals and service agencies still do not treat alcoholism.

The Federal law prohibiting hospitals from discriminating against alcoholics has yet to be enforced.

Fifty percent of the felonies committed in this country, including homicides, directly involve the abuse of alcohol.

The toll of human suffering cannot be measured, but alcoholism leads to the deterioration of literally millions of families through job losses, broken marriages, and death.

Yes, the tragic fact is that alcoholism is on the increase in every age group and on every economic, cultural, and educational rung of the social ladder!

So, I pledge to you today to intensify my efforts as a member of the United States Senate to see that this work is carried forward.

Let me fill you in on some recent developments:

On March 29, The United States Senate passed by unanimous vote, S. 3184, to extend the grant authorities and expand the programs begun by the 1970 Act.

I was happy to join with Senator William Hathaway of Maine in drafting this legislation and in urging the Senate to pass it.

Similar legislation is expected to pass the House of Representatives in the next few days.

The bill, if it becomes law, will not only increase the amounts of grants authorized for alcoholism treatment, but also—of great importance—will double the incentive money to those states which have decriminalized public drunkenness.

Another significant provision of the proposed revisions in the Federal program would provide for increased emphasis on Federal research into the causes and consequences of alcohol abuse.

Compared to other health areas, including drug abuse, there has been only token research in this field.

And yet we know that more than one-third of the patients in our general hospitals today are there for illnesses directly related to the abuse of alcohol.

There is still much to learn about this disease.

We don't know the causes of alcoholism—but we do know that the risk of developing certain types of cancer and various other diseases is directly related to the consumption of alcohol.

And we know that alcoholism in pregnant women can cause physical deformities in their offspring.

If we are going to learn some of the answers—answers which may eventually lead to effective prevention of alcoholism—we must attract the brightest and the best young scientists to this field.

Unless we provide an environment in which these scientists can do quality work, alcoholism research will continue to be the step-child of the scientific community.

So I am pleased at this increased emphasis on research.

And I am also pleased that the new legislation calls for increased attention to alcoholism among women and children.

I consider it of the utmost urgency that we make a major effort to reach and help women alcoholics.

I am increasingly alarmed by our failure to identify the so-called "hidden alcoholic" and get her into treatment.

Women are reputed to comprise the largest increase in the problem drinking population in recent years.

It is now estimated that fully one-third of the Nation's 10 million alcoholics are women.

But I think that statistic is also wrong.

It is my belief that there are as many alcoholic women as men.

But few of them receive treatment.

A degree of stigma is still attached to the term "alcoholic"—and for women it is a double stigma.

So the women still hide in their bedrooms—ashamed to ask for help.

And their well-meaning families and doctors join them in this conspiracy of silence.

The longer the community tries, as it always has, to quarantine it with silence or whispers, the surer the disease will spread to other frightened victims and their bewildered families.

And if we allow this secret illness to run its course unchecked, we will sentence these women to insanity or death.

Some have blamed the women's movement for the apparent increase in alcoholism among women.

I think that is very short-sighted.

If anything—with increased numbers of women moving out of the home and into the marketplace, and with women increasingly free to admit their problems and seek help—the women's movement has helped to identify more of the women alcoholics who have been there in the shadows all the while.

And we must remember that in helping women to recover we will—at the same time—help prevent alcoholism and other emotional problems in their children.

It has long been recognized that children of alcoholics are a high risk group for developing this disease.

The increase in alcoholism among our children is a tragedy which we cannot afford to ignore.

And so the valiant effort that has been made has only been one small step in the journey we must travel.

In this period of economic stress, alcoholism programs may be the first to go.

You all know the battle currently being waged in the Congress to keep alcoholism from being folded into the block grant proposals of the Administration—at a greatly reduced level.

And yet we have always known—especially those of you who have been involved in employee programs designed to reach the alcoholic—that it makes good economic sense to identify and treat this population.

The National Institute reported to the National Advisory Council last week on the first benefit/cost study conducted on a broad national scale.

The study showed that a minimum of three dollars will be returned to the economy for every dollar spent on treatment.

This study was based on follow-up studies of patients which showed decreased health care costs, decreased motor vehicle accident costs, and increased earnings of over 35 percent.

The fight for adequate funding has always been an up-hill battle—but this year the fight will be tougher than ever.

And we need your help.

And policy decisions must be made with respect to the place of alcoholism treatment in other health planning.

Ultimately, of course, decisions must be made concerning the place of alcohol treatment in a national health insurance program.

These are decisions which will be made by the Congress.

But, again, we need your help!

Most importantly—if we are going to win this war on alcoholism—we must put behind us the petty politics, the infighting and the struggle for turf that has dominated the alcoholism field for the past year or more.

There are far too few of us dedicated to this mission—surely there is enough work for all of us to do, without jeopardizing the effort by childish jealousies.

Let us help, not hinder one another in this effort.

The task before us is formidable, but together we can achieve our goals.

The results will be well worth the effort.

There need be no aura of hopelessness about treatment of alcoholism.

We know treatment works!

We know we can help an alcoholic get well!

There is simply no need for people to die of alcoholism in a civilized society.

WHAT AMERICA MUST DO IN THE NEXT 10 YEARS

Mr. PERCY. Mr. President, I would like to bring to the attention of the Senate an article by Mr. John Gardner, chairman of Common Cause. In comments prepared for the Christian Science Monitor, Mr. Gardner approaches the ambitious subject, "What America Must Do in the Next 10 Years," and helps to clarify our thinking by outlining six major problem areas with which the world must deal in the decade ahead.

As Mr. Gardner so ably points out, these are areas of international challenge. As we seek to redefine our national goals during this Bicentennial Year, we must recognize that those goals will be reached only in the context of our cooperation in solving truly major problems for all the peoples of the world.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Christian Science Monitor, May 7, 1976]

WHAT AMERICA MUST DO IN THE NEXT 10 YEARS

(By John Gardner)

(NOTE.—As the U.S. celebrates its bicentennial, leaders in various fields reflect on what should be the nation's goals in the decade ahead. The following is the first of a weekly series of guest columns.)

We can't talk of America's future apart from that of the planet. With that proviso, I'm going to suggest that in the years ahead we must focus on six clusters of problems.

CONFLICT

There is no future for the species unless we come to grips with the problem of human conflict. The threat of nuclear war once rested chiefly in bipolar competition between the United States and the Soviet Union. Now it's a multipolar world—infinitely more unpredictable and dangerous. Proliferation is here. Every day the possibility increases that accident or miscalculation will shatter the delicate balance of fear and readiness among the nuclear powers. Unexampled destructive power will soon be available not only to terrorist groups but to warped or lunatic individuals. The next nuclear bomb detonated in anger will very likely be set off by a terrorist representing no nation. We must cope not just with conflict between nations but with all human conflict, including racial and religious prejudice.

In any free and lawful society the existence of conflict is accepted as a necessary and even desirable condition of social health. It is not always an expression of the human impulse to violence. Sometimes it is a consequence of normal competition, sometimes the result of smoldering injustices that cry out for remedy. But a free and lawful society attempts to resolve it peaceably within a framework of order.

If we do not blow ourselves up, we shall construct a peaceful world in much the same fashion—by painstakingly putting together the institutional arrangements which permit the ebb and flow of conflict and tension within an international framework of order. The goal seems unreachable. Yet every modern nation is a composite of earlier tribalisms and regional loyalties, most of which have given way to national identity. With the new consciousness of our shared responsibility for our small planet, it is not inconceivable that the same process might occur worldwide.

POPULATION

World population is increasing at the rate of 200,000 more births than deaths a day, and we will have to endure heavy population growth for decades to come, with devastating consequences in human suffering and ecological overload.

There has been fruitless debate as to whether our concern over world fertility rates should express itself in family planning programs or programs of education, health, nutrition and agricultural development. The only sensible answer is "both." We don't know as much as we should about reducing fertility rates, but there is a good deal of evidence that they come down when the lowest income groups are lifted off the floor of absolute poverty and brought out of the utter darkness of malnutrition, ignorance and despair.

ECOLOGY

We are acutely conscious of the problems of the biosphere and the hazards to our life-support systems—the quality of our air, water and soil, the dangers to the upper atmosphere and to the climate. Some say the developed nations want pollution control at whatever cost to economic growth and the developing nations want the reverse: economic growth at whatever cost. But that is an oversimplification. Sensible people in all nations are addressing themselves to solutions that will permit ecologically sound economic activity.

Today the waste of energy and nonrenewable resources in the advanced countries, certainly in the United States, is phenomenal and inexcusable. Clearly the industrial nations are going to have to develop an ethic of conservation.

THE INDIVIDUAL AND SOCIETY

Today the totally programmed society is an easily imagined possibility. If the claims of society are taken to justify the snuffing out of freedom and individuality, then the society's chief source of creativity and capacity for renewal will be stifled. If, at the other extreme, individualism becomes anarchism or each-for-himself atomism, the society will disintegrate. In terms of practical social action, the individual's relationship to society comes to a couple of basic questions. The first is whether the society has created a system of governance built on the principles of accountability and the rule of law. Only if the governed can call power to account will they survive as a creative and vital force in the society.

The second question is how individuality can survive in a world that is moving toward ever larger and more complex organizational patterns. How spare the individual a sense of impotence and anonymity? How preserve the idea of community?

EQUAL ACCESS TO SOCIETY'S BENEFITS

The debate over equality will never end. There is no likelihood that we can make all humans equally intelligent, equally tall, equally good or equally happy. But we have come to believe that we can, if we work hard at it, make them equal before the law, give them equal opportunity, and—with considerably greater effort—give them something approaching equal access to some of the crucial benefits of society such as education, health care, shelter and enough to eat.

We have a long way to go. We could speak of the prison of ignorance, of racial injustice, of the oppression of women, but one example—poverty—will suffice. We know the poverty that exists in our own country. Of two billion people in the roughly 100 developing nations, about 40 percent or 800 million are barely surviving. Many aren't surviving. It is exceedingly difficult, even for people who live in very modest circumstances, to understand the brutal realities of "absolute poverty": starvation, mental and physical handicaps stemming from malnutrition and lack of medical care, death at an early age. Under such conditions, a phrase such as "equality of opportunity" becomes meaningless.

VALUES AND FAITH

Animals react to their physical environment, and so do humans. But humans go a giant step further. They spin vast webs of symbol, myth, imagination, dreams, visions, and world views to which they react just as strongly as they do to the physical environment.

For most of the 20th century, the majority

of the world's most highly educated minds believed (or *acted* as though they believed) that this was not an important feature of human behavior. But as the century moves toward its close, values and faith have again become a serious topic of interest. But what values? What faith?

Must we invent wholly new values and faiths? The answer is "no." Must we return to the old faiths? Again, the answer is "no." New values and faiths flow out of old values and faiths. The transformations may be spectacular, but they have a past. We cannot break with the past—nor can we return to it. Life flows on. The Latin proverb "Natura non facit saltus" says that nature does not proceed by leaps. Still less does it leap backward. Out of its heritage of old values and faiths, a vital society is always fashioning something new that speaks to the conditions of the day. If not, then the society dies at the core.

OVERSIGHT OF THE INTERNAL REVENUE SERVICE

Mr. MONTOYA. Mr. President, recently I was privileged to testify to the Senate Committee on Finance concerning legislation which I have introduced or supported and which was being considered for incorporation into the tax reform bill which is being marked up by the committee.

I have held oversight hearings into the procedures and practices of the Internal Revenue Service for several years, as most Members of the Senate are aware. This year we have held hearings in four major cities of the United States, taking testimony in the field from concerned taxpayers and from officials of both local and State governments as well as from agents and regional directors of the IRS itself. We have heard both sides, and have spent many hours examining the problems which taxpayers have encountered in paying taxes, or in tax disputes.

I am hopeful that the legislation which I have proposed to correct some of the problem areas uncovered in our hearings will be incorporated in the Finance Committee bill. I ask unanimous consent that my testimony before the committee be printed in the RECORD so that the background for my legislative suggestion will be clear.

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

STATEMENT OF SENATOR JOSEPH M. MONTOYA

Mr. Chairman:

I would like to express my gratitude to the Committee for permitting me to testify concerning legislation which I have proposed to amend the Internal Revenue Code.

The need for reform of our tax laws is not a controversial subject—not anymore. Everyone—taxpayers, tax experts, members of Congress, businessmen, lawyers—everyone has at least one pet "reform" which he would like to see become law. However, the decisions about exactly which reform should be passed, or exactly how that reform should be accomplished are not so easy. That is the very difficult job which this Committee has tackled, and I commend both the Chairman and the members for the thorough and excellent work you are doing.

The bill which has come to the Senate from the House, H.R. 10612, is the end product of many months of difficult work by our colleagues in the other Chamber. I am appreciative of the time required to adequately review that bill, and to consider additions or changes which Senate members would like to make. I hope that my proposals will be included in your serious consideration, along with the many other excellent proposals which have been made.

Briefly, the tax law changes I am proposing are of two kinds: changes in the amount of tax to be paid in certain instances, and changes in the administrative practices and procedures of the Internal Revenue Service in collecting taxes.

I will submit for the record a more detailed statement of each of the amendments to the Code which I have proposed.

I would like to address the general thrust of my legislative proposals, however.

As you know, the Appropriations Subcommittee on Treasury, Postal Service and General Government, of which I am Chairman, has held hearings for several years to examine taxpayer services provided by IRS, procedures used for tax collection and audit, and to provide a forum for taxpayers who were critical and had found it impossible to make their complaints through other channels. I first announced that I would hold these hearings late in 1972. I was amazed at the immediate and overwhelming response from citizens.

It became clear to the Subcommittee that many citizens were angry and frustrated. They were losing confidence in the tax system itself. Our first hearings uncovered many serious problem areas, and subsequent work by the Subcommittee—including the second set of hearings in 1974—confirmed the need for us to prepare corrective legislation.

We heard testimony from IRS officials, tax assistance professionals, tax assistance volunteers, tax lawyers, CPA's, tax reform organizations, and from taxpayers themselves. In all of this material, the most distressing element was the increasing evidence of bitterness and frustration which is expressed by a large percentage of the public.

On Thursday of this week I will hold the first of four field hearings in New York. We will hold hearings in the next few weeks in Oklahoma City, San Francisco, and Chicago. We will have a full day of public hearings in each city. Once again, we have received many requests from taxpayers who wish to testify on specific grievances, and from tax professionals who wish to testify on recurrent problems. I will make a report to the Congress on our hearings, of course, and I will make the hearing testimony available as quickly as possible to this Committee.

American taxpayers have always paid their taxes voluntarily, and we Americans have always had a high degree of faith in the fairness, integrity, and capability of those who administer our tax law. I am afraid, however, that the public's faith is growing weaker every day.

Most serious among the many problems uncovered in our Hearings were complaints about the process of audit selection, the lack of protection for privacy of information furnished on tax forms, the difficulty in obtaining information on appeal rights, the inequities and arbitrary procedures used in the collection process, the suggestion of misuse of IRS powers for political or personal attacks, and the feeling of taxpayers that IRS agents were working under a "quota" system in which they were required to return a certain number of dollars to the Treasury.

Several months ago, "The Report To The Administrative Conference Of The United States On Administrative Procedures of The Internal Revenue Service" was published. The conclusions of this impartial report largely bear out the reports of our Subcommittee. The legislation I have proposed addresses the problem areas in accordance with the recommendations of this report.

In January and April of last year I introduced five bills to make the following administrative changes in our tax code:

S-136, a bill which requires IRS to inform taxpayers who are being audited specifically how their returns were selected for audit, how the audit system works, and how they may appeal an adverse decision. The procedural changes made by this legislation would bring openness and candor back into the relationship between taxpayer and tax collector, and would restore confidence in the fairness of the system to many disillusioned citizens.

S-137, a bill which would provide for judicial confirmation of the amount and need for jeopardy assessment. The law now allows IRS to seize any amount of a taxpayer's assets if the IRS officials "believe" that collection of a deficiency is in jeopardy. I have proposed that when jeopardy assessment seems necessary IRS be allowed to proceed, but that within five days IRS must seek confirmation from the district court with an opportunity for the taxpayer to be heard in the proceedings. The right to judicial review seems to me to be the most ordinary and proper protection for the rights of taxpayers.

S-138, a bill which will adjust the schedule of income which is exempt from levy by the IRS Currently the code exempts specific dollar value personal effects and necessary tools of a trade. Inflation has made most of these exemptions meaningless, and I believe the exempt income should be based on the number of dependents in a taxpayer's household, and should be tied to the consumer price index. Families should not be left with no income while a tax dispute is decided or a delinquent tax paid.

S-139, a bill which would establish a five year term for the Commissioner of Internal Revenue, thus removing him from political pressure. Ample evidence of the need for this legislation is to be found in our hearings and in the report of the Select Committee on Presidential Campaign Activities.

S-1511, a bill which will insure the confidentiality of income tax returns and provide safeguards governing access to information on those returns. The tax records, under my proposal, would be declared to be 'confidential' rather than 'public' records, and stiffer penalties would be mandated for unauthorized disclosure or misuse of tax information. Penalties would apply to those who receive as well as those who release information illegally.

Mr. Chairman, I wish to add that I am a cosponsor of Senator Magnuson's omnibus Taxpayer Rights bill, which addresses many of the same problems I have already discussed, and which provides, in addition, legal assistance for taxpayers and a taxpayer service and complaint assistance office within IRS.

In addition to the legislation discussed so far, I want to bring to the attention of the Committee a serious problem which has come up in testimony before my Subcommittee. I believe that the Chairman of this Committee is already preparing legislation in response to this concern, and I wish to make my support of his efforts clear.

In 1969, the Internal Revenue Code Sections 7463 and 7456(c) were amended to provide that the Tax Court would appoint Tax Commissioners to hear small tax cases. This was an attempt to provide a more equitable and fair hearing for the small taxpayer who is the backbone of our tax system, who files over 80 percent of all individual returns, reports over 65 percent of taxable net income, and pays about 60 percent of all taxes collected. This very important taxpayer, however, usually does not have legal assistance in a dispute over his taxes, and clearly needs better legal service.

The system devised in 1974 is not working well, or as the Congress intended it to work. The Commissioners appointed are not empowered to act as judicial officers; they are soon to be asked to take on additional tasks

as the Tax Court jurisdiction expands into other areas, and yet they have no tenure, no status, and do not even render a final decision. The Small Taxpayer Court should have equity jurisdiction, it seems to me, in order to provide better assistance to the public.

I hope this Committee will prepare and present legislation to establish a Small Taxpayer Court. There are thousands of small claims courts which work well for the average citizen, and I believe the Small Taxpayer Court would accomplish what I believe to have been the intent of the Congress originally.

In addition to the administrative changes I have proposed, I would like to briefly review the legislation I have introduced to make substantive tax law change. This Committee has received testimony concerning many major changes in tax structure. I endorse and support those which are going to provide a more equitable tax assessment for the middle income taxpayer who now carries too heavy a load.

The changes I am proposing are embodied in three bills to protect or provide relief to senior citizens, and in one bill I introduced last year to provide more effective encouragement to home ownership and home building. Specifically, I propose:

S-2870, a bill to equalize tax treatment for retirees under federal retirement plans with the tax treatment provided for retirees under social security and railroad retirement. Social security and railroad retirement benefits are tax free, as I believe they should be. Federal retirees however, must use the Retirement Income Credit provision for tax relief.

The RIC was originally intended to conform to tax exemptions provided for social security beneficiaries. However the dollar amount allowed was last amended in 1962. Inflation has, of course, made that base rate ridiculous. My proposal is that federal retirees be allowed tax exemption on retirement income up to the amount of the maximum Social Security benefit for the current year. Changes in social security benefits would thus automatically correct the exemption for federal retirees to keep their benefits equitable. Retired civil servants, contrary to popular myth, receive comparatively low incomes, and every dollar which must be paid in taxes is a dollar which cannot be spent for essential needs. The importance of this simple change in our tax law can be demonstrated by the volume of mail I have received in support of this bill.

S-2695. A bill which would provide a taxpayer credit equal to $250 when the taxpayer houses a senior citizen within his home. This legislation is aimed at halting the segregation of the elderly and the warehousing of senior citizens in nursing homes and rooming houses, often substandard. The small tax credit given would encourage and assist middle and lower income families to provide elderly relatives a home, and would be much less expensive to the government than the construction and maintenance of senior citizen housing and nursing homes.

S-2346. A bill which would protect the elderly citizen from loss of his home or undue economic hardship resulting from increases in property taxes by providing a tax credit for the amount of property tax in excess of that paid before retirement age. The bill would also allow a similar credit for increases in rent caused by higher property taxes.

Finally, I wish to mention S-2082, a bill to provide a credit in lieu of a deduction for interest paid on a mortgage on the taxpayer's principal residence. Clearly, the construction industry is in serious trouble, with unemployment rates as high as fifty and sixty percent. The average home being constructed today is only available to families in the top income brackets. The deduction now given for interest paid on a mortgage was intended to encourage home ownership, but in effect it is regressive. Inflation has now changed the base figures so that we must find a way to make this particular tax expenditure work to better advantage for the average American family. I believe that goal will be reached by changing the law so that those families with incomes below $20,000 will be assisted. That can be done if we provide a tax credit rather than a tax deduction. Library of Congress estimates that 100,000 new single family homes would be built and sold this year if my proposal were in effect, because families would be able to qualify with the small boost in take home pay this bill would provide.

I also wish to mention my full support of one other legislative effort: changes in the estate tax law which would allow family farms to remain within a family after the death of the owner.

Mr. Chairman, I deeply appreciate the time the Committee has given to me to speak on the tax reform matters which concern legislation I have proposed. I am deeply disturbed that taxpayers are losing faith in our tax system, and believe that it is applied unfairly in some cases. Taxes should be clear, equitable, and fair. They should not be applied in such a way as to be injurious to any one group, and they should be collected with courtesy and consideration for the rights of the taxpayers.

I believe that the tax reform legislation this Committee is preparing can and will be the most important and far-reaching legislation which comes out of the Congress this year. There is no reason why American taxpayers should be in revolt—and I believe that sensible corrections in our tax law will insure that confidence and approval are once again the essence of citizen response to the Internal Revenue Service and government itself.

REGULATORY REFORM: CONFLICTS OF INTEREST AND EX PARTE CONTACTS

Mr. PERCY. Mr. President, I would like to share with my colleagues two excellent yet disturbing articles concerning Federal regulatory agencies. The articles were written and researched by David Burnham, of the New York Times, and appeared in the May 8 and May 10 editions of that newspaper.

In the first place, Mr. Burnham discusses the undue influence wielded by special interest groups in many agency rulemaking deliberations. These groups make numerous informal, off-the-record contacts with agency commissioners and staff. Such contacts may cause the agency officials to place unwarranted importance on the views of these groups and to gloss over the true public interest.

The second article concerns possible conflicts of interest which arise when former agency personnel represent regulated industries in actions before the agency where they had previously worked. Mr. Burnham discusses a recent House Commerce Subcommittee study which revealed that—

Thirty-two of 83 commissioners and top officials who left their agencies in the last 15 years "have at some time during the immediate subsequent five years been employed in the regulated industry."

Both problems—the undue influence of special interest groups, and possible conflicts of interest, presently lawful, involving former agency personnel—are very serious concerns. Any effective reform of Government regulation is going to have to deal with such tough questions as these. The current joint study being undertaken by the Government Operations and Commcrce Committees pursuant to Senate Resolution 71, should provide some possible answers to these problems.

Mr. President, I ask unanimous consent that the two New York Times articles be printed in the RECORD.

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

EX-U.S. AIDE, NOW ON OTHER SIDE, STIRS CONFLICTS ISSUE

(By David Burnham)

WASHINGTON, May 9.—While G. Richard Dunnells was working as a high official in the Department of Housing and Urban Development, he helped negotiate a Government contract with a St. Louis builder.

Shortly after he left his $36,000-a-year job with H.U.D., according to three Federal officials, he appealed before the agency representing the other side—the builder of the Mansion House project of St. Louis. He urged a former subordinate to modify the very contract he had worked on while in government.

As a result, Robert R. Elliott, the general counsel for H.U.D., asked the Justice Department to decide whether Mr. Dunnells had violated part of the Federal conflict-of-interest law—a provision intended to keep former Government officials from improperly profiting from the special knowledge they gained while on the public payroll.

Several months ago, the Justice Department informed Mr. Dunnells that he would not be prosecuted. That decision was consistent with the agency's record. According to a department study, 40 such cases were referred to it for possible prosecution from 1965 to 1975. In that period, six indictments resulted.

Some experts attribute this record to ambiguities in the Federal law. Others cite what they see as a lawyerly reluctance to prosecute lawyers.

Officials who leave high Government positions and remain in Washington very often end up working for clients who have problems with the agencies the officials were formerly associated with. A House Commerce subcommittee on Oversight and Investigations found in a study that 32 of the 83 commissioners and top officials who left their agencies in the last 15 years "have at some time during the immediate subsequent five years been employed in the regulated industry."

Because of the belief that too stringent a conflict-of-interest law would deter qualified persons from entering government, Congress has written a statute and the American Bar Association has developed a code of ethics whose provisions mean that many of the moves from public to private life do not violate the existing standards.

Among the former Federal officials who have switched to jobs in private industry are the following:

William D. Ruckelshaus, the first head of the Environmental Protection Agency, who began a law firm that has many clients who are involved in legal battles with the E.P.A.

Dean Burch, the former chairman of the Federal Communications Commission, is a member of a law firm that is representing a company involved in a legal dispute on which he voted several years ago while heading the F.C.C.

William O. Doub, from 1971 to 1974 a commissioner in the Atomic Energy Commission, and Manning Muntzing, the former director of regulation at the commission, are with Lebeeuf, Lamb, Leiby and Macrae, a New York-based law firm that does considerable nuclear business.

Mortimer Caplin, Commissoner of Internal Revenue from 1961 to 1964, is a partner in a law firm specializing in tax work. So is Sheldon Cohen, I.R.S. Commissioner from 1963 to 1969.

ST. LOUIS CASE

In the case of Mr. Dunnells, several high officials in H.U.D. reported that while he was serving as acting Assistant Secretary, he became actively involved in negotiations with Maurice B. Frank, the manager of the Mansion House complex in St. Louis.

In the Dunnell's case, Federal officials assert that Mr. Dunnells, shortly after having left office on Feb. 16, 1973, returned to the department where he held a meeting with Fred W. Pfaender, director of loan management, during which he asked for a modification of the Mansion House contract on which he had worked in his H.U.D. job.

In response to an inquiry, Richard L. Thornburgh, the Assistant Attorney General in charge of the Justice Department's Criminal Division, and Donald J. Stohr, the United States attorney for the Eastern District of Missouri, said that Mr. Dunnells would not be prosecuted.

Mr. Dunnells, now in private law practice in Washington, confirmed having been told he would not be prosecuted. After saying that the matter had caused him "considerable personal pain," he declined to make further comment.

Finding a former top official who chose to remain in Washington after leaving government and who is not using his special skills and contacts is almost impossible.

Lee C. White, chairman of the Federal Power Commission from 1966 to 1969, is one exception. For the first five years after leaving government Mr. White's firm represented no client before the F.P.C. and only recently has agreed to represent such organizations as the American Hospital Association, which is not part of the power industry.

A recent study by Victor H. Kramer, a professor of law at the Georgetown University Law Center, found that more than half of the officials appointed to nine Federal regulatory agencies in the last five years came to it from the industry they were to regulate.

FEAR LOSS OF TALENT

The subject of considerable private conversations in the offices of many Washington law firms and the cause of Mr. Dunnell's ultimately resolved conflict with the Justice Department is Section 207, Title 18, United States Code, a five-paragraph section of the Federal conflict-of-interest law that tries to detail those actions that Congress feels would be improper for former Government officials to undertake before their former agencies.

The question of what can be considered proper is a complex one. On the one hand, almost all parties agree it is improper for an official to earn money because of the knowledge he gained about a particular case while an official or to unduly influence an agency decision because of his continuing connections in a given agency.

On the other hand, many experts argue that if the restrictions on employment after holding a Federal job are too strict, talented individuals will be discouraged from accepting such jobs.

Section 207 of the conflict-of-interest law has two key provisions to control side-switching. The first makes it a Federal crime for a Government employee upon leaving office ever to represent as an agent or attorney any party on the other side of a matter in which he was "personally and subsantially' involved while in Government.

The second provision makes it a crime for a Government employee, during the first year after leaving office to represent as agent or attorney, any party on the other side of a matter that was under his general responsibility but not his personal or substantial control.

Though the theoretical intent of the law is clear, it contains a number of undefined terms, which give a former Government official leeway to argue, that he is not guilty of violating it.

What exactly does personal and substantial involvement entail? What does the phrase "under his official responsibility" actually mean?

Another limitation of the law is that it does not apply if the potential conflict centers on general policies that the former official promulgated while in office. This is because the conflict law refers to only a judicial proceeding, claim, contract or "other specific matter."

FEW INDICTMENTS

The results of these many legal ambiguites is the Justice Department's indictment of only a handful of former officials. The department's record was disclosed in a recent letter to Senator William Proxmire, Democrat of Wisconsin, from the current head of the Criminal Division, Mr. Thornburgh.

From a study of caseload statistics, Mr. Thornburgh wrote, "it appears that for the calendar year 1965 through 1975 (September), there have been approximately 40 Section 207 matters referred variously to the Federal Bureau of Investigation, United States attorneys and/or the Criminal Division for consideration."

With most of the recommendations for prosecution coming from the heads of Executive branch agencies and departments, Mr. Thornburgh said "our materials indicate that during this period, Section 207 referrals resulted in six prosecutions."

Mr. Thornburgh informed Senator Proxmire that "decisions against prosecution were made for various reasons: reasonable doubt of guilt, disproportion of the authorized punishment in relationship to the offense or offender; availability and likelihood of prosecution in another jurisdiction; other similar reasons."

FEW CHARGES STICK

Justice Department records indicate that the charges are not easy to make stick. One official won a dismissal on appeal, a second was acquitted by the trial judge on the motion of the defense, a third was acquitted by a jury, another did not contest the charges, a fifth official pleaded guilty and the last case is still pending.

In a subsequent interview, the Justice Department official said he felt that the conflict-of-interest law provided a "fairly clear warning" as to what was not permitted but that its use of a number of general phrases made prosecution difficult.

"It is hard to prove matters beyond a shadow of doubt when you have these shadowy phrases," Mr. Thornburgh said.

The prosecutor, however, does not believe that the law requires clarification. "These are the sanctions that have been proscribed by Congress, and they make good sense to me," he said.

Whether Congress, 53 percent of whom are lawyers, will reconsider the ambiguities of the present law, is unknown.

"An awful lot of Federal officials look upon their time in government as an investment," said Allan Morrison, director of the Public Citizens Litigation Group, a key arm of Ralph Nader's Washington operation.

"It probably would be a lot cheaper and better for the public if these guys were provided a public stipend for a while rather than permitting them to start working over their old agencies," Mr. Morrison added.

Interest Groups Active Before FCC Decision

(By David Burnham)

WASHINGTON, May 7.—The Federal Communications Commission adopted a rule sharply limiting the growth of cable television after the agency's members and officials had 350 private contacts with representatives of the various industries whose fortunes would be directly affected, according to an F.C.C. compilation.

During the same period of time, commission members and staff recorded only 20 private contacts with Government agencies or public interest groups that did not have a direct financial stake in the cable industry.

At issue is a set of complex rules proposed by the F.C.C. that limit the number of films and sports events that can be shown on cable television.

BASIS OF DISPUTE

The rules have been criticized by the House Communications Subcommittee staff as illegal and unconstitutional, designed to maintain the high profits earned by most television broadcasters. They have been defended by the broadcasters as essential if they are to continue to provide entertainment and news programming without a direct charge to the viewer.

The private contacts, which included meetings, lunches, dinners and telephone conversations, do not appear to violate F.C.C. regulations of those of most other Federal agencies because the matter involved a general rule with an industrywide impact rather than the granting of a special license to contending parties.

Such contacts, the bread and butter of many Washington lawyers, have long been accepted as a normal and legal part of how government operates. But now the hundreds of contacts with the F.C.C. on the cable proposal have been challenged as improper in legal actions brought in the Federal Court of Appeals for the District of Columbia.

LIST ORDERED

It was in response to this legal challenge that the Court of Appeals ordered the seven members of the F.C.C. and 11 staff officials to supply the court "a list of all the ex parte presentations together with the details of each" made to them between July 19, 1972, when the cable rule was proposed, and March 21, 1975, when the rule was adopted.

The challengers were Henry Geller, a former general counsel of the F.C.C., and Frank W. Lloyd, on behalf of the National Citizens Committee for Broadcasting.

In their petitions, both cited the alleged procedural errors involved in the private off-the-record contacts as one reason the Court of Appeals should throw out the commission's proposed cable rule and order the F.C.C. to start all over again in developing a rule to replace it.

In his argument, Mr. Lloyd cited a 1974 Federal decision where the court stressed the importance of public involvement and the impropriety of an agency hammering out a course of "compromise between the interests of different broadcasting groups and gloss-[ing] over the more fundamental public interest."

Both Mr. Lloyd and Mr. Geller argued that large numbers of private contacts where arguments can be made but not challenged tended to make the F.C.C.'s public hearings something of a sham.

SHAM ALLEGED

The commission records of both the hearings and the private sessions show that more than 40 different organizations came from all over the United States to express opinions about the rules during the public sessions. But virtually none made any private contacts.

One group that took part only in the public debate was the National Citizens Committee for Broadcasting. "I just felt the oral argument during the scheduled hearings was the final act," said the committee's lawyer, Mr. Lloyd.

"In my view, the rule making is a merger between the policy making and judicial

process and you just don't talk to the judge after argument," he said.

Mr. Lloyd also pointed out that the commission's notice of the cable hearing specifically said its record would "remain open for the receipt of any supplemental written material in reply to arguments made during oral arguments" for a week after the public hearing but said nothing about the appropriateness of private approaches.

The F.C.C., in its replies to the challenge of Mr. Lloyd and Mr. Geller, has argued that private contacts with industry are lawful, in accordance with its procedures and irrelevant to the substantive challenge of the cable rules.

Richard E. Wiley, chairman of the F.C.C., in a speech given two years ago to the Federal Communications Bar Association, opposed the long delays between public hearing and final decision during which "oral argument continues informally in the privacy of individual commissioner and staff offices. I simply do not think this is good practice," Mr. Wiley said.

Because off-the-record meetings are an accepted part of Washington life in informal rule making proceedings, few of the commission members and staff ordered by the Appeals Court to provide lists had complete records of such contacts.

ACCEPTED PART

But the records that were provided showed that representatives of the National Cable Television Association, the Motion Picture Association of America, the National Association of Broadcasters and the professional baseball and hockey groups were repeatedly making their arguments privately with commission members and staff.

So were representatives from the Columbia Broadcasting System, the National Broadcasting Company, the American Broadcasting and the major cable companies such as Home Box Office, Teleprompter, Sterling Cable and Viacom. Other commercial interests making private contacts included Warner Bros., 20th Century-Fox and a number of individual television stations.

Contacts by those without a direct financial interest included the Justice Department, the National Black Media Caucus, the White House Office of Telecommunications Policy and the Stanford Research Institute.

The most complete and carefully documented record appeared to be provided by Commissioner Glen O. Robinson and his legal assistant, Daniel D. Polsby. The two men indicated they had held a total of 49 private meetings, luncheons and dinners on the cable question, one or two of them with persons without a direct economic stake. Various persons representing the National Cable Television Association met with the two officials on nine separate occasions, the National Association of Broadcasters had four meetings and the Motion Picture Association of America had four meetings.

HUGH O'BRIAN YOUTH FOUNDATION LEADERSHIP SEMINAR ON AMERICA'S BICENTENNIAL

Mr. HUMPHREY. Mr. President, on April 4, I had the honor of participating in a seminar entitled, "To Form a More Perfect Union: The National Character," which was part of the Hugh O'Brian Youth Foundation Leadership Seminar on America's Bicentennial, held here in Washington, April 3 through 10.

The Youth Foundation has been operating on a national basis since 1968. Its purpose is to bring together high school sophomores from all 50 States, the District of Columbia, and many foreign nations to improve their capacity for leadership through an in-depth examination of the issues that confront us. The students bring to the seminars a multitude of diverse social, economic, and cultural backgrounds and experience. They leave with a better understanding of the issues they have probed, but more importantly, a better understanding of themselves and their capabilities.

The goal of the foundation's efforts is to inspire these young people to more fully express their citizenship through personal leadership. They take back to their communities a better understanding of the way our Nation works and where it is heading. They learn to utilize their newfound capabilities for leadership by sharing with their friends and neighbors their knowledge, but more significantly, their enthusiasm and youthful energy.

Past participants have taken part in leadership seminars on a wide range of topics such as oceanography, space, the economy, government, and the democratic process. This year's theme was the Bicentennial, and throughout the week they met with dozens of our Nation's most distinguished public servants and private citizens. Representatives of all three branches of Government and executives of some of our leading corporations met and shared ideas with the 79 young leaders. Next year the seminar will deal with the free enterprise system.

Every September, high school sophomores are chosen to represent their States at the seminars. A number of organizations assist in the process of selection, including the U.S. Jaycees and the National Association of Secondary School Principals. Sophomores are chosen because it is felt that they will have 2 more years to apply their skills and share their experiences with their peers. It is interesting to note that those students who are not chosen to attend the seminar, but who are nominated by their schools, are asked to serve as student body representatives for a number of charitable organizations operating in their communities.

My friend, Hugh O'Brian, is the driving force and inspiration behind the leadership seminars, and it is his foundation that organizes and funds the annual event. He personally supervises every aspect of the seminars and it is his energy and dedication that makes them work. Every young person who goes through the experience is in some way affected by the personal commitment of Mr. O'Brian. It is a measure of the unique spirit of this organization that every participant is encouraged to write to Mr. O'Brian on his or her birthday every year until he or she is 30, in order to give a progress report on his or her activity and personal growth. Mr. O'Brian, likewise, writes to each of them on his birthday.

These are times when it is easy to be cynical and pessimistic. We all must recognize, however, that our future, good or bad, rests in the hands of our young people, and success depends on strong and compassionate leadership that only they will be able to provide. The Hugh O'Brian Youth Foundation is making an attempt to teach our youth to lead, by showing them not only how to make America grow, but how to make themselves grow.

It was an honor for me to be able to take part in this process and to be able to join in the exchange of ideas that is the essence of the leadership seminars, and to have had some small part in fostering the understanding and tolerance that inevitably result.

The future is still up for grabs, but after participating in this inspired program I am more certain than ever it is in good hands.

HARRY V. "SKINNY" TAYLOR—UNSUNG HERO OF DECATUR

Mr. PERCY. Mr. President, everyone in Congress can probably point to one or two unsung heroes in their districts or State who are deserving of praise for their participation in the political processes of our country but who seldom receive such attention.

The Chicago Tribune, however, has recently printed a profile column about Harry V. "Skinny" Taylor, for 28 years Republican chairman of Macon County and for many years president of the Republican County Chairmen's Association of Illinois.

Skinny Taylor's influence in my own life has been very great indeed. He was the first county chairman out of 102 in the State of Illinois to endorse my entry into politics when I announced my campaign for Governor in 1963. Considering my political weakness at the time and the strong opposition I had in the primary, Skinny Taylor's decision was a "profile in courage" that shook up the other 102 county chairmen, and even astounded me at the time. Throughout the course of our close friendship and political affiliation, he has never asked for or wanted a political position of any kind. His purpose has been to build the Republican Party so that it can be a more viable part of the two-party system, and contribute to the growth and development of his own city of Decatur, his county of Macon, the State of Illinois and our Nation. Equal billing should be given to his devoted wife, Marion Taylor, who, like so many spouses and family members of political leaders, must make her own individual sacrifices because of the time away from family life that politics requires.

I ask unanimous consent that the Chicago Tribune article of May 9 be printed in the RECORD.

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

PROFILE—DOWNSTATERS HAVE A BOSS OF THEIR OWN

(By John Elmer)

SPRINGFIELD.—Mayor Daley seldom takes a back seat to anyone, but he's still running second in political longevity after 25 years as Cook County Democratic Chairman.

Meet H. V. "Skinny" Taylor of Decatur, who has seen them all come and go after 28 years as Republican chairman of Macon County.

Taylor, 68, got the nickname "Skinny" in 1927 when he was a 129-pound weakling just graduated from Milliken University.

Since then, Taylor has put on about 70 pounds and lots of political mileage in his role as a Downstate GOP party leader.

In all his years as a chairman, including eight as president of the Republican County Chairmen's Association, Taylor has yet to take a patronage job.

"I find it softens the blow when you tell someone you can't give them a political job if you don't have one yourself," he remarked.

Recently retired, Taylor's long-time ownership of a Decatur trucking company made it possible for him to avoid many of the political pitfalls which face most county chairmen.

Their task—an unpaid one incidentally—is to get the party faithful out ringing doorbells and collecting votes. If their candidate wins, it also is the chairman's job to handle political rewards in the form of government positions.

According to Taylor, most Republican state officials cooperated with the GOP chairmen and channeled patronage jobs through them, but some had other ideas.

The late Secretary of State Charles Carpentier, then the only GOP state officer, didn't much like county chairmen, and refused to even listen to Taylor's views on Republican candidates for the 1964 election campaign.

Taylor said OK, then proceeded to defeat Carpentier's ticket, headed by now Atty. Gen. William Scott, with a rump slate led by Charles Percy, now U.S. senator from Illinois.

Taylor, always viewed as a party maverick, concedes that Illinois GOP chairmen have been in political disarray for decades. But now, they are beginning to get their act back together, Skinny thinks.

A delegate to the GOP National Convention pledged to Ford, Taylor is confident that the incumbent President will be nominated despite the strong challenge by former California Gov. Ronald Reagan.

He also believes that James Thompson, his party's choice for governor, will swamp Democrat Michael Howlett in Macon next November, even though his county is a Democratic stronghold.

IMPACT OF MEDIA ON ALCOHOL ABUSE AND ALCOHOLISM

Mr. HATHAWAY. Mr. President, in early March, the Subcommittee on Alcoholism and Narcotics, of which I am chairman, held hearings on the impact of the media on the prevention of alcohol abuse and alcoholism. We explored many aspects of this subject in those hearings, including the possible effects of broadcast and print advertising of alcohol, the effects of alcohol-consuming role models portrayed in television programing, the incidence of alcohol use on television and more.

We were especially concerned about the effects of the media on impressionable children in this area, since recent studies have shown that alcohol use and abuse among young persons is increasing at an alarming rate.

We heard suggestions that ranged from outright bans on alcohol advertising, to the positive roles the media might play in alcohol abuse prevention.

I have been extremely gratified by the public and private response to these hearings, and by the national coverage this topic has received. Segments of the hearing were prominently aired on CBS evening news, bringing our concerns to over 25 million viewers. Thoughtful, comprehensive articles were written in the national media, including an article in the National Observer, by Mark R. Arnold, and a recent article in the Washington Post, by Colman McCarthy. In addition, articles not related to the hearings, but highlighting concerns in this area have been given prominent play, such as the piece that appeared in this morning's Wall Street Journal about the British concern about alcohol advertising.

I call these articles to the attention of my colleagues and the public. I also express my continuing interest in this subject and my intention to pursue both governmental and nongovernmental solutions. I also take this opportunity to commend the various representatives of the television industry and the program production industry who have agreed to meet with me in the next few weeks. Our purpose will be to discuss positive action that can be taken to stem, and perhaps turn back, our rising epidemic of alcoholism and alcohol abuse.

I ask unanimous consent that the articles referred to above be printed in the RECORD.

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

[From the Wall Street Journal, May 19, 1976]

MOVE IS UNDER WAY IN BRITAIN TO DILUTE STRONG LIQUOR ADS—MAYBE FOLKS DO DRINK TO GET DRUNK, BUT SHOULD THE ADS SAY THAT QUITE SO BADLY?

(By Richard F. Janssen)

LONDON—XQQQ ME RU B4 ME, 4A DD?

That's the complete text of a billboard advertising a brand of beer here, and it takes a bit of translating to get the message. It's something a Londoner might say when crowding up to a bar: "Excuse me, are you before me for a Double Diamond?"

Such less-than-explicit advertising is becoming more common as Britain rather belatedly attempts to put more straitlaced limits on advertising the attributes of alcoholic beverages.

In the U.S., such appeals have long been primly limited by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms. Here, the British reputation for understatement had been counted on to make precise strictures unnecessary.

But by February of last year, many ads had become so blunt that the Advertising Standards Authority, a voluntary, industry-supported watchdog, felt compelled to be more explicit itself. It adopted an alcoholic-drinks code to be phased in as new ad campaigns began. The code, says Ian Lyon, deputy director of the authority, is "more precise" than previous guidelines.

CENTRAL HEATING

The code is only a 57-line statement. A key point says that ads shouldn't "give the general impression that a drink is being recommended mainly for its intoxicating effect." That reflects the fact that much British beverage advertising hasn't bothered with such secondary attributes of booze as taste or smoothness; it has proceeded on the premise that people buy booze to get bombed.

So, typically straight-to-the-point posters in London subway stations show a small bottle of beerlike brew called Gold Label against a plain white background. The message: "It may be small, but it's strong." A wintertime White & Mackays Scotch whisky ad was only a touch subtler—a picture of a whisky bottle with the words "Central Heating" superimposed across it.

Potency is an appeal that is too appropriate to ignore, contends Tim Ambler, British marketing manager for Gilbey Vintners Ltd., the Grand Metropolitan Ltd., subsidiary that imports Smirnoff vodka here. One of the main reasons people drink vodka, he says, is that "they see it as a potent drink. Not just potent in the alcoholic sense, or in the sexual sense, but in the broader sense—it makes life more interesting."

One Smirnoff campaign declared that when you drink Smirnoff, "the effect is shattering"—shattering, the ad suggests, in the sense of breaking away from staid old styles of living. "I used to be an accountant until I discovered Smirnoff," a handsome man says in one of the series' most noted (and most parodied) ads. The scene is a tropical bar; the man is flashily dressed in white and wears dark glasses; the tacit suggestion is that he has turned to something more lucrative, perhaps currency smuggling in Singapore.

The series caught some heat from the advertising authority and other critics, and is continuing now without the "shattering" caption. (It is being supplemented by another series, stressing the theme that vodka "mixes well with all sorts of things.")

ANOTHER COMPLAINT

Some ads draw complaints for other reasons. A typical Canadian Club magazine ad features a grumpy looking couple identified as "Mr. and Mrs. E. Higgins, age 57 and 55." Mrs. Higgins, holding a teacup, says, "My Ernie thinks that pop concerts are plain evil. And as for those sex films, my Ernie thinks they should be put down (killed off). And my Ernie's got no time for those foreign drinks like Canadian Club, have you Ernie?"

The same ad carries the reply of "Mr. and Mrs. D. Palmer, age 23 and 21," an attractive, cuddling couple holding large glasses of whisky. Their quote: "We think Ernie should stop thinking." To the Scottish Council on Alcoholism, the series' "depiction of older people as stuffy and out of date was likely to encourage a socially undesirable polarization between the young and the old."

Similar complaints came from individuals, who didn't disclose their ages, but the advertising authority didn't share their outrage. The rules don't prevent makers of a product from "claiming a particular sector of the market," observes Mr. Lyon, who adds that the authority "felt it was humorous." The code, he notes, specifically accepts "humor, fantasy, symbolism and allusion."

[From the National Observer, Mar. 20, 1976]

BOOZE ON THE TUBE—DOES TV TIPPLING BREED ALCOHOLICS?

(By Mark R. Arnold)

The next time your favorite television show features a scene in which someone asks for a drink, ask yourself: Why couldn't it be water?

That question bothers Nicholas Johnson, former member of the Federal Communications Commission, who observes that Americans consume 50 times more water a year than they do alcohol—but you wouldn't know it by watching TV.

Johnson, a veteran broadcast-industry gadfly, and other critics of the mass media's portrayal of alcohol clashed with Government and industry witnesses last week at hearings called to explore the impact of radio and television on alcohol abuse.

Maine Democrat William Hathaway, chairman of the Senate Labor Subcommittee on Alcoholism and Narcotics, calls alcohol "the nation's most ubiquitous drug": More than 100 million Americans rate themselves as social drinkers, and about 10 million are alco-

holics. But no one is sure what impact the mass media have on drinking habits and what, if anything Congress should do to discourage excess drinking.

SPENDING FOR PROMOTION

Last week's testimony provided several arguments for some kind of crackdown—Government or industry—on broadcasting's use of alcohol in ads and programs. Witnesses also pointed out that drunkenness appears to be a growing problem among young teenagers and that the liquor industry, including beer and wine makers, spends more than twice as much to promote its products as the Federal Government spends to combat alcoholism.

Moreover, though hard-liquor ads have been banned from broadcasting since 1948, commercials for beer and wine are proliferating. The Christian Science Monitor recently reported that 80 per cent of the 249 shows it examined involved some use of alcohol either in ads or in references to drinking in program scripts.

One interpretation of these facts involves a call for more study. "We do not know the effects of beverage-alcohol advertising on the millions of people that advertising reaches each day," Dr. Ernest Noble, director of the National Institute on Alcohol Abuse and Alcoholism, told the panel. He added there is "a very real possibility" that current advertising practices contribute to alcohol abuses.

Former Brooklyn Dodgers pitcher Don Newcombe doesn't share Noble's caution. A reformed alcoholic, Newcombe argued that television's use of "glamorous and sophisticated people" to promote drinking "reinforces the notion that alcohol can help" young people achieve success. He criticized singer Dean Martin, who has built his career image around drinking, and former baseball stars Mickey Mantle and Whitey Ford, who boast in a TV commercial of their membership in a "Beer Drinkers' Hall of Fame."

"UNFAIRLY BLAMED"

Challenging this line of reasoning, CBS Vice President Thomas J. Swafford contended that television is being unfairly blamed for problems that reflect the pressures and values of contemporary society. "Drinking is very much a part of living in this country," said Swafford, a former alcoholic himself. "If would be unreal [for television] to portray a society without alcohol."

Representing the only network to send a spokesman to the hearings (others said they would submit written statements), Swafford said that CBS rejected as inappropriate 20 percent of the beer and wine commercials submitted for airing last year. He also cited changes in program scripts to illustrate how the industry's voluntary code of self-regulation deemphasizes drinking. For example, an editor wrote the producers of a *Barnaby Jones* episode last September: "Please have Kathy say, 'I'd like a drink' instead of 'I need a drink' to avoid encouraging stress drinking."

PORTRAYAL OF LIFE?

Hathaway doesn't think that self-regulation is tough enough. And he dismisses the argument that the emphasis on liquor in programs is justified in the name of portraying reality. "Your typical television show doesn't portray what life is really like anyway," he says, swigging a soft drink in his Senate office. "But it sure makes drinking look appealing. They could just as easily order up a cup of coffee."

Hathaway's staff is exploring such options as a ban on broadcast beer and wine commercials, a requirement that ads carry a hazard warning modeled on the one required for cigaret ads, and changes in the tax law to disallow deductions for liquor advertising.

The prospect of an outright ban on these commercials is remote. For one thing, the Government doesn't contend that all drinking is bad, only drinking to excess. This differentiates alcohol from cigarets, which were linked to lung cancer and a variety of pulmonary and heart diseases in the Surgeon General's report of 1964. The report led to the hazard-warning requirement in cigaret ads and on cigaret packages.

Moreover, some officials think that Congress' broadcast ban on cigaret ads in 1971 has backfired because it also removed the counter-cigaret commercials that the Federal Communications Commission had encouraged in a 1968 ruling. Since the 1971 action, per capita cigaret consumption has increased, reversing the decline that followed the Surgeon General's report.

MANY UNPROVENS

Stations now routinely run public-service ads warning of the dangers of excessive drinking. "If they went out with beer and wine [banned those ads], the net effect could be bad," reasons a Government expert.

Hathaway's hearings probably won't bring Federal action against liquor commercials and programing. There are still too many unprovens—perhaps unprovables—in the relationship between alcohol advertising and alcohol abuse. But the hearings may result in some strengthening in broadcast-industry self-regulation.

[From the Washington Post, May 17, 1976]

ADVERTISING: A CONTRIBUTOR TO ALCOHOL ABUSE?

(By Colman McCarthy)

Among the 1,500 people now in Washington for the annual conference of the National Council on Alcoholism, one of the nagging questions involves the effects of media advertising on alcohol abuse. Those at the conference, whether the physician who treats the upper class alcoholic at a private hospital or the social worker who runs the flophouse for skid row victims, know graphically the raw results of alcohol abuse among the nation's ten million alcoholics and the four of five people in their immediate family.

Alcoholism or alcohol abuse figures one way or another in 50 per cent of all first admissions to mental hospitals, 50 per cent of all arrests in the United States, 50 per cent of the nation's highway deaths and 40 per cent of all problems before family courts. Though alcohol abuse is seldom the subject of the "crackdown" that one politician or another regularly calls for in speeches on drugs, it remains unchallenged as the nation's number one hard drug. The 375,000 addicts hooked on heroin are a small percentage of the ten million alcohol addicts. While the drinking goes on, the beer industry spent (in 1974) more than $100 million in advertising, the distilled spirits industry spent $160 million and the wine makers $50 million. The pitches range from Mickey Mantle and Whitey Ford bragging in TV commercials that they "belong to the beer drinkers hall of fame" to newspaper ads listing prices. Sen. William D. Hathaway, chairman of the Senate Subcommittee on Alcoholism and Narcotics, wondered at hearings in March: "Is all this effort devoted, as some advertisers claim, only to inducing people who already drink to shift from one brand to another? How much of it is actually designed to encourage non-drinkers to start? To encourage moderate drinkers to drink more? In other words, to create an overwhelming cultural atmosphere in which drinking is second nature to everyone over the age of 12?"

The questions are general, but that someone in power is discussing them at all has to be seen an advance. It is true that no one can argue factually that a ban on alcohol commercials and ads want to lower the disease rate, if only because the specific causes of alcoholism are a mystery; nor has anyone ever tried to document what percentage of alcoholics first drifted into their addiction because of a persuasive ad campaign. Alcoholism was a problem before television and long before Madison Avenue was paved over with jingles and slogans. Granted all of that, a large number of health authorities are convinced that the advertising of beer, wine and liquor has some linkage to what is clearly a devastating disease and not from the Temperance League.

The exact nature of that linkage isn't known, nor is the degree to which controls ought to be exerted. But proposals are being made. Last year, in HEW's "Forward Plan for Health," one of the options presented was to "restrict ads for alcoholic beverages or exclude such advertising as a deductible business expense for tax purposes." That is one idea. At the hearings of the subcommittee, others were offered that ranged from a defense of industry self-regulation to a ban on all alcoholic advertising except for price information.

The latter position was argued by Dr. Sidney Wolfe, of the Health Research Group. "The one aspect of alcohol which clearly distinguishes it from anything else that is advertised, with the possible exception of cigarettes, where the evidence for physical addiction is less complete, is that it is an addicting substance; there is no other addicting substance which is advertised in this country. . . . The advertising of any addicting substance . . . is really against the health and interests of this country."

Among the other strategies offered were a campaign of equal-time "counter-advertising," and calls for the Federal Trade Commission—rather than the Bureau of Alcohol, Tobacco and Firearms—to be given more strength to judge deception or unfairness in alcohol advertising. An FTC official said that "we would be prepared to consider an investigation of an ad where a strong argument could be made that from the face of the ad itself it would be of special appeal to the abuser." But the official said the commission lacked "a broad base of data," and therefore "we are not in a position to break entirely new ground on whether there is a widespread problem growing out of a relationship between advertising and alcohol abuse."

Spokesmen for the television industry defended the self-regulation of the Television Code Review Board and the National Association of Broadcasters Code Authority. Referring to the nation's 100 million drinkers, and the 10 per cent alcoholics among them, Thomas Swafford of CBS said that "these are the facts of life, and since television reflects the standards and mores of society, it would be unreal to try to portray a society without alcohol." He spoke of his industry's "endeavor to deemphasize the use of alcohol."

The strength of this deemphasis was questioned by Nicholas Johnson of the National Citizens Committee on Broadcasting. He referred to "the gross disproportion in the showing of the use of alcohol on television and the actual liquid consumption patterns of the American people." Of the 182 gallons of liquid the average American consumes a year, liquor is in eighth place, with about two gallons. But on television programs, liquor is used 24 times as much as coffee, of which Americans consume 32 gallons a year. It is used 120 times more than milk, even though citizens drink 12 times more milk then liquor in real life.

One conclusion from all these views is that the discussion is only beginning. Specialists in the field of alcoholism are grateful for the attention, because they have long been dismayed at the way politicians take tough stands against heroin or cocaine but say or do comparatively little about the greater devastation of alcohol abuse. Sen. Hathaway noted that most of the $160 mil-

lion the federal government spends on alcoholism is for persons who already have the disease, with only $10 million devoted to prevention. Much of this prevention involves education. Yet if liquor is the most common drink on television and several hundred million dollars are spent on media advertising, Sen. Hathaway hit on a major issue when he asked "how this massive barrage of information about alcohol affects our nation's health."

As for the senator's questions on what the liquor industry and its advertisers are seeking, an answer appears in the current issue of Business Week. John E. Bierwirth, who, as the non-drinking chairman of National Distillers and Chemical Corporation, spent 25 years turning his firm away from liquor production in favor of chemicals, said: "I didn't think the liquor business should expand and grow. You shouldn't encourage more people to drink or people to drink more." Bierwith, now 80, no longer runs the company. Its new head, Drummond C. Bell, has other ideas and is emphatic about increasing National's liquor earnings: "Liquor is a great cash generator. There is little or no capital investment, and all the profits are cash."

ELITIST ASSAULT ON THE AMERICAN SOCIETY

Mr. HRUSKA. Mr. President, soon the Committee on the Judiciary will act on S. 2387, a bill to require extensive divestiture by certain large oil companies.

The bill prohibits any such company from engaging in more than one of the four aspects of the petroleum industry: first, production; second, transportation; third, refining; and fourth, marketing.

Last month this theme was discussed at Pace University in New York, when an honorary degree of doctor of commercial science was conferred upon Rawleigh Warner, Jr., chairman of the Mobil Oil Corp.

Mr. Warner spoke in a clear, effective fashion.

He pointed to the lack of facts or knowledge on the subject by many advocates of the divestitive measure. He argued that there is competition among oil companies; big oil companies are not swallowing up independent oil businesses; profits are not unduly high; the present system allows and results in large companies adding to production of oil resources, and so on. He said:

What is Congress doing to facilitate domestic exploration for oil? Some of its members are spending their time misinforming people and working to break up and weaken the very companies that are needed in this essential effort.

The point was made that much more than the oil industry could be involved here. Similar divestiture is likely to be demanded in other segments of industry, such as steel, automobiles, aluminum, computers, and commercial television.

According to Mr. Warner:

I am convinced that those who are striving to dismember it (the petroleum industry) are taking aim at the entire private sector. . . .

Mr. Warner describes the proposed change as fundamental and far reaching. Yet no one has shown this action is necessary or desirable. "Divestiture is a nostrum for an ailment that does not exist," he said.

Nor has any showing been made to assure or even reasonably indicate that the new arrangement will or can work.

It is elementary that prudent people do not adopt changes in personal or business affairs unless the benefits of the new will outweigh the disadvantages done by destroying the old. The proposed bill, S. 2387, fails this test completely.

Mr. President, I ask unanimous consent that the text of Mr. Warner's paper, "The Elitist Assault on American Society," be printed in the RECORD.

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

THE ELITIST ASSAULT ON AMERICAN SOCIETY

(By Rawleigh Warner, Jr.)

Since this is a business award, I intend to devote my remarks on this occasion to a business subject—specifically, to efforts under way to dismantle or "divest" the U.S. oil industry. I propose to discuss the rationale for these efforts; to identify some of the individuals involved and to comment on their arguments and their qualifications; and to say what I think the consequences of divestiture would be for the American people and for American industry as a whole.

Lest this topic strike you as a parochial concern on my part, let me say that in my opinion what I intend to depict amounts to an ideological assault against all American industry and, in fact, the entire private sector. This attack has proved singularly immune to rational responses and factual information. The United States seems to have entered a period in its political development when ill-grounded conclusions of the most fundamental nature are increasingly reached with no examination of the facts or knowledge of the subject, and thereafter stubbornly clung to even as the arguments advanced to support such conclusions are demolished one by one.

Specifically, some inside and out of the Congress are demanding that the 18 largest American oil companies be functionally dismembered. A company that produces oil would not be able to transport it or to refine or market it. By the same token, no refiner or marketer could assist in the urgently needed exploration to increase U.S. oil reserves.

Those who favor this course of action claim it would benefit the consumer, but they cannot produce any credible evidence to this effect and hence have fallen back on rhetoric.

They say there is no competition in oil. If there is no competition, then how is it that no oil company accounts for over 8% of U.S. crude oil production, or over 8.3% of domestic refining capacity, or over 8.2% of gasoline sales? If there is no competition, then how is it that in three-quarters of the states there are at least 50 brands of gasoline competing, and at least 180 brands in the country as a whole? If there is no competition, why are the wholesale prices of gasoline and other refined products below the levels permissible under federal price controls? Oil is at least as competitive as any industry and one of the least-concentrated of all industries.

They say the big oil companies are swallowing up the so-called independent refiners and marketers. How do they explain the fact that independent refiners account for about 30% of domestic refining capacity and for the lion's share of additions to capacity in the past two years? Or that the largest U.S. refinery ever built from scratch is now being constructed jointly by two independents? Or that independent marketers have grown from less than a quarter of U.S. gasoline sales in 1968 to a third today?

They say oil is unduly profitable. Well, Mobil last year averaged a profit of a cent-and-a-half per gallon of refined product sold, and that modest sum had to cover everything we did, including transportation. Our rate of return on average total assets last year was the lowest for any year since 1960.

They say oil is just too big. Well, the U.S. economy is the largest in the world, and oil and natural gas furnish three-quarters of the energy that this economy uses. Worldwide, oil moves in the largest volumes of any commodity in international trade. The disparity between the location of reserves and consuming centers makes oil a truly international business.

This, in turn, means that many companies in this industry are international in scope, and it should not be surprising that some of them are very large. If you understand how large this industry is, you can grasp how a single company can be very large indeed in absolute terms while still constituting only a small part of the whole.

Also, oil is one of the most capital-intensive of all industries, which a very high ratio of assets to employees and a high ratio of assets to earnings. And a large part of the assets of the international oil companies is located overseas and devoted almost entirely to serving foreign markets.

Those who would break up the big, efficient oil companies duck the fact that if these privately owned companies are broken up and rendered unable to make the necessary large investments—big, inefficient government will have to make them. This would make our already big government even bigger—which the people have repeatedly told the poll-takers they oppose.

Our critics say many oil companies are "vertically integrated." To anyone familiar with the term, this is about as damagaing as saying those companies have organization charts and jobs descriptions. "Vertical integration" just means engaging in two or more successive stages of a business. It is widespread in industry, because it helps increase efficiency by reducing costs and spreading risks over a wider spectrum. The ultimate beneficiary is the consumer.

I believe you will find that many newspapers have financial interests in companies that produce newspaper, or own the trucks that deliver their papers to newsstands, or both. That is vertical integration. Television networks that produce many or even most of the programs they broadcast, and which also own one or more TV stations among their other interests, likewise are vertically integrated. It hardly seems represensible.

I should like to give you a few samples of the rhetoric on divestiture:

Senator Henry Jackson: "The only real competition among the huge oil companies is to see which of them can raise prices fastest."

The Senator omits the relevant facts, which are these: The oil industry is the only U.S. industry under price controls. It has been under price controls for more than four-and-a-half years. Senator Jackson himself played a prominent part in drafting the legislation under which oil prices have been controlled for most of the time. And the earnings of most oil companies dropped sharply last year, which would indicate a serious lack of success in raising prices.

Senator Birch Bayh: "Only a major step—such as requiring vertical divestiture—can bring competition to the industry." As I think I have already made clear, this statement bears no relation to the facts.

Senator Gary Hart: "There are 15 to 20 major, vertically integrated petroleum companies in the country that control anywhere from 75 to 80 percent of the market."

Can any of you name any other industry in which there are 15 to 20 majors? Or any other industry in which you have to get up

to as many as 20 companies before you account for 75% of the market?

Senator John Tunney: "One reason the OPEC cartel has been so effective is the cooperation it receives from the giant international oil companies in raising prices—because the companies themselves benefit from the price increases."

Mr. Tunney seems unaware that companies that were making an average profit of 35 cents a barrel on Saudi Arabian crude when it was priced at around $2.50 a barrel three years ago, are making about 20 cents a barrel on that crude today, when it is priced at $11.50 a barrel. The OPEC governments' average "take" has risen six-fold or more in this period while the large international oil companies' profit per barrel has fallen by more than 40%. So much for Senator Tunney's grasp of the facts.

I am under no illusion that the oil industry is perfect. I know of no human endeavor that is. Every institution fashioned by the hand of man can benefit from constructive criticism. But the fact is that divestiture is a nostrum for an ailment that doesn't exist.

What are the objective realities in the situation?

Two-and-a-half years after the Arab oil embargo began, the Congress still has not formulated a national energy policy. Domestic production of crude oil and natural gas is dropping yearly. Crude oil production is now a million barrels a day below what it was just three years ago. This is because the onshore U.S. has been explored extensively for over a century, and most of the oil in easy places has already been found and produced. Large new discoveries of oil and gas are needed just to maintain present production. This calls for the costliest, largest scale exploration effort in American history.

As a result of declining domestic production of both oil and natural gas, oil imports have risen to record levels. Our dependence on the OPEC countries is greater than it has ever been, and our vulnerability to an embargo is correspondingly greater than ever before.

And what is the Congress doing, at this critical juncture, to facilitate domestic exploration for oil? Some of its members are spending their time misinforming people and working to break up and weaken the very companies that are needed in this essential effort.

Just last Thursday the Senate Antitrust Subcommitee voted 4 to 3, along straight party lines, in favor of a bill to dismember the 18 largest U.S. oil companies. The vote was taken without deliberation or discussion. Not a single one of the four Democratic Senators who voted for this bill had attended the hearing at which the president of Mobil testified on divestiture for nearly two hours last January. Not one. Two of the four did not attend a single one of the subcommittee's hearings on this held over the past five months. Not one.

This is the sort of legislative travesty I had in mind when I said earlier that the attack on the oil industry has proved singularly immune to rational responses and factual information. I find it ironic in this situation that other countries are moving actively to integrate and strengthen their oil companies, which will probably become even larger and stronger if the U.S. oil industry is broken up.

I would guess that the American people, with the good sense they always eventually show when they find what the facts are, will apply an appropriate discount to rhetoric coming from politicians, particularly in a Presidential-election year. What may prove more critical in the long term is how the people perceive, and react to, some of the others who have joined the drive to dismember the oil industry.

In a free society, everyone has a right to his own views and the right to criticize ideas and institutions of whatever sort. But before we accept such criticism at face value, we have both the right and the obligation to ascertain just what credentials that person has in the area of endeavor under discussion. So that we can all understand just who these additional critics of the oil industry are, let me tell you a little about a few of them.

One of the best-known of them is a first-rate actor, Paul Newman. I have enjoyed his work in motion-picture houses and on television, but I know of nothing that would qualify him as an expert on energy. Here is some of Mr. Newman's oratory:

"I'm simply troubled by all this power residing in multinational oil companies that are devoid of patriotism."

That is simply balderdash, of course, and a very cheap shot. I will refrain from quoting Dr. Johnson's remark that patriotism is the last refuge of a scoundrel and will simply say that oil companies are composed of people, and our people are every bit as patriotic as Mr. Newman.

Mr. Newman again, still referring to our industry: "The rumblings that I get from Congressmen Dingell and Moss indicate that a scandal is brewing that may make Watergate look like kid stuff."

Those remarks are good headline-makers, but it seems to me that reliance on demagogic innuendo to the exclusion of demonstrable facts or logic should concern everyone with an interest in the democratic process.

Another of our better-known critics is Robert Redford, who is also a good actor but also appears not to have adequate credentials to speak with any authority on energy policy.

Mr. Newman and Mr. Redford are members of a so-called public-interest group in Washington that calls itself the Energy Action Committee. On the basis of the positions that the activist leaders of this group have taken in the recent past, one has to wonder whether their real objective isn't simply to place great political power—no matter how undemocratically—in their own hands, even though they hold no federal elective office nor any appointive policy-making positions in the government.

At least some of these critics of the oil industry are apparently disenchanted with American society and eager to impose their own value patterns, and thus their own life styles, on the American people. They are articulate, they are adept at exploiting and manipulating the mass media, and they are determined.

This is not a monolithic group, of course, but as a whole they seem bent on compelling our society to fit their vision of the good life, and only their vision. That vision seems to require a central government strong enough to dominate every aspect of American life and to impose new value patterns on the American people—value patterns that, when they are finally perceived, may prove unwelcome to the majority.

Government cannot be made that strong without weakening the private sector correspondingly. The oil industry is obviously a bulwark of the private sector and a barrier to an authoritarian central government.

I do not want to sound self-serving or to wrap the flag around the oil industry, but I am convinced that those who are striving to dismember it are taking aim at the entire private sector.

If the oil industry is so concentrated that it must be broken up, what about those profit-making industries that are far more concentrated—commercial television, automobiles, computers, aluminum? How long before they would be broken up?

If oil is so profitable that it must be broken up, what about the manufacturing industries that showed a higher average return on invested capital over the 10 years through 1973—drugs, instruments and related products, motor vehicles and equipment, tobacco manufacturers, transportation equipment, chemicals and allied products, and printing and publishing? How long before they would be broken up?

If oil must be broken up because it is vertically integrated, then what about all the other vertically integrated, profit-making industries—commercial television and many newspapers among them? How long before they would be broken up?

In fact, Senator Hart, of Colorado, whom I mentioned earlier as a proponent of divestiture, says that many in the U.S. Senate believe other industries also need to be dismantled. He adds that the U.S. economy is at a crossroads and may be headed for a form of state capitalism.

Those of us in oil are taking the political heat for industry as a whole right now, but none of you in other industries should for a moment miss the significance or the motivation of the attack being made on us. If oil is dismembered, the bell will soon be tolling for other industries, in my opinion. The problem is thus as much yours as it is ours, and nobody should deceive himself that it will go away. It won't.

Think about it for a moment. In a time when the American people as a whole have concluded that big government has failed, those bold and tenacious few who are attacking oil are working to extend big government. If they can dismember the oil industry by capitalizing on the public confusion and frustration that they have done so much to create, there will be almost nothing they cannot do.

The proponents of divestiture are relying heavily on emotion. One of their battle cries is "Get mad." It seems to me that sheer emotion is a poor guide to public policy. I suggest that before we pass the point of no return . . . before we undertake any such radical surgery as the dismemberment of oil . . . before we discard an economic system that has served so many people so well for so long . . . before we do any of this, the American people should demand that the proponents of divestiture give some straightforward answers to some straightforward questions, such as:

Exactly how would the American consumer benefit?

How would breaking up the oil industry, which I think most reasonable people would consider a national asset of some importance, improve U.S. energy security or otherwise help our country?

How would dismantling the U.S. oil industry increase America's supplies of secure domestic oil and natural gas?

Put another way, how great a setback would divestiture cause in the urgently needed effort to develop additional reserves of domestic energy?

What effect would divestiture have on the American economy, on the energy costs of American industry, on American jobs, and on unemployment?

How would dismantling large oil companies, with worldwide access to oil supplies and with the ability to move that oil, strengthen our national defense?

How would it benefit Americans to have to rely on the large, strong, foreign oil companies that Congress would not be able to dismember?

If the oil industry is broken up, what industry will be dismembered next?

If the strength of the private sector is sapped, will this not lead to an even more powerful central government?

It seems to me that if enough people put enough questions of this sort to their elected representatives in Washington, the resulting dialogue can defeat the present efforts to shatter the U.S. economy as the first stage

in recasting American society in an elitist image.

JOSEPH A. BICKETT, SOUTH CAROLINA SMALL BUSINESSMAN OF THE YEAR

Mr. HOLLINGS. Mr. President, I have a refreshing—and purely American—story to relate to the Senate today. It concerns a fellow South Carolinian, Mr. Joseph A. Bickett of Florence, and I am glad to be able to tell it in our Nation's Bicentennial Year because I think it proves that the qualities that made our country great still survive.

Back in 1959, Mr. Bickett was working full time in a manufacturing plant near his home and became interested in the wholesale frozen food business. Like most of us, Mr. Bickett had a family to support. He did not have a lot of money to spare. He did not have any facilities to speak of. But he figured there was a future in this business, so he began operating a frozen food distributorship on a part-time basis out of his house. He had one truck at the time to make his deliveries.

It was a long, slow process, and I am sure there were rough times and setbacks through the years, but eventually Mr. Bickett quit his job with the manufacturing plant and went into the frozen food business full time. And today, his business, the Bickett Distributing Co., in Florence, is housed in a 14,000 square foot plant and employs 14 persons. His trucks cover a 17-county area in South Carolina and North Carolina, offering a complete line of frozen foods to the restaurant operations there. Last year, the company grossed about $2.5 million, and projected gross sales for this year total around $3 million.

Because of his success and his example to other small businessmen in South Carolina. Mr. Bickett has been named South Carolina Small Businessman of the Year. He was in Washington last week, together with similar winners from the other 49 States, to observe Small Business Week.

I take this opportunity to congratulate Mr. Bickett and the other State representatives and to wish them every continued success in the future. At a time, it seems, when Government and industry conspire to throttle individual initiative and success, their courage and ingenuity serve to remind us again of the strengths inherent in our free enterprise system and our need to safeguard them.

IN OPPOSITION TO S. 3151, THE MULTINATIONAL BUSINESS INFORMATION ACT

Mr. PERCY. Mr. President, on Thursday, May 13, the Subcommittee on Multinational Corporations of the Foreign Relations Committee held a hearing on S. 3151, the Multinational Business Information Act of 1976. The objective of the bill is to obtain information on parent and affiliate operations of multinational business enterprises incorporated in the United States. Because I was the minority floor manager of Senate Resolution 400, I was not able to attend these hearings. I would like at this time to proclaim publicly, in the strongest terms, my objections to this legislation. These objections rest not on the need to collect business data, a practice that has been in place for decades, but the means and methodology suggested in this bill.

S. 3151 has struck a deep discordant note in me. It violates too many of the values that I believe in. The parts of the bill that I find particularly onerous are section 5 and section 6 which provide relatively open access to the business data collected, section 3(b) which expands significantly the specificity of the product data to be collected, section 4(a)(2) which in essence asks for trade accounts—firm by firm, section 4(b) which mandates a complete study every 2 years covering the previous 2 years and section 7 which authorizes a blank check to carry out the provisions of the act.

In general terms, I object to the bill because it provides no guarantee of confidentiality for the information collected. Nothing in the bill prevents the Secretary of Commerce or any Government employee from releasing or using for personal gain the private information collected. Furthermore, the bill provides public access to the data through the Freedom of Information Act. Congress made a specific exemption in the Freedom of Information collection of business data. That was a sound decision.

The Government needs economic data in aggregates for economic policy formation. Clearly, individual statistics must be used to assemble this data. However, the power of Government must not be allowed untrammeled rights to invade privacy. Government is obliged to protect privacy where only Government can do so. Business information is privileged and can be critical to survival. With the explicit lack of protection of confidentiality that exists in this bill I believe it risks the destruction, or crippling, of multinational corporations rather than the collection of information for public policy purposes which is what we should legislate.

Second, the bill is not well-drafted. Some of the items specified in the bill are already collected on a regular basis. The legislation is unyielding. It leaves no discretion to the Department of Commerce to discontinue items that are found not to be relevant to policy considerations, delete items that are statistically unchanging or allow additions in cases where other data is soon as relevant.

The demands in the bill for complete and massive data collection every 2 years exhibit a total lack of understanding of sampling techniques and statistical collection. As politicians, we know you do not have to poll every voter to establish accurately voting trends. Furthermore, the bill is repetitive of other legislation in requiring the reporting of foreign agents' fees. The Church/Percy amendment adopted in S. 2662 requires such reporting on military sales. Similar data is requested in S. 3379 dealing with questionable payments aboard. While certainly justified in some instances, I do not believe the insertion of such a clause in every piece of legislation is a necessity.

Third, the bill places a staggering new reporting requirement on corporations to include finite trading data by product line where possible. There is an implicit assumption that this proposed new requirement is free of cost to the American taxpayer but we know this is not true. Fifty percent of the company costs will be borne by the U.S. Government in a tax writeoff. The consumer picks up the other costs in the product price and 100 percent of the data processing in Washington will be paid for by the American people. I believe that the U.S. Government is not in need of more information about how much hair oil, or shaving cream or nuts and bolts are shipped to Zambia, Mali or Caledonia.

Nor do I think the American people want to pay for it. Before any Senator decides on this bill an economic impact statement should be rendered so we can see what the new costs to consumers would be. With this information the costs of the bill could be weighed against the benefits to be received from it.

Fourth, there seems to have been little thought given to other bills presently in the legislative process. S. 2839, the proposed "International Investment Survey Act of 1976," is a surprisingly similar bill but lacking the shortcomings of S. 3151. The Investment Survey Act is a good piece of legislation having the support, except for minor points, of the Department of Commerce, business and labor. Only labor has voiced support for S. 3151. A comparison of the two bills was presented in hearings by a First National City Bank witness who testified under the auspices of the Emergency Committee for American Trade. The table follows my statement.

In my opinion, S. 3151 is a piece of legislation that seeks to ride a public wave of concern over multinationals. It reflects a simplistic view that all that needs to be done to solve a problem is to collect information and disclose it. While I believe in public disclosure, there must be limits. S. 3151 is not in the public interest. It runs against a society that is demanding less government. It should not become law.

Mr. President, I ask unanimous consent that the table entitled "Comparison of Data Multinational Enterprises Would Report Under Pending Senate Legislation" be printed in the RECORD.

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

COMPARISON OF DATA MULTINATIONAL ENTERPRISES WOULD REPORT UNDER PENDING SENATE LEGISLATION

Item No. and description of data required by S. 3151	Applicable section of S. 3151	Applicable section of S. 2839
1. Amount of total direct investment of parent in each of its foreign affiliates and branches	4(a)(1)	4(b)(1)(A)
2. Financial transactions between parent and each of its foreign affiliates and branches	4(a)(1)	4(b)(1)(A)
3. Amount of consolidated net income o each of parent's foreign affiliates and branches, reported separately	4(a)(1)	4(b)(1)(B)
4. Amount of taxes paid by parent and by each of its foreign affili-		

COMPARISON OF DATA MULTINATIONAL ENTERPRISES WOULD REPORT UNDER PENDING SENATE LEGISLATION—Continued

Item No. and description of data required by S. 3151	Applicable section of S. 3151	Applicable section of S. 2839
ates with respect to foreign affiliate and branch operations, reported separately	4(a)(1)	4(b)(1)(D)
5. Information about all mergers, net book value of acquisitions, liquidations, and investments in foreign countries involving parent	4(a)(1)	4(b)(1)(A)
6. Gross sales of parent and each of its foreign affiliates in each foreign country in which the affiliate is doing business, reported separately	[1] 4(a)(2)	[2] 4(b)(1)(B)
7. The dollar amount of parent's imports from each foreign country	[1] 4(a)(2)	4(b)(1)(B)
8. The dollar amount of parent's exports to each foreign country	[1] 4(a)(2)	4(b)(1)(B)
9. The dollar amount of trade which the parent carries on with each of its foreign affiliates, reported separately	[1] 4(a)(2)	4(b)(1)(B)
10. The trade of each of its foreign affiliates, reported separately	[1] 4(a)(2)	4(b)(1)(B)
11. Number of American and foreign employees of parent and of each of its foreign affiliates by country	4(a)(3)	4(b)(1)(C)
12. Level of compensation of American and foreign employees of parent and of each of its foreign affiliates by country	4(a)(3)	4(b)(1)(C)
13. The total dollar amount of research and development expenditures by parent and by each of its foreign affiliates, by country, and by activity.	4(a)(4)	[3] 4(b)(1)(E)
14. Name and location of each foreign affiliate and of each foreign branch of parent	4(a)(5)	[4] 4(b)(1)(A)
15. Total assets and income of each such foreign affiliate and foreign branch	4(a)(5)	4(b)(1)(B)
16. Description of the commodities produced by each foreign affiliate and branch	4(a)(5)	[5]
17. Dollar amount of all expenditures made in the U.S. or in foreign countries, by foreign country, directly or indirectly through any agent or pursuant to any contractual arrangement	4(a)(5)	[6]

[1] Requires reporting by commodity grouping, defined as "products of 5, and never less than 4 digits according to present standard industrial classification as prepared by the Office of Management and Budget," (and, whenever possible, by product line).

[2] Requires reporting by "primary line of business and with as much significant product-line detail as is feasible" and by foreign country "in which such affiliate has significant operations."

[3] Also requires payments between parents and affiliates for the transfer of technology and payments received from the transfer of technology to unrelated foreign firms or state enterprises.

[4] Does not specifically require reporting of the name of each foreign affiliate.

[5] Not specifically required.

[6] Not required.

CHARTING A FULL EMPLOYMENT ECONOMY

Mr. HUMPHREY. Mr. President, the Democratic leadership of the House of Representatives has charted a clear legislative course to guide the Nation out of the Nixon-Ford administration economic morass and achieve full employment during the next 4 years.

The 271-page document produced by the House leadership is a legislative activities map designed to produce 12 million new jobs, provide a $10 billion tax reduction aimed for the most part at low- and moderate-income workers, eliminate tax loopholes, and move the Federal budget from a deficit to a $75 billion surplus position by 1980.

In my judgment, the proposals catalogued by the House leadership will constitute the main elements of the Democratic Party's 1976 campaign platform and its commitment to the American people during the next 4 years.

The party and indeed the American people are indebted to the majority leadership of the House for its accomplishment.

The program drawn by the House leadership is particularly gratifying to me and to Representative AUGUSTUS HAWKINS because H.R. 50 and S. 50, an extended and revised version of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976, has been made a keystone of this legislative package.

That bill sets a goal of reducing adult unemployment to no more than 3 percent by 1980. It directs the administration and the Congress to launch and sustain a maximum, coordinated effort to achieve a full employment economy while checking inflation and maintaining price stability.

The legislation establishes the framework on which the administration and the Congress must bend every effort to attain the economic climate necessary to allow business and industry to expand and increase productivity in order to provide maximum job opportunities. It requires that any shortfall in the employment goal be eliminated through job training programs and a wide variety of possible publicly assisted job opportunities, largely in the private sector.

Mr. President, the House leadership proposals for the Democratic Party platform map the direction which can and must be followed by the Federal Government working in close cooperation with State and local governments and the private sector in the immediate years ahead to realize the full potential of the Nation's people and their resources.

I am fully aware that there are those who will say that the proposals presented by the House leaders to the Democratic Party Platform Committee are nothing more than pie-in-the-sky political declarations in a Presidential election year.

To them I say there is nothing in these proposals which is not achievable in the 4-year time frame specified if the will and the determination to do so exist.

Let there be no question about their existence. They exist in a Democratic Congress that has been repeatedly stymied by one Republican Presidential veto of emergency economic measures after another while the unemployment level climbed to staggering heights. They exist in a Democratic Party which knows that it must win this Presidential election if the Nation is to have an administration capable of giving the country the opportunity to realize its full capacity to provide jobs at decent wages for all who want to work.

I have never nor do I ever intend to engage in cynical exercises which say in effect that in this Bicentennial Year America cannot live up to the promise upon which it was founded.

That promise is freedom for all, sustained and perpetuated by a people who have the chance and the capacity to attain the goals they set for themselves.

Mr. President, I ask unanimous consent that an article in the May 16 issue of the New York Times, further detailing the economic proposals of the House leadership, be printed in the RECORD.

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

HOUSE DEMOCRATS SEEK MORE JOBS AND CUT IN TAXES

(By Richard D. Lyons)

WASHINGTON.—The Democratic majority in the House of Representatives has proposed a massive realignment of legislative priorities for the next five years aimed at restoring national economic prosperity by creating 12 million new jobs and cutting taxes by $10 billion.

The program envisions a Democratic President and a Democratic Congress working together starting next year to bring about a revitalized economy that would produce Federal budget surpluses by 1980 that in turn would be invested in health, educational, energy and environmental programs.

The 271-page proposal, prepared over the last nine months at the direction of the House leadership, will be offered to the meeting starting here Monday of the Democratic Platform Committee, which is expected to incorporate large sections as Presidential platform planks.

In addition to containing the views of the Democratic leadership, the proposal includes specific areas from all the Democratic chairmen of House Committees and marks the first time that such a coordinated effort will have been presented to the Democratic Platform Committee.

The plan is expected to be the keystone of the Democrat's legislative program starting next year and was drawn up, in part, as a result of their frustration in dealing with two successive Republican Presidents who have in the last eight years vetoed 86 pieces of legislation drafted by Democratic Congresses.

BACKED BY ECONOMISTS

The proposal has a decidedly New Deal flavor, emphasizing that only through the creation of new jobs will budget deficits be reduced, the economy restored and the quality of life improved.

"Attainment of full employment is our primary objective," according to the proposal, a copy of which was obtained by The New York Times.

While large parts of the proposal are political, several economists familiar with its content have stated that they believe that it does make fiscal sense and is not, as one put it, "merely pie in the sky."

Its drafters urge on what they foresee as the future Democratic Administration a detailed list of domestic proposals including:

Passing and implementing the Hawkins-Humphrey full employment bill now before Congress to reduce unemployment to 3 per cent of adults by 1981.

Enacting a $10 billion tax kit effective in July 1978 that would be structured to give the most relief to low-income and middle-income workers.

Stepping up antitrust action by the Justice Department as part of an effort to curb price increases and constrain inflation.

Redrafting the tax code to simplify returns and increase Federal revenues by plugging the loopholes whose costs are expected to rise to $135 billion a year by 1981.

Improving the efficiency of local governments by encouraging through legislation the consolidation of jurisdictions, even across state lines.

Offering low interest loans and tax incentives to small businesses in an effort to make them more competitive with the major corporations.

Assisting consumers through the Federal testing of products and ending price-fixing in, for example, the drug industry.

Enacting standby wage and price controls that could be used in the event of a sharp increase in the inflation rate.

GUN CONTROL PROPOSED

Some proposals, such as one calling for the passage of "workable handgun control legislation," are bound to run into opposition and could either be left out of the platform or ignored later.

The proposal urges "reform in the public sector" through selective overhauls of the Federal bureaucracy to improve its performance, curtail its cost and make it more responsive to the needs of the people.

"We must eliminate deadweight, outmoded, inoperative, wasteful and inefficient programs," the document states, but nowhere does it specify which programs would be ended and who among the Federal Government's 2.89 million workers would be discharged.

The recommendations run to 124 pages, of which 115 are devoted to domestic problems. A section on foreign and defense policy calls for increasing efforts to control both nuclear and conventional arms, seeking the reduction in Europe of both American and Soviet armed forces and attempting to smooth out the on-again, off-again nature of détente.

Included with the proposal are three appendices that together form a partisan critique of the Nixon and Ford Administrations, which are accused of gross inefficiency, corruption and abuse of power.

'MALFEASANCE IN OFFICE'

These appendices contain scores of examples of what the Democrats consider to be Republican wrongdong and, in the language of the proposal, are "a veritable catalogue of malfeasance in office, bad policies, poor administration, improper and illegal actions, bad judgment and downright criminality."

The proposals were drafted by the Speaker's Task Force on the Democratic Platform, which was assembled by Speaker Carl Albert of Oklahoma and placed under the direction of John E. Barriere, the executive director of the Democratic Steering and Policy Committee.

Yet the package will be formally presented to the platform committee on Tuesday by the majority leader, Thomas P. O'Neill Jr. of Massachusetts rather than Mr. Albert, another indication that Mr. Albert intends to retire at the end of this year. Mr. O'Neill is regarded as his probable successor.

The four-day meeting of the platform committee that starts Monday will hear some of the major candidates for the Democratic Presidential nomination including Jimmy Carter of Georgia and Gov. George C. Wallace of Alabama; the leaders of the largest union groups in the nation, including George Meany and Leonard Woodcock; Ralph Nader, the consumer advocate, and other Democratic notables including Senators Hubert H. Humphrey of Minnesota and Edward M. Kennedy of Massachusetts.

The aim of the committee is to present a cohesive party platform to the Democratic National Convention, which will open in New York's Madison Square Garden on July 12.

The point of departure for those who drafted the proposal was the 1977 budget resolution passed by Congress on Thursday. Its targets for the next fiscal year are Federal outlays of $412 billion, with a deficit of $50 billion and an unemployment rate of 7 percent.

Reducing unemployment by 1 percent a year until it gets down to 3 percent in 1981 is easily the most ambitious of all the Democratic goals and the one that receives the most stress.

"For each 1 percent cut in the unemployment rate the budget deficit will be reduced by about $16 billion, approximately $14 billion in added taxes and about $2 billion in lower costs of unemployment compensation," the employment proposal states. "The budget will never be balanced unless employment is provided for the unemployed and the new workers entering into the labor force."

"Toward the end," it continues, "we set the goal of more than 12 million additional useful jobs at fair rates of compensation between now and 1981. Restoration of full employment by 1981 would add, measured in 1975 dollars, close to a trillion dollars more to total national production of goods and services than current projections of Republican policies and programs.

"It would provide, at existing tax rates, between $300 and $400 billion more public revenue at all levels. This increment should be used to balance public budgets, and also to bring the output of goods and services into line with the potential of the economy and the needs of the people. Finally, it would add about $250 billion for useful investment of business profits than the projection of current Republican policies and programs would yield," it adds.

Terming full employment and balanced growth "the centerpiece of the Democratic Party platform," the proposal champions the Hawkins-Humphrey bill, named after its authors, Representative Augustus F. Hawkins, Democrat of California, and Senator Humphrey. The bill is itself a package of legislative changes that would mandate that the President, Congress and the Federal Reserve Board work in unison to set national economic priorities.

Many economists believe that the Hawkins-Humphrey bill would lead to serious inflation, although some contend that this would be lessened by wage and price controls, which are not sought in the bill but are in the proposal on a standby basis.

The Hawkins-Humphrey bill would make it Federal policy to guarantee a job to every American who wanted one. Most Republicans have depicted the bill as impractical and unrealistic.

According to the proposal, with unemployment reduced to 3 percent by 1981 the increase in Federal revenues—despite the tax cut in 1978—would generate a "surplus" of $75 billion in a Federal budget of $475 billion.

Under the five-year proposal, priorities would be shifted so that "spending for health, education, income security, energy and veterans programs would be substantially higher than" have been proposed by President Ford.

As part of the program to reduce unemployment, the Democrats would pass legislation to create one million additional public service jobs, and establish a "youth conservation corps" that would be intended to "substitute work for welfare wherever possible."

In other areas, the proposals would raise minimum wages and tie them to the Consumer Price Index, bringing public service and agricultural workers under wages and hours laws, more rigorously enforce health and safety legislation already enacted, broaden the regulatory power of such agencies as the Federal Trade Commission as well as increasing their budgets, and bar increases in Social Security taxes.

FDA HEARING AID PROPOSAL FOR MEDICAL CLEARANCE STILL DEFICIENT

Mr. PERCY. Mr. President, 2 years ago, the then-Secretary of Health, Education, and Welfare, Caspar Weinberger, created an interdisciplinary task force to study problems in the hearing aid industry. A year ago, that task force completed its work and reported that the single most vexing problem in the hearing aid delivery system was the inability of certain hearing aid dealers to make accurate determinations of the need for a hearing aid or to know when to refer a client to a physician.

On April 21, the Food and Drug Administration published in the Federal Register proposed regulations, based in part on the findings of the task force, which would help correct many of the problems presently affecting the hearing aid delivery system.

It has taken the FDA a needlessly long time to prepare these regulations. More important, I have reservations about some of these proposals and the manner in which they were arrived at.

My underlying concern has been that too many of the more than 14.5 million Americans with hearing handicaps do not obtain the proper treatment for their disabilities.

Testimony before the permanent Subcommittee on Investigations on April 1 and 2 of this year, by prominent members of the medical community as well as by persons who had been victimized by hearing aid dealers, confirmed what I had long suspected; namely, that many persons are sold hearing aids that they do not need or cannot use by dealers who have made obvious errors in the prescribing of aids.

Unfortunately, this evidence did not appear to have much weight with the FDA, which has proposed that there be medical clearance for hearing aid purchasers which can be waived by persons over 18 years of age.

The proposed rule also presumes that a hearing aid dealer can detect a medical pathology and will, when such a problem is noted, immediately refer the client to a physician. This proposal flies in the face of the pattern of evidence presented to the subcommittee showing that medical referrals very often are not made by hearing aid dealers when they clearly should be made.

In his letter to me of April 15, 1976, outlining the FDA proposal, Commissioner Schmidt nowhere makes reference to the body of evidence presented to the subcommittee, although I have invited him in my letter of April 8, to review that material for guidance, as to problems about which the FDA may not have been previously aware.

The waiver proposal also now is in disagreement with a new recommendation from the board of directors of the American Council of Otolaryngology, to which I referred in a previous statement before this body on May 6.

The council, which had previously supported the waiver provision and joined the FDA in assuming that hearing aid dealers could determine medical pathologies, has turned completely around on this issue. And, unlike the previous position, which was not endorsed by the full membership of the council's board of directors, the new position has the wholehearted backing of all the members of the board of directors. It brooks no exceptions. It says in one sentence what the medical ear specialists believe to be the proper manner of delivering hearing aids:

The American Council of Otolaryngology maintains that good health care practice requires that a person with a hearing loss have a medical evaluation by an otolaryngologist prior to hearing aid provision.

I trust that the FDA will give serious thought to this changed position. I note with approval that Commissioner Schmidt has asked specifically for comment on the wisdom of the waiver in the proposed FDA regulation, as well as whether hearing aid salesmen are capable of determining the existence of medical pathologies.

These are crucial questions and it is my hope that experts in the hearing health care field contribute their knowledge to the FDA so that a loophole-free medical clearance regulation, which takes into account legitimate considerations of religious freedom, can be promptly implemented for the hearing aid delivery system.

Mr. President, I ask unanimous consent to have printed in the RECORD copies of my April 8 letter to Commissioner Schmidt, his April 15 reply, and the testimony of Dr. Michael Glasscock, a Nashville medical ear specialist, and Dr. Darrel E. Rose, director of audiology at the Mayo Clinic, two expert witnesses who appeared before the subcommittee on April 2.

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

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., April 8, 1976.

Hon. ALEXANDER M. SCHMIDT,
Commissioner, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C.

DEAR COMMISSIONER SCHMIDT: The Senate Permanent Subcommittee on Investigations has just completed two days of hearings into problems in the hearing aid industry which focused primarily on the medical clearance procedure presently being contemplated by the Food and Drug Administration.

Testimony from three of the most reputable otolaryngologists in the country, all members of the American Council of Otolaryngology, conclusively demonstrates that none of them agree with the medical clearance procedure spelled out in the final report of the Intradepartmental H.E.W. Task Force on Hearing Aids.

As you have indicated to me in your letter of January 2, 1976, this proposal is based primarily on the testimony of the American Council of Otolaryngology. Indeed, from discussions our staff has had with otolaryngologists around the country, serious doubt is cast on the means by which the Council arrived at its original position and just how representative that position was of the views of individual members.

Entered into the record during our hearings was a telegram from Dr. Jack R. Anderson, President of the American Council of Otolaryngology, stating that the previous position of the Council with regard to medical clearance is now being re-evaluated in the interest of the hearing-handicapped. Copies of relevant testimony at these hearings is attached to this letter for your immediate attention.

As you know, I have been extremely disappointed in the FDA's protracted delay in promulgating its hearing aid rules. You informed me on January 2, 1976 that the Task Force Report was sent by H.E.W. Secretary David Mathews to the Assistant Secretary for Health on September 26, 1975, for implementation. To date, I have seen nothing issue from F.D.A. or any other office in H.E.W. on this matter.

The evidence presented April 1 and 2 before the Subcommitte gives new urgency to the need for immediate action by F.D.A.

These rules are now many months overdue. Each additional day that passes without action by the F.D.A. means more persons sold more hearing aids they may not need. Your own officials have pointed out these persons may have underlying medical problems which, left untreated, can involve serious risk to their health and safety.

Last week's hearings demonstrated that the flawed medical clearance policy of the National Hearing Aid Society will only tend to perpetuate the kinds of abuses that were documented in testimony. This industry policy, incorporated by the Task Force, contains an open-ended, loophole-ridden waiver provision that could entirely vitiate the intent and scope of the medical clearance policy.

The Task Force/industry's position also wrongly assumes that hearing aid dealers are competent to determine when hearing-impaired persons should be referred to a physician. I am enclosing copies of the testimony from audiological and medical professionals which convincingly refutes the assumption that a hearing aid dealer is competent to make medical referrals. I urge you personally to review this material at your earliest convenience. In addition, I would be happy to make available to you the full transcripts of these hearings.

While I am aware that the F.D.A. has many high priority items on its agenda that take up substantial amounts of your time, I think you will agree that this matter has not been given the attention it deserves. It has been put aside or shelved too often. It is time now to place the issue of medical clearance for hearing aid purchasers atop F.D.A.'s list of "things to do."

Please provide this Subcommittee by April 15 with a timetable for action by F.D.A. with respect to an effective medical clearance procedure. Your answer will help me determine what further action this Subcommittee and I personally must take to make sure that the aim you have expressed to me is now carried out, without any further delay, in the interest of some 20 million hearing-impaired Americans.

Sincerely,

CHARLES H. PERCY,
Ranking Minority Member.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., April 15, 1976.

Hon. CHARLES H. PERCY,
Ranking Minority Member, Senate Permanent Subcommittee on Investigations, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: I want to thank you for your letter of April 8, 1976, describing testimony presented at the recent Hearing Aid Industry Hearings before your Senate Subcommittee.

On January 2, 1976, I wrote to you that the Food and Drug Administration (FDA) was in the process of developing a proposal for professional and patient labeling for hearing aid devices. The Agency has recently completed that work and will publish proposed regulations in the Federal Register within the next two weeks. I am enclosing an advance copy of the proposal for your review. While we anticipate that many comments will be received on this proposal, we are hopeful that the final order will be issued in approximately four months. As you may know, the proposal calls for an effective date of the regulation 180 days after the date of the final order. Of course any part of the proposal, including the effectiveness date, may be changed depending upon the comments received.

The proposed regulations would:

Prescribe the types of information that must be included in the labeling of all hearing aids to provide hearing health professionals and patients with adequate directions for their safe and effective use;

Specify the technical performance data that must be included in the labeling to assure that hearing health professionals have adequate information to correctly select and fit a hearing aid; and

Restrict the sale of hearing aids to those patients who have undergone medical evaluation within the past six months, with the provision that fully informed adult patients may waive the medical evaluation if none of seven designated ear conditions is present at the time of purchase.

I realize that you have expressed serious doubts about the provision that would permit a waiver of the mandatory medical evaluation. I would call to your attention, however, the differences between the limited provision for waiver in our proposed regulation and that recommended by the National Hearing Aid Society. A close reading of the waiver provision in proposed section 801.421 will reveal that we are requiring medical evaluation requirements that are much stricter than those proposed by the National Hearing Aid Society. The differences are as follows:

The FDA proposal would require medical evaluation for every sale of a hearing aid to any prospective user. The National Hearing Aid Society proposal would only apply to the first sale of a hearing aid.

The FDA proposal would require a medical evaluation within the preceding six months. The National Hearing Aid Society proposal would require a medical evaluation within the preceding 18 months.

The FDA proposal does not allow an individual under 18 years of age or younger, or the parent or guardian of such an individual, to waive the medical evaluation. The National Hearing Aid Society would permit a parent or guardian to waive the medical evaluation for an individual under 18.

In addition, our proposal would:

Require that the seller inform the prospective user that the FDA has determined that a medical evaluation by a physician, preferably by one who specializes in diseases of the ear, would be in the user's best health interest;

Prohibit the seller from actively encouraging the prospective user to waive such a medical evaluation;

Require the seller to read and explain to the prospective user the caution statements required by the proposed regulation;

Require the seller to provide the prospective user a copy of the "User Instructional Brochure" for the hearing aid that has been, or may be, selected for the prospective user; and,

Require that the seller afford the prospective user an opportunity to read the "User Instructional Brochure."

These requirements are intended to impress upon the prospective user the importance of obtaining a medical evaluation prior to purchasing a hearing aid. As you are aware, the American Council of Otolaryngology, as well as the Hearing Aid Industry Conference, the National Hearing Aid Society, the Retired Professional Action Group, and the Greater Philadelphia Hearing Aid Guild, has recommended that a patient be permitted to waive the mandatory medical evaluation provided not one of seven designated otologic conditions is evident at the time of sale. The DHEW Intradepartmental Task Force adopted such a suggestion and explained in its Final Report that the provi-

sion for waiver of the medical evaluation requirement was intended to take into consideration such factors as the inconvenience of securing medical assistance in rural locations and the religious beliefs of some individuals which preclude consultation with a physician.

Our proposed regulation is based on extensive deliberations of the Task Force, which provided all interested parties ample opportunity to submit views on what steps should be taken to protect the health interests of the hearing impaired. I recognize that there remain disagreements over what steps should be taken to protect the health interests of the hearing impaired. For this reason, you will note that the preamble to the proposed regulation requests specific comment on the following questions:

Whether a waiver should be permitted;

Whether conditions that should preclude waiver are adequate;

Whether hearing air specialists or clinical audiologists are capable of identifying the existence of the seven designated otologic conditions; and,

Whether it is appropriate to require that the medical evaluation shall have occurred within six months prior to hearing aid sale or whether a shorter period should be prescribed.

As you can see from these questions, the Food and Drug Administration has not adopted a position with respect to the appropriateness or need for the waiver of the medical evaluation requirement. The Agency intends to review sympathetically all comments on the proposal, including, of course, any new information filed in behalf of the American Council of Otolaryngology.

I believe that your recent hearings once again demonstrated that the competency and training of hearing health professionals, whether physicians, audiologists, or hearing aid dealers, are important in the delivery of quality hearing aid health services. As you review the proposed hearing aid regulations, you should recognize that our proposed restrictions on the sale of hearing aids are only a partial solution to the problems present in the hearing aid delivery system. The statutes of the Federal Food, Drug, and Cosmetic Act are directed at assuring the safety and efficacy of the hearing aid device itself. State and local governments are responsible for establishing minimum competency levels for hearing aid dealers and other hearing health professionals. A review of present and proposed hearing aid licensing bills clearly reveals little uniformity from State to State in the requirements for training in measuring hearing loss and selecting and fitting a hearing aid. Many States are now actively seeking to adopt stricter licensing requirements for those individuals who dispense hearing aids. The effort, however, is fragmented and on a State-by-State basis. I think that this is an area in which your Subcommittee may be of assistance in developing a model State licensing bill which establishes nationwide competency requirements for those who engage in the dispensing of hearing aids.

I look forward to receiving your comments on the proposed hearing aid regulation. We appreciate the interest, concern, and support you have shown for our efforts to correct abuses in the hearing health care delivery system. I hope this information will be useful to you, and I welcome your further inquiries. To repeat a point made earlier, we will not hesitate to alter our proposal in light of persuasive comments received within the next few weeks.

With cordial best regards,

Sincerely,

ALEXANDER M. SCHMIDT, M.D.,
Commissioner of Food and Drugs.

STATEMENT

(By Michael Glasscock, M.D.)

Mr. Chairman, I am Michael Glasscock, M.D. I am a board-certified otolaryngologist practicing at 1811 State Street in Nashville, Tennessee. In addition, I am an Assistant Clinical Professor of Otolaryngology at Vanderbilt University in Nashville. I am a member of the American Otologic and American Triologic Societies, as well as the American Council of Otolaryngology. I have produced a number of training films in the otology field and have published more than 60 articles on my field in numerous medical journals.

The health care delivery system of hearing aids as it exists today does not function in the best interest of the almost 20 million Americans who are unfortunate enough to have a hearing impairment. The purpose of this communication is to examine this system critically, to evaluate some of the new proposals for its revision and to offer a new approach to the dispensing of hearing aids to the hard-of-hearing individual.

THE PRESENT SYSTEM

At the present time, hearing aids are available to the general public by a number of routes.

I. Solicitation

a. A hearing aid dealer places an advertisement in the local newspaper stating the fact that he has hearing aids available to hard-of-hearing individuals.

b. The hearing aid dealer goes from door-to-door in a neighborhood seeking out hard-of-hearing individuals.

c. The hearing aid dealer works through client referral to find other individuals with hearing loss. The hearing aid dealer may or may not seek medical clearance.

II. The patient seeks help

a. A hard-of-hearing individual seeks out the hearing aid dealer and asks for a hearing aid.

b. A hard-of-hearing individual seeks out a physician, who in turn may or may not recommend a hearing aid, depending upon his knowledge of the subject. The doctor then sends the patient to a clinical audiologist or directly to a hearing aid dealer.

c. The patient goes directly to a speech and hearing center and has a hearing test by a clinical audiologist, who may or may not seek medical clearance. The clinical audiologist prescribes a hearing aid and sends the patient to a hearing aid dealer.

GUIDELINES SET FORTH BY TASK FORCE ON HEARING AID DELIVERY SYSTEM FOR DHEW

In 1974, a DHEW Task Force was organized to study the problem of hearing aid dispensing in this country. The Task Force is to be commended on the thoroughness with which they approach this problem. Many of the conclusions they reached were valid and meaningful. Their overall grasp of the situation was good. There are some glaring discrepencies in this report, however, and some guidelines have been set forth that are not realistic and are not in the best interest of the hearing-impaired individual.

Their statement on false advertising and misrepresentation by the hearing aid industry is well-taken, as is the call for standardization of the industry's products. The proposal for a mass educational campaign is excellent and long overdue. The high cost of hearing aids themselves was well-covered and brings to light a whole area for special investigation. The Task Force expressed the need for further research in hearing aid production and application.

While these and other aspects of the report are to be commended, I feel the following guidelines are ill-conceived:

The report states that an individual under 18 years of age must have a medical clearance by a physician specializing in diseases of the ear (or from a duly licensed physician if no such ear specialist is in the community). An individual 18 years or older could sign a waiver from this requirement.

In addition, there are proposed seven conditions under which an aid could not be sold without a medical clearance. These are:

1. Visible congenital or traumatic deformity of the ear.

2. History of active drainage from the ear within the previous 90 days.

3. History of sudden or rapidly progressive hearing loss within the previous 90 days.

4. Acute or chronic dizziness.

5. Unilateral hearing loss of sudden or recent onset within the previous 90 days.

6. Audiometric air-bone gap equal to or greater than 15dB (ANSI) at 500 Hz and 2,000 Hz.

7. Visible evidence of cerumen accumulation or foreign body in the ear canal.

Let's examine these guidelines carefully and critically. First, if a medical clearance is required for those under 18, then why not everyone? How can the average lay person, regardless of age, be in a position to waive his right to a medical examination? Assume for the sake of argument that the individual is dealing with a dishonest dealer and that he really does not need a hearing aid. By signing the waiver he has given up his right to a second opinion and has placed himself in a position of diagnosing his own hearing impairment. If a medical clearance is essential for those under 18, it must surely be so for those over 18 as well.

The medical clearance itself must be given by an otolaryngologist. A duly licensed physician unfortunately is not a satisfactory substitute. As medical schools are structured today, it is possible for many physicians to graduate with absolutely no training in diseases of the ear. In many schools, otolaryngology is an elective subject and a medical student may decide upon another course. An example in point is Vanderbilt University's Medical School. It has no Department of Otorhinolaryngology and the students receive absolutely no training in the diagnosis or treatment of diseases of the ear. Consequently, physicians with such a background are not capable of rendering a diagnosis in an individual with a hearing impairment.

There are those individuals who say it is not practical to have all hearing aid candidates seen by an otolaryngologist because each community does not have one available to them. This argument is not a valid one. The system of transportation in the country is excellent. There are very few hearing-handicapped individuals who are not within an hour's drive of a community in which there is at least one otolaryngologist.

Now let's examine the seven conditions under which no hearing aid could be sold without a medical clearance. First, this statement of conditions assumes that the hearing aid dealer is going to take a careful medical history and that he is going to complete a thorough physical examination of the individual's external ear, external auditory canal, and ear drum. To expect a lay person (hearing aid dealer) to assume these medical duties is unreasonable and unwise.

Therefore, assuming that the seven conditions themselves are valid, it is not within the capability of a hearing aid dealer to make these medical decisions. It must be remembered that a hearing loss is merely a symptom of a medical problem involving the ear and/or central pathways and not a disease in and of itself. To assume that one can confine the total ramifications of auditory systems dysfunction to seven danger signals is not reasonable.

Unfortunately, auditory symptoms are at times the only symptoms of serious central nervous system disease. An example is an acoustic neuroma, which is a tumor arising on the hearing and balance nerve and is considered a brain tumor. These central nervous system lesions occur in the cerebellopontine angle and produce a unilateral sensorineural hearing loss. The loss is progressive and very insidious in onset. The unilateral provision in these seven conditions states that the loss must be of recent onset or within the previous 90 days. Using this guidelines, an aid might be placed on an individual with such a tumor. The lack of a definitive diagnosis in this type of case would endanger the patient's life. An early diagnosis is of extreme importance.

Let's examine the case of drainage from the ear. Again, the 90-day provision is of no value because many ears with chronic disease will only drain periodically and may go as long as six months to a year between infections. An ear that has a perforation and is dry will almost always start to drain when the ear canal is closed by a hearing aid mold. Is the hearing aid dealer expected to diagnose a performation of the ear drum? Is the general physician expected to diagnose the same condition when he has never been taught how to examine a normal ear drum? There are certain forms of sensorineural hearing loss that are now amenable to medical or surgical correction. Three instances of this are cochlear otosclerosis, cochlear hydrops and luetic hearing loss. These are medical diagnoses requiring sophisticated X-ray and blood studies. The seven conditions set forth by the Task Force could in no way establish the presence of any of these conditions.

Each and every one of these seven conditions can be discredited and shown to be an invalid method of determining the need for a medical clearance. It is sheer folly to put a lay person in the position of making critical medical judgments.

HEARING AID DEALERS

According to the DHEW Task Force report, there are an estimated 15,000 hearing aid dealers in this country. Of this number, only about 2,200 have received certification by their association, the National Hearing Aid Society.

Their training is inconsistent and varies from state to state, depending upon current licensing laws. They are in no way prepared to make medical decisions.

It is apparent that a small nucleus of dealers have received a minimum of training and supervision. To completely ignore the competent hearing aid dealer would be a gross injustice. Many of these individuals have been fitting hearing aids successfully for years and have amassed a tremendous amount of practicing knowledge. There is convincing evidence that the NHAS is attempting to upgrade the general knowledge and professionalism of their members. These individuals must not be ignored in any scheme to deliver hearing aids to the general public.

THE CLINICAL AUDIOLOGIST

The Task Force has established that:

"The American Speech and Hearing Association (ASHA) has established minimum professional standards for audiologists which include: (a) earning a Master's degree, or its equivalent, in audiology including 300 hours of supervised clinical experience and 60 hours of related course work; (b) completing an additional year of full-time supervised clinical internship in audiology; (c) passing a national examination in audiology which is administered by the Education Testing Service, Princeton, New Jersey. Both the academic and clinical experience required for the recommendation, selection and use of hearing aids are integral parts of the audiology training program. Clearly, the professional standards for audiologists exceed those required for hearing aid dealers."

Certainly, one could not argue with the statement that the clinical audiologist is better-equipped to measure the amount and character of a given hearing loss than is the average hearing aid dealer. The clinical audiologist, however, is in no better position to make medical judgments than is the hearing aid dealer.

There is some question in the minds of many professionals as to the validity of the current method of hearing aid selection as practiced by the clinical audiologists. To assume that there is only one method of selecting an aid would be presumptious. There is no convincing evidence that just because an individual holds a degree in audiology he is an expert in the fitting of hearing aids.

THE OTOLARYNGOLOGIST

The specialty of otolaryngology is a broad one, encompassing the entire head and neck region. The otolaryngologist has five years of training after leaving medical school. One aspect of this specialty is the study of the diseases of the ear. While any otolaryngologist is capable of making decisions in regard to medical clearance for a hearing aid, he may not be capable of determining who is best suited for an aid or which particular aid is best to use. The reason for this is that there is no uniform training available to the resident in otolaryngology on the subject of hearing aids. Therefore, the decision of what type of aid should be used in a given situation should not be in the hands of the otolaryngologist.

A PLAN FOR THE FUTURE

I believe that the federal government should sponsor a program to certify otolaryngologists, audiologists, and hearing aid dealers. This program would be administered with the cooperation of the American Council of Otolaryngology, the NHAS and the ASHA.

The purpose of the program would be to standardize the method of hearing aid selection, taking into account the knowledge of the NHAS and ASHA members. The method of hearing aid selection would have to be worked out by a board consisting of NHAS and ASHA members. The method or methods would be endorsed by both groups and would become the standard manner in which aids are to be selected. Otolaryngologists would become more familiar with hearing aids and their use. The graduates of this program would have a number certifying that they had met the requirements necessary to become a part of the Hearing Aid Delivery Team. This number would be similar to a narcotics number assigned to physicians who dispense certain controlled drugs.

The logical place to start with this team approach would be with MediCare patients, branching out to all individuals with a hearing impairment with the initiation of national health insurance.

The otolaryngologist would be the entry point for all hearing-impaired individuals. Working with the audiologist, the otolaryngologist would determine the type and extent of hearing loss. He would establish a medical diagnosis based upon the hearing tests, his physical examination and any laboratory studies that might be necessary. Once the diagnosis was made the otolaryngologist would decide whether the individual had a medically or surgically correctable hearing loss. If not, he would refer the individual to an audiologist who would counsel the patient concerning his hearing loss and whether it was amenable to amplification. The audiologist would supply the dealer with a complete audiometric study and recommendations for a specific aid. The dealer would be responsible for supplying that aid but would have the privilege of changing the aid with the cooperation of the audiologist if the aid were not satisfactory for the patient. In this manner, the hearing aid dealer and the audiologist can work together to select the best aid and adjustment for the hard-of-hearing individual. The dealer would be responsible for servicing the aid and for repairs that might become necessary. The audiologist would work with the patient to supervise his rehabilitation. A hearing aid would not be considered sold until the patient had been able to accept the aid and wear it with success. A trial period of 30 days should be sufficient for this purpose.

SUMMARY

A hearing aid is a medical prosthesis and can be of great value to some individuals with a hearing handicap. Neither the hearing aid dealer nor the audiologist should be the entry point for the hard-of-hearing individual into the hearing aid delivery system. An aid should never be placed on an individual without a prior medical diagnosis established by an otolaryngologist.

The audiologist and hearing aid dealer should work together for the benefit of the hearing aid user. Only those otolaryngologists, audiologists and hearing aid dealers who have been certified as to competency in the knowledge of hearing aids should be allowed to become a part of this Hearing Aid Delivery Team. From a practical standpoint, the logical place to start is with MediCare patients. As the system grows and becomes practical, it could be easily integrated into a national health system.

STATEMENT

(By Dr. Darrell E. Rose, director, Audiology Section, Mayo Clinic, Rochester, Minn.)

Mr. Chairman, I am the director of Audiology at the Mayo Clinic in Rochester, Minnesota. I hold a B.S. Degree from Brigham Young University, an M.S. Degree from Southern Illinois University and a Ph.D. Degree from the University of Oklahoma Medical Center. I am a member of the American Speech and Hearing Association, American Association for the Advancement of Science, Acoustical Society of America, and the American Institute of Physics. I formerly served on the Professional Services Board of the American Speech and Hearing Association.

I am concerned about the present delivery systems with regard to hearing aids. It has been my experience that many of the systems presently in use in this country do not benefit the hearing impaired. In the past 5½ years we have tested over 100,000 people in the Section of Audiology. We have encountered people who have been fit with hearing aids which have been of no benefit to them. Some of these people have subsequently been helped medically and have had no further use for a hearing aid. It is not entirely uncommon for us to see people who were sold two hearing aids when only one aid would have been sufficient. We also have a number of documented cases in which a hearing aid has been fit to an ear in which there is no hearing. We have encountered people with normal hearing who have been sold hearing aids which were of no benefit to them.

This problem is not peculiar to Minnesota. Our data is obtained on people from all 50 states as well as from some foreign countries. We are presently using a delivery system which we believe gives the patient the maximum opportunity for determining the medical cause and treatment as well as the potential benefit of amplification when deemed necessary. We function under the assumption that any hearing loss is a medical problem and should be diagnosed by an otolaryngologist. At the Mayo Clinic, any patient with a hearing loss is given an audiological as well as a complete otological examination. Only when the patient has had a

complete examination in which medical and surgical possibilities are discussed do we discuss amplification. Our procedure is to recommend amplification on a trial basis whenever a patient has a hearing loss that causes a communication problem.

Our procedure is to recommend a rental for 30 days prior to the purchase of an instrument. This allows the patient the opportunity to determine if the instrument is helping the patient sufficiently to warrant the purchase. It has been our policy in the past to refer patients only to dealers who will rent hearing aids. Even with our procedure, patients often obtain an aid and pay for it prior to the 30-day period. However, they are cautioned to do this only if they have a money-back guarantee at the end of 30 days.

With local patients, that is patients in Minnesota as well as some other areas such as Chicago, we have no difficulty with the patients being able to obtain hearing aids on a rental basis. A number of dealers such as the Master Plan Service Company have a procedure under which the patient can obtain an aid on a 30-day rental basis. He pays for the ear mold as well as one month's rental. The rental fee is usually $1 a day. At the end of the rental period, the patient can either return the aid and forfeit his rental fee or he can apply the rental fee to the purchase price of the aid. It should be pointed out that the purchase price of the instrument from a number of local dealers as well as the Master Plan Service Company is considerably below the manufacturer's suggested retail price. Over the past few years, we have developed a fairly substantial list of dealers who follow this procedure. However, the list is primarily made up of dealers who have contacted us or from patients who have mentioned specific dealers to us. Not all dealers in the local area are willing to either rent or sell at prices which I personally consider reasonable.

The advantages in the rental system are that, one, it gives the patient an opportunity to try an instrument without expending a great deal of private funds while insuring that he will try the instrument because he has some money invested. Second, it protects the dealer from a significant loss if the aid is returned. It also assures the patient that he will receive adequate services and instruction from the dealer in the first 30 days.

In slightly over a year we have documented more than 35 cases in which patients at the Mayo Clinic have either been fit inappropriately or for medical reasons should not have been fit with a hearing aid or hearing aids. The majority of these patients do not live in Minnesota. The most tragic case that comes to mind, however, does involve a man in his 60's from Minnesota who is a cemetary custodian. From 1969 to 1974 he is able to document the purchase of 11 hearing aids for a total of $3,996. He indicates that he has purchased other instruments from which he was told he would be helped; however, he does not have cancelled checks or receipts for these additional aids. He also indicates that he once traded in his Model A or Model T Ford to obtain two hearing aids.

It is obvious that this gentleman is desperate for better hearing; however, with the type of hearing loss that he has he cannot benefit from surgical or medical treatment and additional hearing aids will be of no significant benefit to him.

There are many instances in our files of individuals who have been sold hearing aids for an ear in which they have no ability to discriminate speech and where the other ear is essentially normal.

We are seeing an increasing number of individuals who are sold all-in-the-ear hearing aids for which they will not receive the maximum possible benefit. At the present time, it appears to me that people are purchasing all-in-the-ear hearing aids because of the cosmetic and not because of their acoustic characteristics.

Ironically, even within the Mayo Clinic we have an individual who has been sold a hearing aid inappropriately. This gentleman was employed at the Mayo Clinic in a nonprofessional status. He had essentially normal hearing with a slight drop at 4,000 Hz and normal speech discrimination and speech reception threshold. He was sold a hearing aid. After wearing the aid for two weeks he returned it to the dealer and complained that the hearing aid did not help. The dealer sent the aid back to the factory for repair. After receiving the aid back he still could not tolerate amplification. He took the aid back and tried to get his money back. The dealer would not give the money back because the purchase occurred more than one month earlier. Subsequently, the man came to the Audiology Section of the Mayo Clinic and it was confirmed that he did in fact not need a hearing aid. Subsequently, in small claims court, he was awarded a full refund. The previous two cases are individuals from Minnesota. To give some indication of the national scope of the problem, I would like to briefly discuss patients from three other states.

First is a 61-year-old man from Kentucky who was sold an all-in-the-ear hearing aid for an ear that was essentially without hearing.

Second is a case of a man from Montana with essentially normal hearing who was sold binaural hearing aids. When asked if the hearing aids were of any benefit, he replied: "they are of no damn good to me."

Third we have three cases from Michigan in which the individuals had essentially no usable hearing in one ear and relatively good hearing in the other ear but were sold hearing aids for the poorer ear. They received no benefit from these aids. These are only a few of the cases that we have documented.

At the present time, in this country we are faced with a number of basic philosophical and ethical questions regarding the various hearing aid delivery systems. My point of view is not consistent with that of the American Speech and Hearing Association or with that of a number of hearing aid manufacturers. I am of the opinion that a hearing loss is a medical disease and must be diagnosed by an otolaryngologist with the aid of audiological tests. However, I do not believe it would be in the best interest of the patient for either an audiologist or an otolaryngologist to dispense hearing aids even under the guise of a non-profit system. The present practices being conducted by a number of audiologists and otologists under the guideline of the American Speech and Hearing Association's Code of Ethics allows the patient to be charged for "a hearing aid evaluation as well as follow-up rehabilitation." Prior to ASHA's Code of Ethics emphasis, it was not always common for the audiologists to conduct the hearing aid evaluation or the rehabilitation in the same manner that they presently charge for. Now, these additional charges bring the price of the complete package including a hearing aid up to nearly the same as the dealers' suggested retail price.

I am aware that a number of audiologists suggest that only with this hearing aid evaluation and rehabilitation procedure can the patient fully benefit from a hearing aid. It is my opinion that much of the hearing aid evaluation and rehabilitation conducted by audiologists dispensing hearing aids is of little value to the patient.

Our procedure is to refer patients who have an audiological and otological examination to the dealer who will rent and sell for a reasonable price. The average price of a hearing aid sold by some dealers that we refer to is about $225. This does not include the otologist's or audiologist's charge. These prices were established by the dealers without any suggestions from us. In view of the work done by the dealers and the cost of operating their facilities, these prices seem to me to be reasonable prices.

In Minnesota, the consumer protection law does not allow the audiologist to dispense hearing aids. Under this law it is also mandatory that anyone over the age of 60 and under the age of 18 receive a physician's or audiologist's recommendation before an aid can be purchased. People between the ages of 18 and 60 can purchase an aid without a medical or audiologic recommendation if they sign a waiver. Although it has been stated to the contrary, the number of people receiving quality hearing health care in the state of Minnesota has not decreased. Even with the law, we have seen a few instances in which hearing aid dealers have sold hearing aids to people over the age of 60 without medical recommendation. We have also seen a number of cases in which individuals between 18 and 60 have purchased hearing aids which were of no benefit to them. However, it is my opinion that the law has been beneficial to some hearing impaired individuals.

I also am concerned with present attempts which allow hearing aid dealers to test as a diagnostic procedure. They are not trained for such procedures nor can they carry out these procedures without a conflict of interest when fitting a hearing aid.

SRI LANKA INDEPENDENCE DAY, MAY 22, 1976

Mr. PERCY. Mr. President, it has been a number of years since I have had an opportunity to visit a highly important country in the subcontinent, Sri Lanka. On May 22, 1976, Sri Lanka observes the fourth anniversary of the inauguration of the Republic and the adoption of the present Constitution. The year ahead for Sri Lanka is as momentous and significant to that country as it is for the United States in her Bicentennial Year. Before the next Republic Day is celebrated in Sri Lanka in 1977, the country will have its seventh opportunity since regaining its independence in 1948 to hold free, democratic national elections. In this exercise of a fundamental democratic freedom, Sri Lanka stands as one of the few countries where democratic institutions continue to flourish. In August this year Sri Lanka, which has long been a leader in the group of nonalined nations, will host the Fifth Nonalined Summit Conference—the first time such a summit has been held in Asia. The meeting, which will be a focal event in the Third World, will be attended by the leaders of over 80 nations and will take place in the Conference Hall dedicated to the memory of the late Prime Minister, Mr. S. W. R. D. Bandaranaike—and will be chaired by his widow, the present Prime Minister, who has had the distinction of leading Sri Lanka's delegation at every nonalined Summit Meeting since 1961.

As a developing country, Sri Lanka has regretfully been buffeted by the worldwide inflation and the catastrophic consequence of the increases in import prices. Nevertheless, strong efforts are reportedly being made to achieve a viable economic structure and the recently concluded land reform appears to be a milestone in this direction.

A major achievement has been the in-

auguration of an extensive multipurpose river diversion project whereby the waters of Sri Lanka's longest river, the Mahaweli, will be diverted into the arid dry zone of the country to provide irrigation for farmers of the country. The first stage of this massive multimillion dollar project has been completed. The country has commenced the construction of an urea fertilizer plant, and Kellogg International Corp. has won the contract for this $92 million project, which will provide the full requirements of urea for the agricultural sector of Sri Lanka. Sri Lanka is also exploring for oil, and Pexamin Pacific, Inc.—a group of companies opment has been greatly enhanced by a and the Pacific regions—has been appointed as consultant.

Sri Lanka's social and economic development has geen greatly enhanced by a dramatic decrease in the rate of population growth. In 1974, the increase of population was as low as 1.6 percent which is something of a record for developing countries.

The Finance Minister in the budget which he presented in November, 1975, reasserted a role for the private sector and welcomed the infusion of foreign private capital into the economy of Sri Lanka. A foreign investment law and the creation of a foreign investment authority to give legal form to inducements for foreign private capital are being formulated. Sri Lanka is strenuously pursuing her objective of achieving economic development, together with greater equality in the distribution of income. The share of the income of the poorest 40 percent of inhabitants has risen since 1963 from 14 to 19 percent in 1973. Correspondingly, the share of income received by the top 10 percent has declined from 37 to 28 percent during the same period.

Sri Lanka-United States relations continue to be friendly, and the links forged by the common identity of the two countries as democracies are reinforced by economic, commercial, and cultural exchanges. The United States continues to be an important donor of developmental assistance to Sri Lanka. In 1976, an agreement was signed under Public Law 480 for the sale of 100,000 tons of wheat flour to Sri Lanka. Trade between the two countries in 1975 expanded with imports by the United States increasing by 15 percent and U.S. exports to Sri Lanka increasing by over 69 percent. Sri Lanka also continues to be a popular tourist resort by virtue of its unique beauty. In a recent birthday message to Mrs. Sirimavo Bandaranaike, the Prime Minister of Sri Lanka, President Ford said:

> Under your distinguished leadership Sri Lanka continues to play an important and constructive role within the family of nations—underscored by the fact that Sri Lanka will be host this summer to the Non-Aligned Summit Conference. Your birthday also provides a welcome occasion to reiterate my personal satisfaction and that of the American people with the friendship and cordial relations that exist between our two democracies. I have every confidence that this friendship will continue to prosper.

President Ford has nominated the Honorable John H. Reed, the former Governor of Maine, and former chairman of the National Transportation Safety Board, as the U.S. Ambassador to Sri Lanka. I have every confidence that, if confirmed, he will serve with distinction to carry out the hope and desire expressed recently by President Ford.

In conclusion, Mr. President, I express the hope that the Conference of Nonaligned Nations to be held in Sri Lanka in August of this year will not fall into the hands of radicals who have no interest in cooperation between the developed and the developing world. It is important that the guiding direction of the conference come from those who are dedicated to the principle of global interdependence.

BICENTENNIAL READING LIST

Mr. GARN. Mr. President, one of the benefits of a bicentennial year is that it prompts us to examine some of the philosophical bases on which our country was organized, and around which it continues to function. It also brings sharply to mind the strands of culture, diverse and shared, which have gone into the making of modern America.

In an effort to focus these thoughts, the American Issues Forum has been organized to promote group discussion of many of the aspects of American life. To provide background reading for these discussions, the American Library Association was commissioned by the National Endowment for the Humanities to compile a reading list from the vast literature that underlies our culture. The list has been compiled, and has been distributed by the ALA.

It is not my intention here to criticize the list drawn up by the ALA, though that has been done by competent critics. I would simply like to call the attention of the Senate to the fact that such a list does exist, and that because of the commission from the National Endowment, and the funding that came with that commission, the list does take on a quasi-official significance.

The editors of National Review have reviewed the ALA list, and have taken it upon themselves to draw up their own list, more closely reflecting their own biases and perceptions. In the interest of completeness, I thought that other Senators might like to examine their list, in case they receive inquiries about either one from their constituents.

Incidentally, Mr. President, neither list contains a section devoted to American humor. In my view, that is a serious oversight. I see no way that the American experience can be understood without a familiarity with Mark Twain's "Tom Sawyer," or "Roughing It," with "You Know Me, Al" by Ring Lardner, with James Thurber, and with Booth Tarkington's works, most notably "Penrod." No doubt others would have contributions to make to this part of any comprehensive list.

I therefore ask unanimous consent that the article from National Review about the two lists be printed in the RECORD.

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

BIG BROTHER'S READING LIST: A DISSENT

The American Library Association recently compiled and published a reading list designed to aid in the discussion of a series of issues connected with the U.S. Bicentennial. The list was designed, in particular, to be used as an accessory to the American Issues Forum, a nationwide program for "group discussion of the fundamental issues and values of American life upon the occasion of the Nation's Bicentennial." In its effort to compile a suitable list, the ALA had generous support from the Federal Government. The procedures it followed seem reasonable. In the words of the ALA: "Two broadly representative committees of librarians, appointed by the American Library Association, spent almost five months searching out books, films, tapes, and records, considering nominations from National Advisors and experts in many different fields, and making the final selections for the list." The principal criteria for selection were "quality," "readability," and "accessibility."

The ALA list has been widely disseminated, and is potentially influential.

As soon as it appeared, however, the ALA list came under thoroughly justified attack in the press. Columnists William Safire and Patrick Buchanan castigated it for its manifest political and cultural bias. Other shortcomings soon became apparent. A prominent American economist, for example, wrote as follows to the editors of *NR*: "In addition to their biases there is too much old stuff on their list which has little significance for our time—i.e., *The Robber Barons, The Octopus, The Wobblies, The Jungle*, etc. From their list, you would not expect that government was playing much of a role in our society. Unfortunately, it is, and not doing very well at it. Much of the best conservative writing consists of a critique of government programs rather than a defense of the market system. I think the focus of the list needs changing."

It thus develops that in the Bicentennial Reading List—drawn up by a private organization, but funded by a federal agency, the National Endowment for the Humanities—we confront several serious defects: 1) in overall quality it is highly uneven, mixing many excellent titles with a good deal of trash; 2) a substantial number of its titles are out of date (particularly in the areas of business and economics), show little awareness of the best work that has been done in recent years, and fail to deal with the most salient issues before us; 3) in its manifest tendency the ALA list is anti-business, and new Left revisionist in its attitude toward the cold war and toward America's role in the world; and 4) it is fashionably self-lacerating as regards the history of ethnic minorities in America.

The ALA list consists of ten sections, and they vary considerably in quality.

1. *Books for a General Introduction to the American Past.* Generally a satisfactory listing. The ALA list includes an excellent narrative history in Samuel Eliot Morison's *Oxford History of the American People;* the classic *Democracy in America* by Tocqueville; Daniel Boorstin's important three-volume study *The Americans;* Shelby Foote's epic three volumes of the Civil War; and some pleasant surprises: Mencken's *The American Language,* and Frederick Lewis Allen's useful and readable books on the Twenties and Thirties. Criticism of this section perhaps ought to take the form of qustions. Is Max Lerner's *America as a Civilization* quite good to appear in this company? Or Eric Goldman's *Rendezvous with Destiny?* Frederick Jackson Turner's *The Frontier in American History* urged an important thesis, but to include Turner without including any of his serious critics seems intellectually eccentric.

2. *A Nation of Nations.* This section deals

with the varied ethnic makeup of the United States and with the experiences of the different groups as they played a part in our history. Of the 32 titles listed by the ALA, at least half are of dubious intellectual quality. If you want to read about the Jewish ethnic experience, is Herman Wouk's *City Boy* the best that can be found? Irving Howe, Will Herberg, John Murray Cuddihy, Alfred Kazin, and Norman Podhoretz clearly offers much more. The ALA list includes the important *Beyond the Melting Pot* by Glazer and Moynihan, but do we really need *A Nation of Immigrants* by John F. Kennedy, that deep student of things ethnic? When the ALA list turns to the question of allegiance to the American Republic, the emphasis seems unduly negative. The eight titles start off with the pro-allegiance *Man without a Country* by Edward Everett Hale, but the remaining seven titles are variously negative: they comprise Arthur Miller's play *The Crucible*, a tendentious drama linking seventeenth century witch trials with modern investigations of Communism; Thoreau's *Civil Disobedience;* a record about the 1963 civil rights march on Washington; Richard Rovere's book on McCarthy; a book by W. E. B. Du Bois, who ended his life as a member of the Communist Party; Theodore Roszak on the counterculture; and a book on conscientious objection.

3. *The Land of Plenty.* This section deals with the general subject of development, i.e., the land and its resources and how they have been used. About two-thirds of the ALA-listed books suggest that the U.S. has used them very badly. The intellectual quality varies enormously. We find one title by Edward C. Banfield, but two by Stewart Udall, and, bless us, *Who Owns America?* by Walter J. Hickel. With few exceptions, the ALA list here is relentlessly middlebrow and breast-beating.

4. *Certain Unalienable Rights.* "Basic freedoms and rights are the stuff of America," asserts the ALA list, "but are they being eroded or diluted in today's society, or are they being extended and strengthened?" The ALA list gives the overwhelming impression that they are being eroded and diluted. But before turning to that issue, a prior one should be raised. In any Bicentennial discussion of "rights" in the American constitutional tradition, it would seem appropriate to undertake a discussion of just what those rights are, where they are located, and what their limits are, if any. The ALA list seems unaware that serious controversy exists about the meaning and scope of the First and Fourteenth Amendments, not to mention the debate over the meaning of unalienable rights in the Declaration. Entirely neglected by the ALA list is the fundamental question of whether the American system is an "unalienable rights" system, or a "deliberate sense of the people" system. The list is therefore in an important sense trivial.

In its overall tendency, moreover, the ALA list conveys a very bleak impression of the history and current status of individual rights in America. We have John Roche's judiciously optimistic *The Quest for the Dream,* but this listing is overwhelmed quantitatively by some twenty highly negative titles such as *The Devil in Massachusetts, Manual for Direct Action, Citizen Hearst, Fear in the Air, All the President's Men, Red Scare, The Assault on Privacy, The Naked Society, The Fire Next Time, Institutional Racism in America,* and *A Time to Die.*

5. *A More Perfect Union.* This section deals with the "fragile system" of democracy, and how it does and does not work. The ALA list here provides a curious mixture of high quality and low, including, as usual, much that is indifferent and mediocre. Some titles would find a place in any serious list: *The Federalist Papers,* Daniel P. Moynihan's *Maximum Feasible Misunderstanding,* perhaps such novels as *The Last Hurrah* and *All the King's Men,* which provide vivid accounts of the actual experience of politics in certain eras. But what are we to make of a ridiculous book like Merle Miller's *Plain Speaking,* in which a manifestly senile Harry Truman parodies himself to the accompaniment of Miller's naive oohs and ahs? Do we really need John Gardner's manifesto *In Common Cause,* or Dan Rather's inferior *The Palace Guard?* There is even included a record of the son of Sinclair Lewis reading passages from his 1935 novel *It Can't Happen Here,* about the coming of fascism in America, complete with presidential storm troopers. Listed also is a record of the Army-McCarthy hearings and, believe it or not, a tape cassette of John Lindsay instructing us on how to govern our cities—but no facsimiles of defaulted municipal bonds. The cup runneth over.

6. *Working in America.* The overall impression given by the ALA list is that working in America is a pretty bad deal. Furthermore, the list is curiously narrow in its focus and rather sentimental. Work for the ALA apparently means manual labor, for the most part. Such titles as *The Wobblies, Muscle and Blood, Toil and Trouble* give the prevailing flavor. Nor are the results of working anything to crow about: *The Grapes of Wrath, Poorhouse State, Still Hungry in America, Young till We Die, Down and Out in the U.S.A.* Even "success" is really pretty bad: *Babbitt, The Organization Man, Return the Innocent Earth, The Lonely Crowd, The Harried Leisure Class.* The ALA list does not come close to reflecting the experience of the vast majority of Americans and therefore fails to deal with the genuine issues in the area of "working in America."

7. *The Business of America.* Of the thirty titles in this list, 19 are strongly anti-business. Two are cautiously pro-business. The rest have other goals in mind. Much of the list is out of date, or otherwise irrelevant to our present concerns. Matthew Josephson's *The Robber Barons* has been influential, but as history it has also been found faulty in important ways. *The Little Foxes* and *Another Part of the Forest* by Lillian Hellman, whatever their merits as plays, shed little light on "the business of America." It is in this general area, however, that some of the most important analytical work has been done during the last fifteen or twenty years. Such work finds almost no representation in the ALA list.

8. *America in the World.* Any list of thirty titles in this area that includes two by William Appleman Williams is prima facie suspect. Williams, moreover, is backed up by a dozen or so works in the "revisionist" historical mode, i.e., the American "empire" (political and economic influence) is bad, America is largely responsible for what is wrong in the world today, America should not intervene abroad in defense of its interests or to oppose the spread of Soviet influence and/or Communism. The predictable names are heavily represented: Walter LaFeber, Gunnar Myrdal, Ronald Steel, David Halberstam, Frances FitzGerald, J. William Fulbright, et al. You would not guess from the ALA list that Robert James Maddox in *The New Left and the Origins of the Cold War* has provided a devastating critique of revisionist historical methods. Nor would you imagine that an array of writers from Hanson Baldwin and James Burnham to Aleksandr Solzhenitsyn and Sir Robert Thompson think that (a) the U.S. and the other free nations are in serious danger, and (b) the spread of Soviet power and influence is a part of that danger.

9. *Growing Up in America.* By this time, you ought to be able to anticipate the titles listed by the ALA. Jonathan Kozol, *Death at an Early Age.* Right. Dore Schary, *Sunrise at Campobello.* Richard Wright, *Black Boy* and *Native Son.* Vance Packard, *A Nation of Strangers.* Then there's *House Made of Dawn* by N. Scott Momoday, described as follows: "Abel, a young American Indian, seeks to integrate his past—now nothing more than a desperate, downtrodden reservation—with a hostile white world, an effort that results in violence, suffering, and despair." That just about says it all for the ALA on "growing up in America." The middle class is represented by a few items—Thornton Wilder, Barzun on the university, J. D. Salinger—but it is strictly a token appearance. For the ALA, the middle class appears to be just that, a token presence in any account of "growing up in America." You would never imagine that Hemingway's Nick Adams had "grown up in America" or that Fitzgerald's Amory Blaine had too. Not to mention Robert Frost or Edna Millay, Hunter Thompson or Joan Didion. The ALA list in this section is a fiasco.

10. *And the Pursuit of Happiness.* The ALA list is peculiarly thin and unfocused here, but it leaves the general impression that if you "pursue happiness" in America you are not likely to be rewarded with much of it. Some of the titles included are unexceptionable: *The Great Gatsby, An American Tragedy, Walden, The Old Man and the Sea.* Those books are all well worth talking about. But we also get the *schlock* to which we have now become so accustomed in dealing with the ALA list: *Future Shock, The Greening of America, The Art of Loving.* You would not gather that "happiness" in America had anything to do with style, humor, vitality, personal achievement, serious thought, or religious belief. As a matter of fact, the intellectual disaster in this final section tells us a good deal about the pervasive deficiencies in the rest of the list.

The ALA compiled its list with the aid of a substantial grant from the National Endowment for the Humanities, a federal agency. This fact raises some complex issues. It would scarcely seem appropriate for the National Endowment to have compiled its own list. Few would feel comfortable with the idea of a federal agency putting out reading lists for mass consumption. When the ALA labored and brought forth a lemon, should the National Endowment have gone along with the list, rejected it, or tried to improve it? The latter two options, while superficially attractive, again raise the issue of a direct federal influence on the reading list.

The editors of National Review decided, therefore, to compile and advertise the availability of an alternative Bicentennial Reading List, better balanced and much less condescending to its intended audience. The editors of *NR* believe that those who compiled the ALA list drastically underestimated the ability of Americans to read books of intellectual quality and balance. It need not be said that any such list will have omissions to which anyone could point. The following list will have them, but an effort has been made to achieve quality and balance. In a number of instances, and especially in the section "America in the World," the following list includes foreign writers to a greater degree than the ALA list, on the assumption that in order to know the world in which America strives to exist a knowledge of Orwell and Solzhenitsyn is necessary. The list will be revised and brought up to date from time to time. When deemed advisable, brief comments have been made on individual titles.

BOOKS FOR A GENERAL INTRODUCTION TO THE AMERICAN PAST

*Allen, Frederick Lewis—Only Yesterday (*Harper & Row paperback*); The Big Change (*Harper & Row paperback*). Vivid social history of the 1920s and 1930s.

*Boorstin, Daniel—The Americans, *3 vols.* (*Random House paperback*).

*Foote, Shelby—The Civil War: A Narrative, *3 vols.* (*Random House*).

Jefferson, Thomas—Notes on the State of

Virginia (*Norton paperback*). The tension between the pastoral ideal and the ideal of development has deep roots in American feeling.

Kenner, Hugh—The Pound Era (*University of California*). A profound examination of Ezra Pound's poetry and ideas in the context of the twentieth century modernist movement.

Manchester, William—The Glory and the Dream 1932–1972 (*Bantam*). America through depression, world war, and the strains of empire.

Miller, Perry—The American Puritans (*Anchor*).

*Morison, Samuel Eliot—The Oxford History of the American People (*Mentor*). The best concise history of America from the earliest days to the atomic age.

Niebuhr, Reinhold—The Irony of American History (*Scribner's paperback*). An anti-utopian meditation on the irony that shadows the plans and projects of men.

Pierson, George W.—The Frontier and American Institutions: A Criticism of the Turner Thesis, in Turner and the Sociology of the Frontier, *Richard Hofstadter and Seymour M. Lipset, eds.* (*Basic Books*).

Russell, Francis—The Shadow of Blooming Grove (*McGraw-Hill*). One of the best books on the American political process as it operated between the world wars, and a poignant portrait of Warren Harding. Tragedy in Dedham: The Story of the Sacco-Vanzetti Case (*McGraw-Hill*). Brilliant study of the famous case.

Scheer, George F., and Hugh F. Rankin—Rebels and Redcoats (*Mentor*). Eyewitness accounts of the American Revolution from letters, journals, and battlefield reports.

Shaw, Peter—The Character of John Adams (*University of North Carolina*).

Smith, Henry Nash—Virgin Land (*Harvard paperback*). The idea of the American West and its effect upon history and culture.

*Tocqueville, Alexis de—Democracy in America, *2 vols.* (*Random House paperback*).

*Turner, Frederick Jackson—The Frontier in American History (*Holt, Rinehart paperback*).

Whitman, Walt—Democratic Vistas, *in* The Viking Portable Walt Whitman (*Viking*). A locus classicus of American optimism.

Zuckerman, Michael—Peaceable Kingdoms: New England Towns in the Eighteenth Century (*Vintage.*)

A NATION OF NATIONS

Andrist, Ralph K.—The Long Death (*Collier*). The defeat of the Plains Indians.

Bailyn, Bernard—Education in the Forming of American Society (*Norton paperback*).

Bok, Edward—The Americanization of Edward Bok (*Scribner's*). Until quite recently, people knew what Americanization meant and actually used the word.

Boorstin, Daniel—The Lost World of Thomas Jefferson (*Beacon paperback*).

Boyer, Richard O.—The Legend of John Brown (*Knopf*). The fiery abolitionist in fact and myth.

Crevecoeur, J. Hector St. John De—Letters from an American Farmer and Sketches of Eighteenth Century America (*Signet*). Roots of American individualism.

Cuddihy, John M.—The Ordeal of Civility (*Basic Books*). An intellectually revolutionary study of the socialization of the Jewish ethnic minority.

Du Bois, W. E. B.—The Autobiography of W. E. B. Du Bois (*New World paperback*).

Faulkner, William—The Viking Portable Faulkner (*Viking*). Critic Malcolm Cowley arranges selections from Faulkner's novels and stories to form a narrative of the interlocking fates of whites, blacks, and Indians in the American South.

Fogel, Robert W., and Stanley L. Engerman—Time on the Cross (*Little, Brown paperback*). Using new methods of analysis, the authors arrive at revisionist conclusions about the life of the slaves.

*Franklin, Benjamin—The Autobiography of Benjamin Franklin (*New American Library*).

Gambino, Richard—Blood of My Blood (*Anchor*). The Italian-American experience.

*Glazer, Nathan, and Daniel P. Moynihan—Beyond the Melting Pot (*MIT paperback*). The melting pot failed to turn ethnic Americans into interchangeable parts, but did affect them profoundly.

*Handlin, Oscar—The Uprooted (*Atlantic—Little, Brown paperback*).

Hawthorne, Nathaniel—The Scarlet Letter (*Harper & Row*). A major expression of the Puritan sensibility.

*Herberg, Will—Protestant-Catholic-Jew (*Doubleday*).

Howe, Irving—World of Our Fathers (*Harcourt Brace*). Jewish immigrant experience.

Jaffa, Harry—The Crisis of the House Divided (*University of Washington*). The political and constitutional struggle over slavery.

Kazin, Alfred—A Walker in the City (*Harcourt Brace*).

*Malcolm X—The Autobiography of Malcolm X (*Ballantine*).

Marshall, S. L. A.—Crimsoned Prairie (*Scribner's*). One of America's foremost military historians deals with the Indian wars and provides an antidote to Dee Brown.

Morgan, Edmund S.—The Puritan Family: Domestic Relations in Seventeenth Century Virginia (*Harper Torchbook*).

*O'Connor, Edwin—The Last Hurrah (*Little, Brown*). Irish-American politics in Boston.

Pettengill, Samuel B.—The Yankee Pioneers: A Saga of Courage (*Charles E. Tuttle*). Surprisingly arduous conditions in New England and the people who surmounted them.

Podhoretz, Norman—Making It (*Random House*). A mid-century American Jew moves from humble background to literary and cultural success.

Puzo, Mario—The Godfather (*Putnam*).

Schoener, Allon, ed.—Portal to America: The Lower East Side 1870–1925 (*Holt, Rinehart paperback*).

Shannon, William V.—The American Irish (*Macmillan*).

Steffens, Lincoln—The Autobiography of Lincoln Steffens (*Harvest*).

Strickland, Rennard—Fire and the Spirits: Cherokee Law from Clan to Court (*University of Oklahoma*).

Wheeler, Thomas C., ed.—The Immigrant Experience (*Pelican*).

Wills, Garry—The Second Civil War: Arming for Armageddon (*New American Library*). An eloquent 1968 prediction of the imminent civil war in America—imminent defined as a matter of months, or a year at most—by the Last Kid, a well-known casualty of the ideological season.

THE LAND OF PLENTY

*Agee, James, and Walker Evans—Let us Now Praise Famous Men (*Ballanetine*). Evans' photographs and Agee's text on rural Southern poverty.

Alchian, Armen—No Time to Confuse (*Institute for Contemporary Studies*). A devastating critique of the Ford Foundation's report on energy.

*Banfield, Edward C.—The Unheavenly City Revisited (*Little, Brown paperback*). A revised edition of Banfield's classic, taking account of points made by critics of the original study.

Barzun, Jacques—God's Country and Mine (*Greenwood*). The definitive rejoinder to fashionable anti-Americanism.

Bauer, P. T.—Dissent on Development (*Harvard*). Sanity about relations between the developed and underdeveloped worlds.

Beckerman, Wilfred—Two Cheers for the Affluent: A Spirited Defense of Economic Growth (*St. Martin's*).

Boulding, Kenneth E., and Martin Pfaff, eds.—Redistribution to the Rich and the Poor (*Wadsworth*). Programs supposedly designed to aid the poor really buy the votes of the non-poor.

Burnham, James—The Managerial Revolution (*Indiana University*). A classic study of the concentration of power in modern society; it deeply influenced George Orwell.

Capote, Truman—In Cold Blood (*Random House*). The wretches hang.

Clarkson, Kenneth W.—Food Stamps and Nutrition (*American Enterprise Institute*).

*Dos Passos, John—U.S.A. (*Houghton Mifflin paperback*). A classic novel, highly critical of capitalism.

Friedman, Milton—There's No Such Thing as a Free Lunch (*Open Court*).

Furubotn, Eirik G., and Svetozar Pejovich—The Economics of Property Rights (*Ballinger*).

*Galbraith, John Kenneth—The Affluent Society (*New American Library*).

Ginzberg, Eli, and Robert M. Solow, eds.—The Great Society (*Basic Books*).

*Harrington, Michael—The Other America (*Macmillan*). Poverty and hunger rediscovered.

Hayek, F. A.—Capitalism and the Historians (*University of Chicago*).

Jacobs, Jane—The Death and Life of Great American Cities (*Vintage*).

Marx, Leo—The Machine in the Garden (*Oxford*). Ambivalence about machinery in American literature and culture written from an implicitly leftist point of view.

Miller, Roger Leroy—American Economic Life Yesterday and Today (*Canfield*).

*Mills, C. Wright—The Power Elite (*Oxford*). An influential study of interlocking economic power by the radical sociologist.

Mitchell, Edward J.—U.S. Energy Policy: A Primer (*American Enterprise Institute*). The best introduction to energy.

Pechman, Joseph A., Henry J. Aaron, and Michael Taussig—Social Security: Perspectives for Reform (*Brookings Institution*). Social Security now accounts for 25 per cent of federal expenditures. A careful study of the system.

Percy, Walker—Love in the Ruins (*Farrar, Straus*).

Riesman, David, et al.—Individualism Rediscovered (*Anchor*). A series of essays exploring the place of individualism in modern society.

Schumpeter, Joseph—Capitalism, Socialism, and Democracy (*Harper & Row*). Capitalism will fall because it has been so successful.

Smith, Adam—The Wealth of Nations (*Kelley*).

Stigler, George—The Intellectual and the Marketplace (*Transatlantic*).

Thompson, Hunter—Fear and Loathing: On the Campaign Trail (*Simon & Schuster*). Exacerbated sensibility and brilliant prose style; a footnote to Schumpeter.

Tullock, Gordon—Private Wants, Public Means (*Basic Books*).

Wolfe, Tom—Radcial Chic and Mau-Mauing the Flak-Catchers (*Bantam*). Playing at revolution as a relief from affluent ennui.

Worsthorne, Peregrine—The Socialist Myth (*Weybright and Talley*). An examination of the British experience with socialism, but of general application.

CERTAIN UNALIENABLE RIGHTS

Bailyn, Bernard—The Ideological Origins of the American Revolution (*Harvard paperback*).

Becker, Carl—The Declaration of Independence (*Vintage*).

Berns, Walter—Freedom, Virtue, and the First Amendment (*Greenwood paperback*).

Bickel, Alexander—Morality of Consent (*Yale*). Better to discover Burke late than never.

Boorstin, Daniel—The Genius of American Politics (*University of Chicago*).

Buckley, William F., Jr., and L. Brent Bozell—McCarthy and His Enemies (*Regnery*). One side of the great controversy; cf. Rovere below.

Burke, Edmund—Speech on Conciliation with the Colonies (*Gateway*).

Burnham, James—Congress and the American Tradition (*Regnery*). The attrition of congressional sovereignty and its complications for self-government.

Goldwin, Robert, ed.—A Nation of States (*Rand McNally*). Essays by Berns, Diamond, Kirk, et al.

Hacker, Andrew, ed.—The Federalist Papers (*Pocket Books*).

Harper, John Richard—The American Revolution (*Harper Torchbooks*).

*Hofstadter, Richard—The American Political Tradition (*Vintage*). An influential book from a generally liberal point of view.

Hook, Sidney—The Paradoxes of Freedom (*University of California paperback*).

Hyneman, Charles S., and George W. Carey, eds.—A Second Federalist: Congress Creates a Government (*University of South Carolina*).

Kendall, Willmoore, and George W. Carey—The Basic Symbols of the American Political Tradition (*Louisiana State University*). An original and profound study of the emergence of the American political tradition from the earliest documents through the Declaration and the Constitution.

Koch, Adrienne, ed.—The American Enlightenment (*Braziller*). Letters, papers, addresses by Franklin, Adams, Jefferson, Madison, et al.

Kristol, Irving—On the Democratic Idea in America (*Basic Books*). One of the most astute analysts of American politics considers the problems of capitalism, the role of the intellectuals, pornography and censorship, etc.

*Levy, Leonard W., ed.—Freedom of the Press from Zenger to Jefferson (*Bobbs-Merrill Heritage Series*).

Livy—The Early History of Rome (*Penguin*). The writings of classical historians and political theorists had at least as much influence on the Founders as the writings of John Locke.

Locke, John—Second Treatise of Government (*Bobbs-Merrill*).

Machiavelli, Niccolo—The Discourses (*Peter Smith*).

Murray, John Courtney—We Hold These Truths (*Sheed & Ward*). A natural-rights perspective on and affirmation of the American constitutional tradition.

Nisbet, Robert—The Twilight of Authority (*Oxford*). A pessimistic estimate of the present state of democratic culture by one of the leading contemporary sociologists and one of the few who can write.

Paine, Thomas—Common Sense and the Crisis, *annotated by Thomas Wendel* (*Barron's Educational Series*). The most influential pamphleteer of the American Revolution speaks for eighteenth century radicals.

Plutarch—The Fall of the Roman Republic (*Penguin*).

Roche, George—Balancing Act (*Open Court*). Use and abuse of racial quotas.

*Roche, John P.—The Quest for the Dream (*Quadrangle paperback*). The noted political scientist studies civil liberties in America and concludes that on the whole things are good.

Rossiter, Clinton—1787: The Grand Convention (*Macmillan*). The Political Thought of the American Revolution (*Harvest*).

*Rovere, Richard—Senator Joe McCarthy (*Harper & Row*). The best of the numerous anti-McCarthy books of the period.

U.S. Constitution with the Declaration of Independence (*Pathmark Books*).

Weaver, Richard M.—The Southern Tradition at Bay (*Arlington House*).

Wood, Gordon S.—Creation of the American Republic 1776–1787 (*Norton*). Confederation and Constitution, *ed.* (*Little, Brown*). Essays by Corwin, Diamond, Roche, Kenyon, et al.

A MORE PERFECT UNION: HOW THE SYSTEM DOES AND DOES NOT WORK

Anderson, Martin—The Federal Bulldozer (*McGraw-Hill*).

Berger, Raoul—Impeachment (*Harvard*).

Bozell, L. Brent—The Warren Revolution (*Arlington House*).

Buchanan, Patrick J.—Conservative Votes, Liberal Victories (*Quadrangle*).

Buckley, William F., Jr.—Four Reforms (*Putnam*). Practical reforms in the fields of welfare, education, taxation, and criminal justice.

The Unmaking of a Mayor (*Viking*). A paradigmatic political campaign seen from the inside.

Farrand, Max—The Framing of the Constitution (*Yale*).

Faulkner, William—The Hamlet (*Random House*). The United States remains a country of diverse regions; the South's greatest novelist here describes the rise of the demonic Snopes clan and provides an unforgettable interpretation of the rural South.

Flexner, James Thomas—Washington (*Little, Brown*).

*Genovese, Eugene—Roll, Jordan, Roll (*Pantheon*). Self-described as a Marxist, Genovese is also one of the leading historians of slavery in the United States. His book is rich and non-dogmatic.

Glazer, Nathan—Affirmative Discrimination (*Basic Books*). How we have abandoned racial discrimination and turned to racial discrimination.

The Social Basis of American Communism (*Harcourt Brace*). Who has joined the CPUSA?

Hayek, F. A.—The Constitution of Liberty (*University of Chicago*).

Kirk, Russell—The Roots of American Order (*Open Court*).

Leoni, Bruno—Freedom and the Law (*Nash*).

*MacNeil, Neil—Forge of Democracy (*McKay*).

Molnar, Thomas—The Counterrevolution (*Funk & Wagnalls*). The essence of the revolutionary and counterrevolutionary positions.

Morgan, Edmund S.—The American Revolution: Two Centuries of Interpretation, *ed.* (*Spectrum paperback*).

The Birth of the American Republic (*University of Chicago paperback*).

Moss, Robert—The Collapse of Democracy (*Arlington House*). Democracy has proved to be a fragile form of government; when it fails, the problem is to avoid the totalitarian alternative.

*Moynihan, Daniel P.—Maximum Feasible Misunderstanding (*Free Press paperback*).

Nash, George—The Conservative Intellectual Movement in America (*Basic Books*).

Neustadt, Richard—Presidential Power (*Wiley paperback*).

Nisbet, Robert—The Quest for Community (*Oxford*).

Phillips, Kevin—Mediacracy (*Doubleday*). The rise of a New Class based on knowledge, communications, and social engineering; and the political implications that follow.

*Publius—The Federalist Papers (*Pocket Books*).

Scammon, Richard, and Ben J. Wattenberg—The Real Majority (*Doubleday*).

Tuveson, Ernest Lee—Redeemer Nation (*University of Chicago*). The millennial impulse in American history.

Van Den Haag, Ernest—Punishing Criminals (*Basic Books*).

*Warren, Robert Penn—All the King's Men (*Random House*). The career of a Deep South demagogue.

Weaver, Richard M.—Ideas Have Consequences (*University of California paperback*).

White, Theodore—The Making of the President 1968 (*Atheneum*).

Wilson, Edmund—Patriotic Gore (*Scribner's*). The Civil War as reflected in American literature.

Wilson, James Q.—Thinking about Crime (*Basic Books*).

WORKING IN AMERICA

Bell, Daniel—The Coming of Post-Industrial Society (*Basic Books*). The profound changes in the work environment brought about by technological development.

Buchanan, James M., and Nicos E. Devletoglou—Academia in Anarchy (*Basic Books*). Academia is now big business and takes an increasing slice of the national income.

Davenport, John—The U.S. Economy (*Regnery*). One of the most lucid writers on economic subjects provides an overall perspective on the U.S. economic environment.

Ferkiss, Victor—Technological Man (*Braziller*). The author does not deplore technology, and is a profound student of its implications for the future; a good antidote to Charles Reich.

Fitzgerald, F. Scott—Babylon Revisited and Other Stories (*Scribner's paperback*). American life, working and otherwise; the meaning of money is complex, and involved with a variety of aspirations and values.

*Franklin, Benjamin—Poor Richard's Almanac (*McKay*).

Galloway, Lowell E.—Poverty in America (*Grid*). Examines numerous unchallenged assumptions.

Howells, William Dean—The Rise of Silas Lapham (*Harper & Row*). A nineteenth century businessman overreaches himself and comes a cropper. A good novel about the upper bourgeoisie of the period.

Kirzner, Israel—Competition and Entrepreneurship (*University of Chicago*).

*Lewis, Sinclair—Babbitt (*New American Library*). A novel that reflects the revolt against boosterism and provincialism in the 1920s.

*Miller, Arthur—Death of a Salesman (*Viking*).

*O'Neill, William, ed.—Women at Work (*Quadrangle*). A comparison of sweatshop work in the early part of the century and white-collar work in the late 1960s.

*Parkinson, C. Northcote—Parkinson's Law (*Ballantine*).

Rand, Ayn—Atlas Shrugged (*New American Library*).

Rothbard, Murray—America's Great Depression (*Nash*). Demolishes myths about the Depression that are still widely believed.

*Steinbeck, John—The Grapes of Wrath (*Scribner's paperback*).

Stigler, George—The Organization of Industry (*Irwin*).

*Terkel, Studs—Working (*Avon*). The experience of working, presented through interviews and case studies.

Tullock, Gordon—The Politics of Bureaucracy (*Public Affairs*). An outstanding study of this increasingly prominent area of employment.

Vernon, Raymond—Sovereignty at Bar (*Basic Books*). A careful discussion of the multinational corporations.

Watson, James—The Double Helix (*Atheneum*). A revealing glimpse of discovery and rivalry in high-level science.

THE BUSINESS OF AMERICA

Alchian, Armen, and William R. Allen—University Economics (*Wadsworth*). Considered by many to be the best economics text available.

Brooks, John, ed.—The Autobiography of American Business (*Anchor*). The careers of Alfred P. Sloan, Andrew Carnegie, Henry Ford, etc. in their own words.

Brown, Susan Love, et al.—The Incredible

Bread Machine (*World Research, 11722 Sorrento Valley Rd., San Diego, Calif.*). Lucid, informed summary of the issues, at an elementary level.

Cagan, Phillip—The Hydra-Headed Monster (*American Enterprise Institute*). An excellent explanation of the recent inflation.

Chamberlain, John—Enterprising Americans: A Business History of the United States (*Harper & Row*).

Defoe, Daniel—Robinson Crusoe (*Dutton*). The ethos of early capitalism presented in the form of an adventure story.

Freeman, Rober A.—The Growth of American Government (*Hoover Institution*).

*Friedman, Milton—Capitalism and Freedom (*University of Chicago*). A modern classic, full of breathtaking innovations now taken for granted.

Haberler, Gottfried—Economic Growth and Stability (*Nash*). Unemployment, inflation, unions, money explained cogently.

Harriss, C. Lowell—Innovations in Tax Policy and Other Essays (*John C. Lincoln Institute of Land Policy, Hartford, Conn.*). The clearest thinker on "tax reform."

Hayek, F. A.—The Road to Serfdom (*University of Chicago*). The classic that rattled the shaky edifice of socialism.

Meigs, A. James—Money Matters: Economics, Markets, Politics (*Harper & Row*). An account of the Federal Government's attempt to use fiscal and monetary policy to control the economy.

Miller, Roger Leroy, and Raburn M. Williams—Unemployment and Inflation (*West*).

Moore, Thomas Gale—U.S. Incomes Policy: Its Rationale and Development (*American Enterprise Institute*). A critique of wage and price control.

North, Douglass C., and Roger Leroy Miller—The Economics of Public Issues (*Harper & Row*). The tools of economics applied to everything from clamming to the Pernambuco Tramway. Highly entertaining.

Stigler, George J.—The Citizen and the State: Essays on Regulation (*University of Chicago*).

Weidenbaum, Hurray L.—Government Mandated Price Increases (*American Enterprise Institute*).

AMERICA IN THE WORLD

Baldwin, Hanson—Strategy for Tomorrow (*Harper & Row*). The noted military analyst examines the likely tactical and strategic issues of the next decade.

Bartlett, Richard A.—The New Country: A Social History of the American Frontier 1776–1890 (*Oxford*).

Bolin, Luis—The Vital Years (*Lippincott*). The Spanish Civil War and its meaning for the West through the eyes of a leading figure on the Nationalist side.

Buckley, William F., Jr.—United Nations Journal: A Delegate's Odyssey (*Putnam*).

Burnham, James—Suicide of the West (*Arlington House*).

Chambers, Whittaker—Witness (*Regnery*).

Fanon, Frantz—The Wretched of the Earth (*Grove*). A leading ideologue of Third World resentment.

*Fitzgerald, Frances—Fire in the Lake (*Random House*). One of the major works written from a position opposing U.S. involvement in Vietnam.

Flexner, James Thomas—The Traitor and the Spy: Benedict Arnold and John André (*Little, Brown*).

Gironella, Jose Maria—The Cypresses Believe in God (*Knopf*). A great novel about the social and political pressures leading up to the Spanish Civil War; illuminating for subsequent Left-Right civil wars.

Greene, Graham—The Quiet American (*Bantam*). Astute novel on the theme of American political innocence.

*Halberstam, David—The Best and the Brightest (*Random House*). The New Frontiersmen blunder in Vietnam, viewed from the Left.

*James, Henry—The Ambassadors (*Washington Square paperback*). A great novel about American and European cultural differences.

*Kennan, George—American Diplomacy 1900–1950 (*University of Chicago paperback*).

Lukacs, John—The Last European War: September 1939–December 1941 (*Doubleday*). The last act in an old drama: the stage being set for the Soviet-American confrontation.

Maddox, Robert James—The New Left and the Origins of the Cold War (*Princeton paperback*). The author shows how principal leftist historians have been guilty of evidence-faking, plagiarism, and other delightful practices.

Middleton, Drew—Can America Win the Next War? (*Scribner's*). The answer given to that question by the military analyst of the *New York Times* will not make you sleep any better.

Morris, James—Pax Britannica (*Harcourt Brace*). The British empire described at its apogee, as a principal shaper of international relations prior to the twentieth century fragmentation.

Oberdorfer, Don—Tet! (*Doubleday*). A careful account of the battle the Communists lost on the ground but won on your TV screen.

Orwell, George—1984 (*New American Library*).

Raspail, Jean—The Camp of the Saints (*Scribner's*). This brilliant novel about Western culture and the Third World has become something of an underground classic.

Rostow, W. W.—The United States in the World Arena (*Harper & Row*).

Solzhenitsyn, Aleksandor—First Circle (*Harper & Row*); Letter to the Soviet Leaders (*Harper & Row*).

*Steel, Ronald—Pax Americana (*Viking*). A revisionist view of the cold war: the U.S. started it.

Strausz-Hupe, Robert, et al.—Protracted Conflict (*Harper & Row*). A penetrating analysis of the new kinds of political and military warfare being waged by the Communists.

Thompson, Sir Robert—No Exit from Vietnam (*McKay*). An informed statement of the case for winning the Vietnam War.

Trotsky, Leon—The Russian Revolution (*Archor*).

Waugh, Evelyn—Scoop (*Penguin*). Prophetically satiric novel about wars of liberation.

Weigley, Russell F.—The American Way of War (*Macmillan*). A history of United States military strategy and policy from the Revolution to the atomic age.

GROWING UP IN AMERICA

Adams, Henry—The Education of Henry Adams (*Modern Library*).

*Agee, James—A Death in the Family (*Bantam*).

*Ahlstrom, Sydney—A Religious History of the American People (*Yale paperback*). The variety and power of religious faiths in American culture.

Aldridge, John W.—In the Country of the Young (*Harper's Magazine Press*).

Baldwin, James—Go Tell It on the Mountain (*Noble*).

*Barzun, Jacques—The American University (*Harper & Row paperback*).

Bugliosi, Vincent—Helter-Skelter (*Bantam*).

Didon, Joan—Slouching toward Bethlehem (*Dell*). Autobiographical essays by one of America's finest prose stylists.

Fitzgerald, F. Scott—The Basil and Josephine Stories (*Scribner's*). This Side of Paradise (*Scribner's paperback*).

Frost, Robert—A Boy's Will, *in* The Poetry of Robert Frost (*Holt, Rinehart*). Frost's first published volume of poems deals with the moods of an emerging personality.

Hemingway, Ernest—In Our Time (*Scribner's paperback*). Nick Adams seeks experience and finds terror.

*Howe, Louise K., ed.—The Future of the Family (*Simon & Schuster paperback*). Changes in the American family under the impact of social and economic forces.

Jencks, Christopher, et al.—Inequality: A Reassessment of the Effects of Family and Schooling in America (*Basic Books*).

*Koerner, James D.—Who Controls American Education? (*Beacon paperback*).

Love, Robert—How to Start Your Own School (*Macmillan*).

Magruder, Jeb Stuart—An American Life (*Atheneum*).

Milford, Nancy—Zelda (*Avon paperback*).

Millay, Edna—Renascence and Other Poems (*Harper & Row*). A young American poet liberates herself at the threshold of the 1920s.

Nock, Albert Jay—The Theory of Education in the United States (*Arno*).

Rickenbacker, William F.—The Twelve-Year Sentence (*Open Court*).

*Roszak, Theodore—The Making of a Counterculture (*Anchor*). A sympathetic view of a rebellious minority.

Russell, Francis—The Great Interlude (*McGraw-Hill*). Autobiographical and other essays about the author's boyhood during the Harding-Coolidge era.

*Salinger, J. D.—The Catcher in the Rye (*Bantam*).

Sayre, Nora—Sixties Going on Seventies (*Arbor House*). Shrewd essays by a youngish radical dealing with her experience of American culture.

Thompson, Hunter—Fear and Loathing in Las Vegas (*Random House*). Through the darkest drug culture with wit and prose style.

*Wilder, Thornton—Our Town (*Harper & Row paperback.*)

Wolfe, Thomas—Look Homeward, Angel (*Scribner's paperback*).

AND THE PURSUIT OF HAPPINESS

Arlen, Michael—Exiles (*Farrar, Straus*). Son of a famous novelist comes to terms with his Armenian heritage and with America.

Berger, Peter—A Rumor of Angels (*Doubleday*). A distinguished American sociologist and intellectual argues from empirical evidence that the supernatural claims of religion may be true.

Chesterton, G. K.—Orthodoxy (*Double day*). Chesterton also bases his defense of Christian orthodoxy on experience.

Colson, Charles W.—Born Again (*Chosen Books*). Nixon's alleged hatchet-man provides a moving account of his religious conversion.

*Dreiser, Theodore—An American Tragedy (*New American Library*).

*Fitzgerald, F. Scott—The Great Gatsby (*Scribner's paperback*).

Freud, Sigmund—Civilization and Its Discontents (*Norton*).

Germino, Dane—Beyond Idealogy: The Revival of Political Theory (*Harper & Row*).

*Hemingway, Ernest—The Old Man and the Sea (*Scribner's paperback*).

Holtzman, Jerome—No Cheering in the Press Box (*Holt, Rinehart*). Old-time sports writers reminisce.

Jarrell, Randall—Pictures from an Institution: A Comedy (*Farrar, Straus*).

Kahn, Roger—The Boys of Summer, *New American Library*). An intellectually profound memoir of the Dodgers when they were in Brooklyn.

Lewis, C. S.—Mere Christianity (*Macmillan*). A brief, lucid, and powerful exposition of the arguments for Christianity.

Mano, D. Keith—The Death and Life of Harry Goth (*Knopf*). One of America's best

younger novelists explores the meaning of life.

Ross, Walter S.—The Last Hero: Charles A. Lindbergh (*Harper & Row*).

*Thoreau, Henry David—Walden (*Airmont*).

Tompkins, Calvin—Living Well Is the Best Revenge (*New American Library*). Elegance and tragedy in the life of an American family that spent much time on the Riveria in the 1920s.

Trilling, Lionel—Sincerity and Authenticity (*Harvard*). The profound implications of changing moral styles.

*Wolfe, Tom—The Kandy-Colored Tangerine-Flake Streamline Baby (*Pocket Books*). The pop culture of the 1960s.

FOOTNOTE

*Indicates a book also selected by the ALA.

SEVEN YEARS OF WIRETAPS: FEW RIGHT NUMBERS

Mr. ABOUREZK. Mr. President, the St. Louis Post Dispatch of May 9, 1976, published a thoughtful and well-reasoned anaylsis of the Government's experience with court-ordered electronic surveillance since the passage of title III of the Omnibus Crime Control and Safe Streets Act of 1968. Written by Curt Matthews, this analysis draws on both the report of the National Wiretap Commission, on which I served and the annual report for 1975 on electronic surveillance orders issued by the Administrative Office of the U.S. Courts.

Mr. Matthews has carefully weighed and digested the information contained in these two reports and has produced a clear and thought-provoking appraisal of his findings. As the chief author of the Wiretap Commission's "minority report," I believe that his analysis rightfully points up the generally dismal record of wiretapping as an effective tool for law enforcement and the rather substantial invasions of privacy which electronic surveillance necessitates even under a court-ordered system.

I ask unanimous consent that the article be printed in the RECORD.

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

7 YEARS OF WIRE TAPS: FEW RIGHT NUMBERS

(By Curt Matthews)

WASHINGTON.—If the police arrest a professional gambler, the odds are good that electronic surveillance—a telephone wire tap—led to the arrest. The odds are even better that the gambler won't go to jail.

However, the best bet is that the police who conducted the covert surveillance overheard the private conversations of a great many persons not involved in crime and that this frequently futile exercise in "law enforcement" was carried out at considerable cost to the taxpayers.

Such has been the performance of wiretapping over the last six years, according to recent reports from two authoritative and independent sources—the National Wiretap Commission and the Administrative Office of the United States Courts.

The members of the Wiretap Commission analyzed the law enforcement use of wire taps to determine the effectiveness of the Omnibus Crime Control and Safe Streets Act passed by Congress in 1968.

A majority among the commission's 15 members urged broadening the 1968 law to permit wider use of wire taps, but they conceded that so far the controversial law enforcement technique had been used mostly to temporarily disrupt "low-level gambling activity."

What was called a substantial minority in the commission expressed the view that it was time for Congress to rethink what it did in 1968.

"WHEN CONGRESS passed . . . the Omnibus Crime Control and Safe Streets Act of 1968, it did so in the belief that . . . electronic surveillance would be an indispensable aid to law enforcement and the administration of justice," the commission's minority said. "Seven years of experience with the statute, however, have cast serious doubts on the validity of that presumption."

Although all members of the Wiretap Commission agree that the wire-tapping authority granted police in 1968 was intended to help them combat organized crime, the commissioners disagree as to the importance of what has been accomplished so far with wire taps on the phones of suspected criminals.

The majority cites the successes of the New Jersey attorney general's office where widespread use of wire taps has led to the arrest and conviction of gamblers and a few narcotics dealers. New Jersey, which depends heavily on revenues from state-run lotteries, is the only state that regularly imposes jail sentences, rather than fines, on convicted gamblers.

The minority of the Wiretap Commission, including Senator James Abourezk (Dem.), South Dakota, and Representatives Robert W. Kastenmeier (Dem.), Wisconsin, and John F. Seiberling (Dem.), Ohio, believes the cost of wire taps and the unavoidable and unwarranted invasions of privacy greatly outweigh the law enforcement benefits.

"Wire-tapping has been used, in a limited number of instances, to make major cases and has resulted in the conviction of a very small number of upper echelon organized crime figures," the minority states. "More frequently, however, the use of electronic surveillance has proven to be extremely costly, both in dollars and manpower, and generally unproductive."

The minority added, "Moreover, even under carefully supervised conditions . . . electronic surveillance frequently results in substantial invasions of individual privacy."

Statistics gathered by the Administrative Office of the United States Courts, some of which were analyzed and presented in the report of the Wiretap Commission, support the view of the commission's minority.

Because a judge or magistrate must approve a wire tap before the police can install it, the Administrative Office of the Courts has become a clearing house for data on the use and effectiveness of wire taps, and it issues an annual report on wire-tap activity.

Drawing on this data, the Wiretap Commission examined 1309 gambling-related wire tape installed between 1969 and 1974 and found that in 107 cases not a single incriminating conversation was overheard. On the average, of the thousands of individual conversations secretly listened to by police, only about 63 per cent could be considered incriminating—that is, pertinent to the investigation being conducted by the police.

In narcotics or theft cases, when police are attempting to apprehend drug dealers or persons trying to "fence" stolen property, the number of nonincriminating calls monitored by police goes way up. Only 25 percent of the conversations overheard by police investigating narcotics cases were considered incriminating; only 16 percent of what the police heard in theft-related wire taps were said to be crime related.

The minority view within the Wiretap Commission's report notes: "These figures . . . suggest that even under a court-ordered system electronic surveillance has a substantial and adverse impact on individual privacy within our society. Wholly innocent persons are overheard, and great numbers of nonincriminating conversations are monitored by government agents."

The most recent report from the Administrative Office of the Courts suggests that the police have a tendency to persist in the costly operation of a wire tap even when they are not getting the kind of information they expected.

For example, two wire taps were installed by Georgia law officers last year in cases relating to gambling and a murder. The police listened secretly to 133 conversations involving 31 different persons and heard nothing relating to their investigations.

In Orlando, Fla., last year, a wire tap was installed to break up a suspected gambling operation. Police listened to 420 conversations involving 40 different persons, but no one said anything about gambling.

The state and federal courts authorized a total of 701 wire taps in 1975. The Administrative Office of the Courts gathered data on 676 of these and found that about 71 persons were overheard by police each time a wire tap was begun. An average number of 654 conversations were overheard each time the courts granted a police request for electronic surveillance.

Based on the figures provided by the Administrative Office of the Courts, it is estimated that about 50,000 citizens—most of them never involved in criminal activity—were secretly monitored by the police last year.

The figures for 1975 were not a great deal different from those of the previous five years. From 1969 through 1975, the number of wire taps installed by state and federal authorities has ranged from a low of 270 in 1969 to a high of 841 in 1972.

Both the Administrative Office of the Courts and the National Wiretap Commission point out that analysis of wiretap statistics can lead to faulty conclusions because prosecutors do not maintain standard data. However, it is estimated that about half of the 15,000 persons arrested between 1969 and 1974 as the result of wire-tap investigations actually were convicted. The bulk of these were gamblers.

But nearly 70 per cent of the gamblers convicted on federal charges got off with a fine and probation. Almost 25 per cent convicted on state gambling charges got probation—and if the New Jersey cases are excluded, the gamblers found guilty of state charges did as well in avoiding jail as those convicted under federal charges.

The cost of conducting time-consuming and questionably effective wire-tap investigations is a matter of conjecture. The Administrative Office of the Courts asks the individual police jurisdictions to provide cost data, but no two jurisdictions necessarily use the same inputs in calculating such costs. For example, some include the salaries of those who listen to and record the conversations; others include only the cost of the equipment involved.

Still, under almost any reasonable method of cost evaluation, it is clear that electronic surveillance is an expensive way to enforce laws—with the possible exception of high level narcotics dealing. The Administrative Office of the Courts reported that the average wire-tap operations cost $6970 in 1975, down from the average $8087 in 1974, but more than the $5632 in 1973.

The high cost of wire-tapping, the use of it predominantly against gamblers who never go to jail, and the vulnerability of the technique to abuse by law officers led the minority within the National Wiretap Commission to conclude that gambling should be removed from the list of suspected offenses that the police can combat with electronic surveillance.

"Despite seven years of . . . electronic surveillance, illegal gambling continues to flourish in every major city in the country and in many rural areas as well," the minority stated. "The commission heard extensive testimony on the fact that gambling operations are rarely, if ever, eradicated by electronic surveillance."

The commission's majority, led by the two congressional war horses of "law and order," Senators John McClellan (Dem.), Arkansas, and Roman Hruska (Rep.), Nebraska, took a different view, holding that a more selective choice of suspects could lead to more effective results when police put wire taps on illicit gamblers.

In the view of the commission's majority—most of whom were appointed in late 1973 by President Richard M. Nixon—the law enforcement weaknesses of wire-tapping results from the tight restraints Congress wrote into the 1968 law. The majority favors expanding the list of possible crimes that can be investigated with the help of wire taps—such as those involving the interstate shipment of firearms, customs violations and the interstate trade in stolen goods.

Senators McClellan and Hruska, the prime sponsors of the 1968 Omnibus Crime Control and Safe Streets Act, were joined by at least nine other members of the commission in also calling for the courts to sanction, if requested by police, the "surreptitious entry" of private premises to plant bugs and similar secret listening devices.

There is slight chance that Congress will approve such a proposal against the background of Watergate and the long chronicle of wire-tap abuses by the Federal Bureau of Investigation and the Central Intelligence Agency.

CAGING THE ELEPHANT

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that an editorial from this morning's New York Times entitled "Caging the Elephant" be printed in the RECORD.

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

CAGING THE ELEPHANT

In trying to approach the reform of the regulatory agencies, Congress in the past has been rather like the group of blind men in the fable, each of whom gave a different description of the elephant. There are many different committees and subcommittees, each of them concerned about a particular regulatory agency and a particular set of problems. "Reform" in general means something different to each of them, while reform in particular sets alarm bells ringing and awakens a covey of lobbyists.

President Ford has now proposed a simple way to look at the problem comprehensively. In effect, he suggests that the first task is to cage the elephant and then go over all of it systematically. His proposal is that Congress adopt a mandatory four-year schedule by which the President would be required to recommend and Congress to accept or reject proposals for reform of the Federal regulations covering most of the economy.

Beginning in 1977, the White House would submit proposals covering transportation and agriculture, followed in successive years by recommendations on mining, energy and heavy manufacturing; then on construction, light manufacturing, and occupational health and safety; and finally on white-collar areas such as finance, insurance and communications. It is an ambitious yet orderly and attainable schedule.

There is already considerable support for this approach in Congress. Senators Percy, Illinois Republican, and Byrd, West Virginia Democrat, and a bloc of ten other Senators from both parties introduced last year a bill providing for a complete overhaul on a five-year cycle. Under their plan, if any deadline were missed—depending on who missed it—either a given agency would lose its authority or the President's proposed changes would automatically become law.

Forty Senators are backing a parallel bill sponsored by Senator Muskie, Maine Democrat, that would establish a shutoff date for virtually every Federal program, agency and commission. Unless specifically re-authorized by Congress, each would go out of existence after five years. The objective of this so-called "sunset bill" is to do away with the natural Congressional and bureaucratic inertia that permits programs and agencies to continue simply because they are there.

Congress and the White House sooner or later will have to make some hard choices and some unpopular decisions. Regulatory reform is never going to become automatic. But if President Ford's proposal or something like it is put into effect, there will at least be a timetable forcing both branches of Government to debate those issues and face up to those decisions.

MCPL DEFENSE POSTURE STATEMENT

Mr. CLARK. Mr. President, the Senate is about to consider the defense procurement authorization bill for fiscal year 1977. The $30 billion called for in this bill, coupled with later funding, will bring the proposed defense budget to over $114 billion. This is an enormous share of the overall U.S. Government spending for this year, and as a result deserves the very closest analysis and scrutiny.

As part of the materials for this debate, the Members of Congress for Peace through Law, for which I have the honor to serve as chairman, assigned a task force the responsibility for making a thorough analysis of the defense budget request in the areas of strategic and general purpose forces. This task force, after months of work, and in cooperation with many defense experts, has this week published its study.

In its summary, the report concludes:

The United States can save $8.5 billion in the FY 1977 Defense Budget Request without damaging U.S. national security. It has the option of reducing the defense expenditures by that amount or of buying a more effective defense force with the $8.5 billion identified as softspots in the present budget request.

The report's analysis of the interaction of foreign policy and defense policy, and how the force necessary changes depending upon the foreign policy goals, is especially useful:

The size and cost of defense forces needed to support foreign policies of Tax Americana, Present Policy, Pacific Pullback/Europe First, or a policy of General Retrenchment are identified in this report.

The report puts a price tag on each of these options, while emphasizing that defense policy should track foreign policy and not the reverse.

I commend the report's conclusion that a strong U.S. armed force is necessary to deter potential adversaries. But just as important is the emphasis that the United States should "purchase no more military might with our scarce resources than are called for by our foreign policy commitments and interests."

Mr. President, obviously in a discussion of a spending program of over a hundred billion dollars there will be differences of opinion among honest men. I do not want to imply that I support all the suggestions in this report. But in my judgment it provides a comprehensive and reasonably argued alternative to some of the current proposals, and as such, although it is long, I think it is worthy of serious consideration in this debate, and ask unanimous consent that it be inserted in the RECORD.

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

DEFENDING AMERICA: AS ALTERNATIVE U.S. FOREIGN POLICY AND DEFENSE POLICY POSTURE STATEMENT

(By the MCPL Task Force on Defense Policy)

INTRODUCTION

One strong sword keeps another in its sheath. A strong U.S. armed force is necessary to deter potential adversaries from attacks upon the United States and its allies. There is no quarrel with the conclusion that a strong but lean U.S. military force is necessary in an international arena that is composed of sovereign states that have conflicting ideologies and large military capabilities that could be used against us.

Just as we are for a strong military presence for the United States we are against a fat and slothful military force. And we wish to purchase no more military might with our scarce resources than are called for by our foreign policy commitments and interests. We are for a defense policy that is economical, one that adequately supports our foreign policy, but which does not lavish superfluous tax dollars into unnecessary systems. We are for a defense policy that is efficient, that squeezes the most military capability out of the defense dollars invested. Finally, we are for a defense policy that follows our foreign policy rather than one that determines our foreign policy commitments.

While we agree with much of what the Department of Defense officials have proposed in their FY1977 Defense Budget and Posture Statement, we feel that Members of Congress should independently assess out defense needs before allocating the more than $114 billion asked by the Pentagon for FY 1977. This we have done in this study. We have addressed ourselves to these issues:

(1) Without changing our foreign policy, how can we secure the same military capability for fewer tax dollars?

(2) Without changing our foreign policy, how could we secure an even more potent military capability for the same amount of tax dollars requested by the Department of Defense?

(3) If we changed our foreign policy to one of "Pax Americana" what kind of military forces would we need and how much would we have to spend on defense? What if we adopted a foreign policy emphasizing a Pacific Pullback/Europe-First philosophy? What if we had a general retrenchment in both Europe and Asia. What kind of forces would we need then and what would they cost?

Finally, what are we to conclude from such a study? Aside from having a detailed analysis of the kind of strategic and general purpose forces that would be most efficient, economical, and appropriate for a given U.S. foreign policy, this study leaves the final conclusion up to the reader? There are obviously two ways to go. The considerable savings in defense expenditures possible if the U.S. maintains either a more efficient status

quo foreign policy, or a policy of Pacific pullback or General Standdown could be passed on to the U.S. taxpayer. This would mean smaller defense expenditures and more financial resources available for other private or social expenditures.

A second option is to reallocate the money saved by plowing it back into other defense programs that make more sense than the programs entailed. Either would be preferable to the present course of action where large misallocations of defense funds waste our resources.

The purpose of this report is to make clear that the United States has numerous options in foreign and defense policy. Present defense policy and programs can be made efficient in the support of present U.S. foreign policy. And changes in U.S. foreign policy are possible and perhaps necessary. Such changes will require changes in defense programs.

The next section of this paper deals with four major foreign policy stances that the U.S. might adopt in the near or immediate future.

ALTERNATIVE U.S. FOREIGN POLICIES

U.S. foreign policy must be directed to achieving the United States national interest. Increasingly, the United States interests cannot be separated from the interests of all of mankind. Many of the real problems of the rest of the 20th Century will be solved by international cooperation or not at all-problems such as food, energy, natural resources, population pressures, environmental pollution, and nuclear proliferation are beyond the ken of one nation to solve unilaterally. These problems are global and economic in character and cannot be resolved through the use or threats of military force. They must be resolved by international cooperation or they will not be resolved.

Thus, new emergies and resources must be devoted to the solution of these problems. For too long the chief U.S. foreign policymakers have concentrated on a foreign policy focused too narrowly upon military solutions to problems in a world where military power is too often ineffectual in solving the existing problems and where military expenditures drain needed resources from programs that could meet other world and U.S. needs.

This is not to imply, however, that a strong U.S. defense program is unnecessary. Such a program is needed in world that has seen two world wars in this century and in which a third world war might well put an end to civilization as we know it. The foreign policymaker must concern himself with the military threats posed by other countries and especially those that have been traditionally hostile to the United States. One question that must be answered in this context then, is where should the United States draws the line in defending itself against such hostile powers? In what states should the U.S. commit its forces? What countries should we defend?

A second national security question must also be answered. To what extent does the United States need to add the strength of others via alliances to directly defend itself? And to what extent can it directly defend itself and its interests via its forces and weaponry "made in the U.S.A."?

In this study we examine four different foreign policy alternatives of the United States as they relate to these national security questions. These alternative stances in world affairs relate to the kind of "defense perimeters" that the U.S. might adopt for the next several decades in pursuit of U.S. military security.

These four distinct foreign policies are described in shorthand form as follows:

(1) Pax American Policy.

(2) Present U.S. Policy.

(3) Pacific Pullback/Europe-First Policy.

(4) General Retrenchment Policy.

What could be the main tenets of four such foreign policy alternatives are outlined below.

FOUR ALTERNATIVE U.S. FOREIGN POLICIES

GENERAL PREMISIS

Pax Americana

U.S. seen as chief agent of stability in the world.

Détente seen as having very limited possibilities.

Conflict expected to dominate U.S./U.S.S.R. relations.

U.S. seen as filler of world power vacuums.

Extensive military presence abroad seen as necessary.

Military forces abroad should be expanded and military presence and forces seen as having high utility even in peacetime. "Power grows from barrel of a gun."

U.S. defense perceived to depend upon defense of all non-communist states everywhere.

All present alliances to be strengthened and expanded.

Extensive U.S. covert operations capability used in dealings with other states.

Very large military needed to maintain the policy.

Present policy

U.S. seen as chief agent of stability in world.

Détente seen as having some chance for success.

U.S./Soviet relations seen as mixture of conflict and cooperation.

Present commitments to allies and other states are being honored with some changes in SEATO and in the Pacific area. (See list of present commitments).

Military will maintain 500,000 troops abroad and a Navy of 500 ships with 2.1 million in uniform. DoD Budget will remain close to $114 billion in constant dollars. Military power in peacetime deemed very useful.

SALT negotiations with marginal agreements possible.

Forces to remain in S. Korea, Japan, Taiwan, Thailand, and in NATO areas. Israel supported without alliance.

Current defense arrangements with allies

Rio Pact (1947)

Argentina, Bolivia, Brazil, Chile, Columbia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad, Tobago, Uruguay, Venezuela.

North Atlantic Treaty (1949)

Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugual, United Kingdom, Greece (1952), Turkey (1952), Federal Republic of Germany (1955).

Anzus Pact (1951)

Australia, France, New Zealand, Pakistan, Philippines, Thailand, United Kingdom.

Bilateral Treaties

Philippines (1951), South Korea (1953), Taiwan (1954), Japan (1960), Spain (1976).

Executive Agreements

Denmark (1951), Iceland (1951), Spain (1953), Canada (1958), Liberia (1959), Iran (1959), Turkey (1959), Pakistan (1959), Philippines (1959, 1965).

Pacific Pullback/Europe First

U.S. not seen as principle agent of stability in Western Pacific area. Seen as one of 4 great powers in the region (U.S., Japan, China, U.S.S.R.).

U.S. maintains and strengthens NATO ties and defenses.

Defense forces abroad shifted from Asia to Europe with some demobilization.

Phased withdrawal of U.S. forces from South Korea with nuclear weapons removed from Korean soil. The defense of Japan will not change and will remain a top priority. Thailand forces withdrawn.

U.S. less prone to intervene in Asia and Africa, but will remain very active in the Middle East to maintain peace or military balance. Fewer overseas commitments.

Military power is seen as of limited utility in solving international economic problems or diplomatic problems.

Greater emphasis on arms control as means of improving national security in SALT, MBFR, CCD, and other forums.

Greater relative emphasis on foreign economic policy, and world problems of development, population, and energy.

Covert operations sharply downgraded abroad.

General Retrenchment Foreign Policy

U.S. is not seen as the major agent for stability in the world. World Policeman role discarded.

Cooperation with the Communist World seen as possible, if grudging and done with care, in many areas—trade, arms control, cultural exchange, and other accommodations on both sides.

U.S. military alliances abroad seen as marginally useful as opposed to central to a defense of the United States.

European, Asian, and other allies seen as being able to successfully shoulder their own defenses with treaties still binding U.S. to their aid.

All but U.S. "trip-wire" forces withdrawn from the "rimlands" of Eurasia. 50,000 to 100,000 U.S. troops remain abroad.

Military power in peacetime seen as useful mainly for the direct defense of the U.S. and not of much utility in international problem solving in peacetime.

Greater emphasis placed on arms control and disarmament as a route to greater national security for great powers.

Far greater emphasis on problems of foreign economic policy, energy, population, food, and development.

Greater emphasis on solving problems through international organizations such as the U.N., the World Bank, and others.

Decision to abstain from "Third World" intervention and from covert operations.

Strong ties remain with Europe, Japan, and Israel along with the traditional alignment with countries of Western Hemisphere.

No attempt in this report is made to sell one foreign policy to the reader over any other. These are merely four alternative U.S. foreign policies that have enough of a following that each is worth exploring for its underlying assumptions and implications for our defense policy. In each of the following sections on strategic weapons, tactical airpower, defense manpower, and naval forces the relationship between the kind of foreign policy the U.S. policy-makers choose and the kind of military forces needed to support that policy is explored.

What kind of Navy is needed to maintain a foreign policy of Pax Americana? Of present foreign policy? Of a policy of Pacific Pullback? Of a policy of major foreign policy retrenchment? That is the subject of the next section.

ALTERNATIVE U.S. FOREIGN AND DEFENSE POLICY POSTURE STATEMENT: PART 1, U.S. GENERAL PURPOSE FORCES: SEAPOWER

I. INTRODUCTION

The United States Navy is the strongest in the world. It fulfills the missions of (1) sea control, and (2) power projection abroad. U.S. naval forces are now facing their first challenge from another fleet for the first time since World War II. The Soviets have built a formidable Navy which is now capable of operating on the high seas outside the um-

brella afforded by its land-based airforce. While still defensively oriented, the Soviet fleet is growing in its capability to interdict the sea lanes with its attack submarine forces where it has the greatest capability. Despite its growing capability, the Soviet fleet ranks a distant second when compared to the U.S. fleet. When the NATO navies and the Japanese navies are added to the naval power equation, the U.S. and allied navies clearly have an overwhelming naval superiority over Soviet, Chinese, and/or Warsaw Pact navies. This is likely to continue in the forseeable future.

Huge investments are now being made in the U.S. Navy. The Navy commands 38% of the U.S. Defense budget, the largest share of any of the services. For such large investments, it is important for the Congress to understand whether or not the present force is well matched to support current U.S. foreign policy. Defense policy in all areas should track foreign policy, and not vice versa. Moreover, it is important to determine what kind of Navy we might need if we changed our foreign policy. The U.S. seems to be assuming a more modest stance in Asia and the Pacific area and is likely to continue this trend in the future. We must understand the implications this foreign policy trend has for future U.S. Navy programs and decisions. In the report that follows, several alternative U.S. foreign policies are examined and for each the question is asked, "What kind of Navy does the U.S. need for this kind of foreign policy?" Examined in depth are the Navies required for four foreign policies: (1) Pax America, (2) the President U.S. foreign policy, (3) a Pacific Pullback/Europe First Policy, and (4) a general U.S. retrenchment in both Europe and Asia.

A summary of the results of this study indicate that each of these foreign policies would require different size Navy forces and budgets:

Pax Americana

An estimated 650 ships would be required for this foreign policy at an estimated cost of $9.2 billion per year in shipbuilding costs for FY 1977 through FY 1987.[1] Such a fleet might well have 25 aircraft carriers and an equivalent expansion of escort cruisers and destroyers as well as perhaps eight of the new nuclear strike cruisers (CSGNs).

Pax Americana would also require perhaps 800,000 Navy on the payroll and 250,000 Marines. If nuclear power were used to fuel the fleet, ship building costs would soar to $10.2 billion or beyond, and payroll costs together with other Navy costs could come to an estimated $47.0 billion in FY 1970 dollars.

Present policy

The present policy is to maintain a 500 ship Navy with a shipbuilding budget of $4.4 billion in FY 1977. In addition the Navy employs 544,000 people in uniform and the Marines employ 196,000 for their missions. The total Navy budget to carry out the present foreign policy is $37.4 billion in FY 1977 dollars.

Pacific pullback

This policy would see the U.S. maintain a 400 ship Navy and a reduced naval presence in the Pacific area where only three carriers would be assigned to the Pacific fleet. Priority would be assigned to the fleet in the Atlantic and Mediterranean where six of the nine carriers would be deployed.

Ship-building costs would run to $2.2 billion per year or $3.2 billion if all escorts were nuclear powered. A Pacific Pullback policy would result in a 20% reduction in Navy and Marine forces—435,000 Navy and 157,000 Marines to be maintained. The Navy-Marine budget would be $30.0 billion in FY 1977 dollars.

General retrenchment

This policy would also maintain a 400 ship Navy with an annual shipbuilding cost of $2.2 billion (or $3.2 billion with nuclear escorts). This would include a mix of six Nimitz or midi-class attack aircraft carriers and three mini-carriers of the Harrier class.

A general retrenchment policy would need a Navy 40% smaller in people with 342,000 in the Navy and 126,000 Marines requiring an overall budget of approximately $28.5 billion in FY 1977 dollars.

It should be noted that these cost figures are conservative estimates based on estimates of the Congressional Budget Office. CBO estimates that a 600 ship navy could be built and would cost $7.6 to $8.6 billion per year between 1977–1981, a total cost estimated at between $38.0 and $43.0 billion in five years. The Library of Congress has released a study that would indicate a cost of $80.2 billion to bring the current fleet up to 600 ships by 1990—twice the cost at three times slower a rate, a far less optimistic prediction.[2]

Not only should we try to understand the implications of a change of foreign policy upon U.S. Navy costs, but we should try to understand the implications of changes in the composition of the ship and submarine force upon Navy costs. One kind of decision that the U.S. Government and Congress ought to explore is whether or not it makes sense to require nuclear power aboard all U.S. ships An affirmative decision would drive the U.S. Navy budget sharply upward or result in a shrinkage of numbers of U.S. Navy combatants. Another kind of decision must be made on whether Navy money might be more profitably spent on increased ship maintenance and readiness rather on so many new ships at high production costs. It seems evident that increase channeling of funds to O&M and decreased funding of new programs like the nuclear strike cruiser will buy us more combat power in the present and near future than buying the CSGN in FY77 and beyond.

Still another kind of decision involves a decision as to what kind of Navy force to buy. Much of this centers around the kinds of missions that we want the U.S. Navy to perform and the kinds of forces we think can best perform them. It is the conclusion of much analysis that U.S. surface combatants are becoming increasingly vulnerable to submarine forces and cruise missiles if war were to break out. Yet, it seems equally obvious, that we shall want to reinforce our allies and our overseas forces in such a contingency. These can only be carried in large numbers of ship convoys. Thus, future sea forces must have a significant ASW capability and this must come from more platforms conventionally powered to insure adequate numbers. This also means that cheaper carrier platforms such as the VSS ASW carrier force ought to be seriously considered as the best force over the present course of building a small very high-value carrier force of 12 attack carriers with their nuclear power and nuclear powered escorts.

II. SEAPOWER AND FOREIGN POLICY

Pax Americana

Although it is not always clear how foreign policy translates into defense structure, it is clear that the kind of foreign policy U.S. leaders choose will have an impact upon the kind of Navy they need to support it. If the U.S. decided to implement a Pax Americana policy of world policeman it would need a much larger Navy. Particularly if the U.S. tried to fill "power vacuums" in areas like the Indian Ocean and if it tried to project power anywhere it would require more than the current "surge" capabilities of the U.S. Navy. Perhaps 650 ships would be required for such a task rather than the 477 ships now in the U.S. active force.

Pax Americana would also call for emphasis upon nuclear propulsion for steaming and endurance in all locales in order to present an unchallenged position of superiority to the Soviet Navy in all areas. Nuclear power and supply ships would also be used in support of our strike forces so that the U.S. could retain the capability to wage general wars around the globe.

A foreign policy of Pax Americana would be based on the assumption that overwhelming U.S. military superiority is necessary to keep possible aggressors in line. The logical extension of that would be programs by the Navy to guarantee air, surface and subsurface naval superiority over the Soviet fleet, which is deployed in essentially a defensive mode. This superiority would likely be sought in all possible naval theaters where the two navies could meet.

The costs of building such a naval capability would be exorbitant. A Pax Americana Navy would be likely to maintain 15 very large aircraft carriers plus additional sea-lane control medium carriers. Additional escorts would have to be purchased for carrier protection. Anywhere from 100 to 120 such escorts would be needed for the large carrier task forces alone. In addition, this Pax Americana Navy would possibly require a number of strike cruisers to provide naval presence where carriers were not available. Moreover, a larger and new amphibious operations force would need to be created. To protect this gargantuan Navy, a growing number of attack submarines would be required beyond even the 90 already currently planned. A Pax Americana Navy would also seek new overseas naval bases and would build up substantial deployments in the Atlantic, Pacific, Mediterranean, and Indian Oceans.

Present U.S. Foreign Policy

While the present U.S. foreign policy is still in flux and no national consensus has yet emerged behind a set of assumptions, it is still fair to say that some U.S. leaders have drawn the lessons from the Vietnam War and the recent oil embargo that U.S. military power is limited and that economic threats to our security may lack military solutions that would not backfire.

The present Navy numbers 477 ships and submarines and attempts to carry out both the missions of sea control and of power projection. Whether it is capable of performing both roles in a major war is an open question. Clearly, the Navy has some capability in the latter two missions can be somewhat effective in those missions within limits.

Recently the Navy effected a reduction in the Pacific fleet by placing two instead of three carrier task forces on station in the Pacific. This is a start toward a de-emphasis on military force in the Pacific region and Asia but a token one so far. After all, the Pacific fleet is as powerful still as the Atlantic despite the vastly greater emphasis placed on our Atlantic and European responsibilities. This maldeployment of U.S. naval strength should be corrected by redeploying some portion of the Pacific fleet to the Atlantic. It is obvious that carrier forces are less needed in the Pacific since the U.S. has moved in the direction of declaring it will not try to project power ashore on mainland Asia except in Korea. Two carriers can be transferred from the Pacific force without harm to present policy.

The Navy also maintains two carrier task forces in the Mediterranean Sea. One is often deployed on maneuvers into the Atlantic Ocean. This periodic removal of the second carrier from the Med is perhaps a tacit rec-

Footnotes at end of article.

ognition that carriers are extremely vulnerable to the Soviet fleet in the Mediterranean and to Soviet land-based air forces, especially in the Eastern end of the 2000 mile long sea, as well as the Navy's belief that more carriers are needed for the Atlantic.

Overall, a 477 ship Navy is not unrealistic for the current U.S. foreign policy. A level close to this number, perhaps a 500 ship Navy, is all that is needed to carry out the missions of sea control and power projection. But there are a number of ways to carry out these missions; some are extremely costly while others promise significant costs savings. These alternatives are discussed later in this paper.

Pacific Pullback/Europe First

A further pullback of naval forces in the Pacific is possible. If only one carrier task force were kept on station in the Pacific backed by two others, the Navy might shift an additional carrier force to the North Atlantic as insurance to strengthen its sea lanes control forces in that vital area of the world. Or, such a foreign policy shift might allow the U.S. to go to a nine carrier navy with the three being dropped by the Navy from the fleet when they reached the end of their useful lifespans. One course would increase military capacity; the other would save money, possibly for allocation to higher defense priorities.

The present fleet in the Pacific is primarily justified for its role in the defense of the Republic of Korea and Japan. The U.S. Pacific fleet is equal in size and strength to the Atlantic fleet, but does not have the far more formidable job of supporting NATO forces during a conflict with the Warsaw Pact and its navies. Were the United States to decrease its commitment to defend South Korea a sizeable reduction in U.S. Pacific naval strength could be effected. One carrier on station in either the Sea of Japan or the South China Sea, with additional carriers in reserve, would be able to support these reduced responsibilities.

Three full carriers and their task forces could then be removed from the Pacific. The remaining U.S. force could rely on attack submarines and VSS carriers to protect our remaining responsibilities—defense of Japan and U.S. shipping in the Pacific region. Our force of naval combatants in the Pacific could be reduced by half its present size.

Under a foreign policy of Pacific pullback and Europe first, the U.S. Atlantic and Mediterranean naval forces would remain substantial with missions focusing on sea control and NATO reinforcement. It would also seem necessary to maintain an Eastern Mediterranean naval presence for political, if not military reasons. No routine naval presence would be maintained in the Indian Ocean although a limited surge capability would be possible.

The overall naval forces level required to support this foreign policy option is debatable. However, perhaps as few as 400 ships focusing on our highest priorities might be sufficient. Perhaps nine carriers and their escorts would suffice. No strike cruisers would be necessary to carry out individual actions and amphibious assault ships and vessels for intervention support would be needed under such a foreign policy. Our stance would have changed from power projection to sea defense. A more cost-effective naval force could be deployed in the Pacific region if it were composed of helocarriers such as the VSS mini-carriers rather than the more expensive and less numerous attack carriers now deployed and planned for future production.

The size of the surface fleet would undoubtedly vary a great deal wth the kind of risks the leadership and people were willing to run. A fleet considerably larger than 400 ships might be necessary if the U.S. Navy were assigned the task of guarding the sea lanes from the third world to the U.S. in order to guarantee the continued shipments of oil and other raw materials to the United States in times of conflict and confrontation. Virtually all of these imports are transported by ship today.

Retrenchment in both Europe and Asia

If the U.S. followed a policy of pullback in a military sense from both Europe and Asia, this would have major implications for the size and force structure of the U.S. Navy. Essentially, such a policy would say to our European and Asian allies that we expect them to shoulder the major share of their own defense.

U.S. Defense of its own territory and possessions could be accomplished directly without the help of allied forces. Thus, U.S. ties to NATO would be marginal and formal and would not require direct overseas stationing of U.S. forces.

U.S. Navy forces in such a foreign policy would serve as Mid-Atlantic and Mid-Pacific buffers and forces to protect the sea lanes for convoys carrying essential goods to the United States.

In an environment where Soviet naval capabilities remained defensive in nature, the U.S. could safely deploy fewer naval forces in the Mediterranean. This would also add flexibility to naval deployments. Maintaining a strong naval shield in the Atlantic would remain a highest priority. The U.S. fleet in the Atlantic would have the job of protecting the sea lanes for U.S. commerce between America and the rest of the world. This naval force might require as few as 350 ships if sea lanes between the U.S. and Europe and Latin America remainded its most vital links. VSS carriers and SSNs might shoulder the burden of protecting convoys. Strategic ballistic missile submarines, under this foreign policy, would be deployed in numbers equal to the SLBMs currently deployed since a strong nuclear deterrent force would be necessary under any of the four policy alternatives.

Impact of Foreign Policy

Obviously, the correlation between foreign policy and Navy forces is not exact. A Pax Americana stance obviously requires a super Navy of large scale proportions and many billions of new investments in the Navy. A European and Asian standdown requires a far smaller Navy. However, there are many variables to consider which determine the size of the Navy which have little to do with foreign policy. First, what degree of risk are you willing to assume and what degree of risk do you perceive both politically and from the standpoint of Soviet capabilities? Second, do you invest heavily in nuclear powered ships? Third, how much can you count on allies taking up the burden the U.S. has laid down? Fourth, what kind of naval forces will actually get the missions accomplished in the current environment? Fifth, to what degree will changes in U.S. foreign policy encourage similar or other changes in the foreign policies of others rivals and potential rivals?

Only at the ends of the spectrum of foreign policy alternatives does the outline of the correct composition of U.S. naval forces become clearer, if not certain.

III. THE SOVIET NAVAL THREAT

In 1976 there is little doubt that the U.S. Navy is a far more capable multipurpose force than the Soviet Navy. Nevertheless, if one assumes that the Soviet Navy has adopted the primary mission of sea denial to unfriendly naval forces, then it must be accorded great respect for its capability relative to that mission.

No Navy in the world can match the U.S. Navy's ability to project power onto unfriendly shores, to defeat another surface fleet in head-to-head combat on the high seas, or to control the air above a sea battle area. However, the main mission of the U.S. Navy in a war with the Soviet Union will be to keep the NATO sea lanes open for reinforcements by ship and to prevent the projection of power by Soviet ships against U.S. coasts. The large Soviet attack submarine and ballistic missile submarine forces, as well as the formidable Soviet anti-ship cruise missile capability, make the success of this kind of U.S. mission highly doubtful.

Sea lane shipping can probably be protected from rival airpower by the vastly superior naval air wings employed by the U.S. and NATO navies. But no remedy is currently available to offset the very substantial Soviet capability in attack submarines. This is particularly serious when it is realized that Europe and the U.S. are separated by 3,000 miles of ocean over which supplies and reinforcements must travel and that the economies of both are far more dependent on overseas raw materials than are those within the Warsaw Pact region. The fact that the U.S. and NATO can interdict sea borne supplies flowing to the Pact countries is not significant because they are not dependent upon such supplies.[3] The fact that U.S. and NATO navies are dependent upon the sea lanes being open makes Soviet Naval capabilities important, if less potent in other mission areas when compared to the Western fleets.

An unpleasant fact of life in the current military environment is that supplies carried by surface ships are needed to reinforce NATO in any European conflict to allow NATO to match Warsaw Pact buildups. The NATO and the U.S. navies can rule the air above the sea lanes but in danger of losing their supply convoys to submarine attack.

While friendly navies can control the air and surface, they are as yet overmatched in atempting to control the subsurface from which lethal attacks on their convoys may come.[4]

On the other hand, the U.S. Navy stacks up very well indeed if less than an all-out war were to commence with the Soviets and indeed would probably eventually predominate against the Soviet Navy in any head-to-head encounter.

U.S. advantages are many. The U.S. has 14 attack aircraft carriers; The Soviet Navy has none. U.S. aircraft carriers can dominate the skies above a naval battle and can project power ashore. The United States maintains no ASW carriers with helicopters and catapult aircraft aboard. The Soviet Union maintains one such carrier. The United States Navy maintains seven other ships that launch helicopters whereas the Soviet Navy maintains two. Altogether, the U.S. Navy has 1,508 sophisticated and advanced carrier-based aircraft, and in addition, 468 Marine fighter-attack aircraft. The Soviet Navy has only 53 carrier-based helicopters and has no marine air force whatsoever.

Beyond 600 miles from the Soviet or Warsaw Pact shorelines, air superiority is conceded to the U.S. Navy making the Soviet fleets extremely vulnerable to air attack on the high seas. Except for 53 helicopters the Soviet naval air is land-based and the fleet must stay underneath the protective umbrella of its land-based airforce. Without its protective land-based umbrella the Soviet fleet is vulnerable to air attack and far inferior to the U.S. fleet which carries its air umbrella with it. For this reason, the Soviet surface fleet is far more vulnerable than the U.S. fleet on the high seas to air attack. The Soviet Navy is essentially two-dimensional, surface and sub-surface. The U.S. Navy is three-dimensional, air, surface, and subsurface.

Although the Soviet surface fleet is more numerous that the U.S. Navy, it has significant drawbacks. Fourty-two percent of the Soviet ships are small torpedo boats that

Footnotes at end of article.

have a "one-shot" (no reload) capability and which would be totally dominated on the high seas by a Navy such as the one possessed by the United States. U.S. ships are more modern in design and more capable in combat.

If one looks at the major surface combatants over 3,000 tons displacement, the United States naval advantage looks especially favorable. For example, "since 1960, the United States has built 122 ships over 3,000 tons, while the Soviet Union has built only 57. Between 1961 and 1965, we built 48 to their 14; between 1966 and 1970 we built 38 to their 19; and between 1971 and 1975 we built 36 to their 24." [5] Clearly the United States is maintaining its edge in construction of large ocean-going naval vessels.

In addition, the United States has a very capable coast guard that is not usually included in the comparisons of naval strengths while the Soviet coastal Navy is included. "Since 1967 the (U.S.) Coast Guard has built 12 high endurance cutters which are about the same size as destroyer escorts, 3,000 tons. . . . Almost half of the Soviet major surface combatants are 1,200 tons, considerably smaller than these cutters. These Coast Guard vessels are highly capable anti-submarine warfare platforms and must be included in any comparison of the two navies." [6]

The U.S. Navy is capable of projecting power ashore through its carrier aircraft and large marine corps. The Soviet Navy has none of this capacity. The U.S. Navy with its high quality mix of air superiority and nuclear attack submarines is far more likely to dominate a rival surface fleet possessed by the Soviets, especially on the high seas away from Soviet land-based air forces. U.S. attack aircraft carriers can also better perform the mission of naval presence since carrier forces can offer a more credible intervention threat than can other ships or submarines.

Only in the area of sea denial does the Soviet Union Navy pose a serious challenge to the U.S. Navy. The Soviet Navy does maintain a quantitatively superior attack submarine force to that of the United States, outnumbering the U.S. 253 to 73. Yet even this is somewhat deceptive, since most of the Soviet attack submarines (178 of 253) are diesel fueled and not nearly as capable as the nuclear powered submarines. Soviet submarines would attempt to deny use of sea lanes to U.S. supply and combat ships.

These Soviet submarines pose a threat to convoys and surface combatants of the U.S. and NATO countries and represent the biggest challenge facing the U.S. Navy, especially in the attempt to reinforce NATO or any overseas ally in a general war aboard where the two superpowers were engaged.

In attempting to maintain sea control in a general war the U.S. Navy would be aided by its superior overseas base structure, its ability to count on the large allied Navies for support, and the greater combat experience and readiness of the U.S. and allied navies. In addition to the formidable U.S. Navy, it is likely that the following NATO Navy would be available to confront the Soviet Navy:

NATO Navy of European allies and Canada [7]

(U.S. Navy not included/French included)

NATO ballistic missile submarines	8
NATO destroyers and destroyer escorts	244
NATO cruisers and other escorts	5
NATO attack aircraft carriers	5
NATO helicopter carriers	1
NATO attack submarines	135
Total not including supply ships	398

This NATO Navy far outmatches the Warsaw Pact navies of the allies of the Soviet Union. Together with the U.S. Navy the NATO Navy clearly gives the edge in naval supremacy to the United States and its allies over any combination of Navies that the Soviets and their allies could put to sea. This does not even include the 43 destroyers and escorts and 13 submarines that the Japanese Navy adds to the allied force.

In additon to the ships, aircraft, and submarines of allied navies, the U.S. Navy enjoys significant advantages in overseas bases for its forces. Although the Soviet Navy has recently become an all-oceans force, it has less than a half dozen foreign bases from which to operate. The U.S. Navy, on the other hand has many foreign naval bases and hundreds of open ports where its ships drop anchor. The Soviets have no counterparts to the large U.S. naval bases at Subic Bay, Pearl Harbor, Guam, Holy Loch, Keflavik, Diego Garcia, Guantanamo, and Sasebo to name a few. U.S. based ASW aircraft operate from these overseas bases in large numbers. Overall the U.S. maintains an edge in ASW aircraft of 450 to 360 for the Soviet Union and U.S. aircraft are several times more capable than Soviet aircraft.

Although gross manpower figures have marginal significance, the United States also has numerical advantages in Navy manpower, leading the Soviet forces 515,400 uniformed people to 386,000. This is compounded by the U.S. lead in Marine strengths where the U.S. Marines outnumber their Soviet counterparts 196,000 men to only 14,000.

This, plus the fact the U.S. maintains 14 aircraft carriers to the Soviet Union's none, indicates the absoultely clear superiority of the U.S. Navy in power projection upon any hostile shore. The Soviet Navy has virtually no sea-based capability to project power ashore.

The U.S. Navy advantages cited here are further increased when one counts the combat experiences of the U.S. Navy in the Vietnam War where Navy ships continually bombarded shore targets with their naval aircraft and guns. The Soviet Navy has not ever been battle-tested. Moreover, the U.S. Navy maintains a higher state of readiness and undergoes more continuous naval training and exercises than does its Soviet counterpart. As CNO Admiral James L. Holloway has testified, "one of our greatest assets is . . . that our people are better. They are more imaginative, have greater resourcefulness, and we have veterans. We have pilots who have flown over 200 missions in combat. We have destroyer skippers who have spent four and five years on the gunline in Vietnam exercising their equipment. We have an awful lot of combat veterans in the U.S. Navy." [8]

In summary, the U.S. Navy is far superior to the Soviet Navy in ship quality, naval manpower, naval aviation, ASW capability, tonnage, firepower, nuclear propulsion, power projection capacity, overseas bases, and allied naval capacity as well as in training, readiness and combat experience. The Soviets have greater numbers of surface ships and of attack submarines but most of their ships and submarines are of inferior quality to the U.S. Navy. Overall, counting only the U.S. Navy against the Soviet Navy, the American advantage is pronounced. When the NATO navies and Japanese Navy are added to the power equation, the U.S.-allied naval superiority is overwhelming. This fact, however, cannot and should not obscure the very impressive Soviet sea lane denial capability.

III. TODAY'S NAVY AND TODAY'S CHOICES: THE ROLE OF THE CARRIER

What kind of ships should this nation build? How many should we build? The answers to these questions relate directly to the kind of foreign policy we wish this nation to pursue. But, regardless of which option we believe is correct, we must review the role of the aircraft carrier. It plays a central role in our naval force structure; all of the naval options we have listed employ the carrier in some fashion. It should be obvious that the purchase of even a small number of nuclear-powered supercarriers—estimated at $2 billion a piece—will consume ship construction funds that could otherwise be spent on a large number of ships. Thus, the expenditure of funds for carriers must be weighed against two overriding questions:

(1) How vulnerable is the carrier? and

(2) Are the carriers needed to perform the Navy's roles and missions?

Vulnerability

Despite the unquestioned improvements in aircraft carriers since World War II, in every absolute sense, there are still those who believe that the carrier is far more vulnerable today, pitted against today's offensive technology, than the World War II carrier was when pitted against the World War II technology of the Germans and the Japanese.

The past thirty years have seen immense improvements in anti-ship missiles, in offensive aircraft and aircraft ordnance, in attack submarines and in explosive yields of shells and missiles. Accuracies have increased, yields of warheads have increased, and speeds and capabilities of the submarines and aircraft pitted against carriers have increased. Also, for the first time since the Second World War another rival navy has been built to challenge the United States for supremacy of the seas. All of this bodes ill for future survivability of the U.S. aircraft carriers and surface ships in wartime.

Perhaps the most dramatic difference in naval armament has been in nuclear technology. Soviet ships and submarines carry nuclear-tipped armaments (including some nuclear capable ship-to-ship missiles), and nuclear torpedoes. Soviet land-based aircraft are capable of dropping nuclear bombs and missiles on U.S. surface ships. It is generally conceded that a nuclear war at sea would annihilate the surface fleets of both the United States and the Soviet Union. No ship could survive a nuclear explosion if it received a direct hit.

Nuclear technology has also made nuclear-powered attack submarines an anti-ship menace of unprecedented proportions. These submarines are capable of wreaking havoc on the combat and merchant fleets of both the U.S. and the Soviet Union. As Admiral Hyman Rickover has stated before the House Armed Services Committee:

"If this country or Russia ever turned their forces of submarines loose, they would devastate the seas. That does not mean that we should not build other kinds of ships. But nuclear submarines have never been tried out under actual conditions of war. It is beyond the comprehension of most naval officers to comprehend the difference between a submarine that can make 9 knots for one half hour and stay submerged for two days at most and a submarine that can make over 20 knots and stay submerged indefinitely. They cannot grasp the significance of this military capacity. It is beyond their comprehension because they are too loyal to their previous concepts and to the regime and environment in which they have been bought up."

Chief of Naval Operations, Admiral James Holloway III, has testified that "The principle threats to the carrier in order of severity are: (1) submarines—particularly nuclear submarines with cruise missiles; (2) long-range bombers with cruise missiles, and (3) cruise missile-equipped surface ships."

His predecessor, Admiral Moorer, also emphasized that "submarines capable of launching anti-ship cruise missiles do constitute the primary threat to any surface ship."

Carriers do not have an effective defense against tactical cruise missiles and will not until the early 1980s. The only effective carrier defense is a good defense directed at the cruise missile ships of the Soviet Navy. Carrier anti-aircraft and anti-missile systems are

Footnotes at end of article.

notably imperfect defenses against such attacks. Anti-submarine warfare capabilities have also been running a poor second in comparison to the increasing capabilities of nuclear attack submarines. ASW technology has lagged far behind the anti-carrier technology and anti-surface ship technology.

Navy officials claim that no modern U.S. carrier has ever been sunk in combat. This ignores the four U.S. carriers that were sunk in 1942 and one in 1944. The Japanese also had eight modern carriers sunk at the battles of Midway and Leyte. Thus, even pitted against the now antique ordnance of WW II, some 13 major carriers were sunk in actions at sea.

Navy officials also make much of the fact that of 2314 kamikaze planes launched at U.S. naval targets, not one carrier was sunk by a kamikaze. This ignores the fact that on nine separate occasions U.S. carriers were very badly damaged by such attacks—including the Saratoga, Ticonderoga, Bunker Hill, Intrepid (twice), Enterprise (CV–6), Franklin Wasp, and Hancock.

Navy officials also make much of the fact that no carriers have been sunk since World War II. This, however, ignores the obvious: No war at sea has occurred since 1945. It is, therefore, not surprising that no carriers were sunk. Indeed, the Navy is the only service that has not tested its major equipment (ships) under fire since the Second World War. Army units, Air Force units, and Naval wings have engaged in direct firefights with the enemy; but the carrier force and surface Navy (nor for that matter have the submarine forces) have not been challenged at sea. Once challenged, they might have a very rude awakening about the vulnerability of the surface Navy which they have so carefully drafted in the image of the force which fought so well in World War II. The Navy is geared to refight WW II with the same formations and same structure, but in a far different technological environment.

The opening scenario of the war at sea might prove especially important in determining the survivability of a carrier task force in the U.S. Navy. At most times, such carrier task forces in peacetime are trailed and even interspersed by Soviet submarines and ships. Such ships and submarines at close range would be nearly impossible to destroy before opening a surprise salvo upon the task force. The first few minutes of such a war at sea would likely see the death of the surface boats in the force including the carrier.[9]

One of the main defenses of the carrier force is that it can outrange an attacking force. Its planes can be destroying the attacker before he can get within range to launch the attack. However, if the conflict begins with the attacking force at close range, the surface fleet and the carrier lose this vital advantage.

Submarines really have the advantage of closing in on the carrier force, often without being detected, and of launching similar surprise attacks. Thus, the element of surprise combined with pre-positioning of forces could place the carrier forces in a precarious position at the outset of any planned war between the U.S. and Soviet Union.

Admiral Holloway made this point when he testified before the House Armed Services Seapower Subcommitte concerning any general war between NATO and the Warsaw Pact:

"And should this war occur, I think it is going to be a very brutal one, a very bloody one on all fronts, and certainly the battle of the Atlantic where the principle conflict would take place, I believe, between us and the Soviets, either in the U.S.–U.S.S.R. or the Warsaw Pact–NATO context, I think would be in doubt until certainly after several months.

I liken it in my own mind to the situation that existed in the war between the U.S. and Germany when, although we won the battle of the Atlantic, we didn't win it until after an awful lot of the U.S. ships were sunk. But once we got it under control, the victory was ours.

Much has been made of the fact that a carrier can receive a blow such as the 1969 explosion aboard the Enterprise when nine major caliber bombs detonated on her flight deck. Navy spokesmen argue that since the carrier was able to fly airplanes within hours after the explosion, the hardiness of the carrier was proven.

What this argument overlooks is that in a short time after being struck by an attacker, the aircraft carrier is deprived of its major defense against attack for a matter of hours. Without aircraft, the carrier is doubly vulnerable to repeated attacks which could finish her before the decks could be repaired and the interceptors and attack planes could get aloft again. Moreover, a wounded carrier with its screws destroyed or with its deck torn up by ordnance cannot land or launch aircraft and will be ineffective in combat.

The extreme nature of the Soviet threat directed against our carrier force is magnified by the small number of carriers that the U.S. can field. Since it is unlikely that the U.S. can have more than 13 carriers at sea, Soviet forces can concentrate on an extremely small number of high-value targets.

At current ship-building rates the Soviet Union can build over 200 carrier-disabling submarines and surface ships in the time it would take this country to build another Nimitz-class supercarrier and an air defense system to protect it. There is no way that we can build carriers and air defense escorts in sufficient numbers to match the forces arrayed against them. For example, in the U.S. it costs twelve times as much to build a Nimitz class carrier and its aircraft than to build a 688 attack submarine.

Surveillence technology has improved immensely since World War II. Now submarines, surface ships, aircraft carriers, and land-based aircraft can acquire target information, radars, sonars, helicopters, aircraft, and satellites. Such reconnaisance systems can pinpoint the location of surface ships and targets and relay this message back to offensive platforms. In the future, ships at sea will target more exactly other surface points by getting more exact fixes on their own locations via satellite (eg. Navstar). All of this makes surface targets more vulnerable—including aircraft carriers.

Precision-guided munitions, smart bombs, and infrared and television-guided homing devices also make the kill probabilities greater for forces attacking a surface fleet group like a carrier task force. The revolution in accuracy has been matched by a like revolution in explosive yield to weight ratios. The increases in accuracy and yield have exceeded the improvements in surface ship armor. The result is greater surface strip vulnerability. This is a trend likely to continue with the vulnerabilities increasing while costs of carriers continue to escalate. The carrier may give new meaning to the term "sunk costs" in a future major war at sea.

Naval Missions and the Carrier

A joint Senate-House Armed Services Committee was formed in 1970 to investigate the Navy's costly proposal to build a third Nimitz-class carrier, then designated CVAN–70.

In his 1970 presentation, Admiral Holloway was asked why the Navy wanted a super-carrier and how it would perform its roles and missions with it. But a close examination of the Navy's roles and missions does not present a compelling case for the super-carrier.

As Admiral Holloway states, the primary mission of the U.S. Navy is sea control. This mission is spelled out in Department of Defense Directive 5100.1, issued on December 31, 1958. It continues to be the Navy's primary mission to this day:

To organize, train and equip Navy and Marine Corps forces for the conduct of prompt and sustained combat operations at sea, including operations of sea-based aircraft and land-based Naval Air components—specifically, forces to seek out and destroy enemy naval forces and to suppress enemy sea commerce, to gain and maintain general naval supremacy, to control vital sea areas and to protect vital sea lines of communication, to establish and maintain local superiority (including air) in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land and air operations as may be essential to the prosecution of a naval campaign.

The Navy's collateral mission, as spelled out by the Department of Defense's directive 5100.1, is:

a. To interdict enemy land and air power and communications through operations at sea.

b. To conduct close air and naval support for land operations.

c. To furnish aerial photography for cartographic purposes.

d. To be prepared to participate in the overall air effort as directed.

Thus, nothing could be clearer: the Navy's primary mission is sea control; its collateral mission is projection of power ashore. But if we look at today's Navy, we see a force which is structured primarily around the mission of power projection. We also see a force which is dangerously ill-prepared to carry out the mission of sea control.

The reason for this state of affairs relates primarily to the aircraft carrier and its role in today's Navy. The carrier and its related activities reportedly consume 50 percent of the Navy's budget. And today's carrier is used primarily as a power projection ship, and only collaterally as a sea control ship.

To see the perversion of the Navy's missions at first hand, one need only review the Navy's "CVNX Characteristics Study Group Report". This document was prepared at the direction of Admiral Holloway to study the Navy's future carrier requirements. Not surprisingly, a majority of the aircraft are used primarily for power projection. Thus, if the Navy continues on its present course, our ships at sea will be even more heavily weighted toward projection of power and even less capable of sea control.

If the carrier were reasonably assured of carrying out its power projection mission, then perhaps the situation would be less bleak. But it is now reasonable to assume that with the recent Soviet naval developments, the carriers forward deployed would be unable to project power. Thus, it is entirely possible that today's Navy provided precious little in the way of national defense. We may indeed, have the worst of both possible worlds—a naval force which is unable to adequately perform either sea control or power projection.

Power Projection

The Navy insists that its aircraft carriers are the most invulnerable ships at sea against conventional attack. Foes of the carrier insist that the carrier is indeed vulnerable, as evidenced by our World War II experience. (Of the 12 Essex class carriers that received one hit during the War, five had to return to port; all three carriers that received two hits were forced to return to port.) The Navy argues correctly that Nimitz class carriers are stronger than those of the Essex class; critics of the carrier likewise argue that today's conventional munitions are more lethal. In any event, today's conventional munitions need not sink the carrier; all they have to do to be effective is to prevent the ship from launching its aircraft.

In tactical nuclear exchanges, no one argues that carriers can continue to operate.

Footnotes at end of article.

In scenarios against third world countries, the carrier becomes a much more formidable force, either because our adversary lacks the means or the will to knock out our floating airfields.

According to the Navy the most probable and crucial scenario for the carrier—and the one against which the need for the carrier must be weighed—is against the Soviet Union and her allies. The typical carrier of the 1980's will have on board: 24 fighter aircraft; 36 attack aicraft; 4 tankers; 4 airborne early warning aircraft; 4 jammers escorts; 3 reconnaisance aircraft; 10 antisubmarine aircraft; 8 antisubmarine helicopters.

As can be seen from this breakdown, most of the aircraft on board are designed to project power ashore, and to do so in "high threat" environments. This means in areas close to the periphery of the Soviet Union; it means to be within range of many different threats from Soviet surface ships, land based aircraft, and submarines; it means to be operating within range of Soviet cruise missiles. Taking a closer look at the 85 aircraft on board the super-carrier, only 36 are designed for the attack role. The 24 fighter attack aircraft on board can be armed for attack missions against poorly defended countries, but if the projection of power is to take place against the Warsaw Pact, these aircraft will be needed to help protect and escort our attack planes. Likewise, the four jammers on board the carrier (designated EA-6Bs) will be needed to help the attack aircraft reach their targets. Here is the basic dilemma of the carrier; all of the resources on board the super carrier are needed only in the highest threat areas, yet these are the areas where the carrier will devote most of its assets to self-protection rather than power projection; and these are the areas where the carrier is least likely to be able to carry out its primary mission.

Should the United States risk its $2 billion aircraft carrier, its eight escorts, and its $1.5 to $2.0 billion air wing to project power ashore in high threat environments? Can it be done? Many people—including some with the Navy—believe that it cannot be done. Others believe it can be done, but only with many aircraft carriers working together. Because of the low probability of success, many argue that it would be wiser to project power ashore by other means in high threat environments. If we do become involved in a shooting war with the Soviet Union, the U.S. can have sufficient land-based airpower available, based far enough behind the forward edge of the battle in Western Europe. If the shooting war escalates to nuclear warfare, our land based and sea based ballistic missiles, as well as our manned bombers can project United States power.

Sea Control

The Navy's ship construction budget is constrained by competing needs both within and outside the Department of Defense. The Navy wants to build up the force to 600 ships; it wants a "balance fleet" consisting of many different classes of ships. Even with sharp increases in SCN funding, the Navy's goal appears to be a distant longshot. While it is unfair to state that for every dollar that goes into power projection, a dollar is lost for sea control (the carrier is, after all, a multipurpose ship, even though it is configured primarily for power projection), it is far to state that the Navy's sea control ship construction programs have taken a back seat to the carrier and carrier escort construction programs.

A review of the Navy's five year ship construction program will confirm this view. Looking at the Navy's major surface combatant construction programs, the current five year plan is to build two Nimitz class carriers, eight conventionally powered air defense escorts for our carriers, two nuclear powered air defense for our carriers, one helicopter carrier suitable for sea control and 40 escorts. The escort program (known as Patrol Frigates or FFG's) is in deep trouble due to cost growth—its future is as marginal as its capabilities. Its sonar is far too ineffective to be of much use in true sea control operations. What then do we have left? Twelve platforms which are primarily associated with power projection and one that is associated primarily with sea control.

Carrier proponents will say that carriers can be readily reconfigured for sea control operations. This is true—but carriers and their escorts can only be in one part of the ocean at the same time. And, if we want sea control ships, why build such expensive ones? Why not build many more at lower cost which can then cover far more of the ocean?

In discussing sea control, numbers are all important. The cost of the carrier cuts deeply into the possibility of fielding sufficient numbers of capable sea control-oriented ships. The possible vulnerability of the carrier places us in jeopardy. If the carriers proponents are wrong—and the carrier is indeed invulnerable, even in low threat environments, then we are in a particularly poor position to exercise sea control. Our eggs are in precious few, highly expensive baskets.

Other Missions

So far, we have talked exclusively about sea control and power projection. There are additional Naval missions as well. One key mission related to power projection is that of deterrence—but this is maintained almost exclusively through our ballistic missile submarine force. As such, it does not impact directly on the carrier issue, except in terms of cost: Our nuclear attack and ballistic missile submarines are fixed costs in our ship construction budgets. This will be the case far into the foreseeable future. This places a large burden on decision-makers to allocate remaining ship construction funds wisely and not to funnel them into a small number of high value targets.

The carrier is often justified in terms of carrying out the mission of "prescence". The carrier stands for resolve as it stands for the instrument of the U.S. will. Can other hulls perform this same mission? The answer is clearly in the affirmative, but only up to a point. Alternative hulls have their shortcomings when it comes to the use of force as a demonstration of U.S. resolve. But as seen from the above, the carrier can reasonably be expected to perform this mission only against those countries that are unable or unwilling to strike back at our floating air bases. Thus the carrier has become one of the more outstanding symbols of American "imperialism" in third world eyes.

Regardless of how one sees the utility of the carrier in carrying out this mission, no new carriers are needed to perform it. Given our current and projected assets, no additional Nimitz class carrier can be justified on this ground.

Finally there is the mission of supporting amphibious operations. Can such operations be performed in high threat areas? As noted above, carriers are extremely vulnerable in such circumstances. The only amphibious operations we can expect carriers to support with a reasonable degree of success are against third world countries. This is true for another reason as well: As currently structured, our Marine Corps is ill-equipped to fight against anyone but third world countries. The Warsaw Pact ground forces strongly emphasize the use of mechanized vehicles and tanks. Our Marines are lightly equipped, as they are infantry units. In order to stand up against the Warsaw Pact threat, our Marines will have to move in the same direction as our Army divisions, by transforming "light" units into "heavy" ones. Once again, the carrier mission of supporting amphibious operations is best suited to brushfire wars. But we already have enough carriers on hand and for the foreseeable future to assist U.S. policy objectives against third world countries, should our national leadership decide that this is a wise course of action, and should public opinion support such action.

Conclusion

The U.S. Navy is now embarked on a course which reflects the balance of power within the Navy but may well reverse the world-wide balance of power. There are those within the Navy whose desire is to buy at least eight more Nimitz class carriers. In terms of useable capability this investment will prove most useful against third world nations, and is extremely questionable if applied directly against the Soviet Union. But the stand against the super carrier does not have to be made in terms of third world solidarity. Real threats to the security of this nation do not come from the third world; they come from the Soviet Union. The ships of the United States Navy should reflect this assumption.

IV. B.—FIVE WAYS TO GO IN U.S. NAVY SURFACE COMBATANTS

Optional: The Nimitz Class Super-Carrier (CVNX). The United States Navy has presented voluminous material in support of the Nimitz class super carrier. What are the benefits that flow from the purchase of these $2 billion platforms?

First, the super-carrier is truly a multi-mission ship. It can perform power projection missions as well as sea control missions. It is particularly fitted to demonstrate U.S. resolve in crisis situations, as the carrier is an inherently flexible military tool. If any surface ship can operate in a high threat environment close to the periphery of the Soviet Union, it is the super-carrier.

Because of its nuclear power, the super-carrier has outstanding endurance. It need not be deployed on-station to have an impact, as the carrier and its air group can move at high speeds for long distances. The air group itself is extremely large and can project power ashore where there are no land bases to support U.S. aircraft. The amount of power that can be projected ashore depends on the level of effort that will be placed against it.*

The Nimitz class carrier is most effective against the third world nations that are unable or unwilling to challenge the floating U.S. airfield. The success of any country wishing to neutralize the carriers effectiveness will depend on that country's ability to penetrate the carrier's defensive screen to orchestrate a mass attack against the carrier itself.

Few third world nations possess these capabilities; those that do may be unwilling to try to knock out the carrier for fear of reprisals. The Soviet Union, however, does have the capability to knock our carriers out of action. The debate over the usefulness of the carrier hinges on one's perception of the carrier's ability to perform its stated roles and missions when challenged by Soviet forces. And it is the judgment here that at present, the carrier can be incapacitated fairly easily in high threat environments.

As we discussed earlier, the Soviet Navy can incapacitate carriers by mounting a saturation attack by and, sea and air. In war, all of the U.S. carriers that are forward deployed in the Mediterranean and the Western Pacific would face an immediate threat from Soviet attack submarines, surface vessels and Soviet land-based airforces.

The extreme nature of the Soviet threat

* (See roles and missions section.)

directed against our carrier forces is magnified by the small number of carriers that the U.S. can field. Because it is unlikely that the U.S. can have more than 13 carriers at sea, Soviet forces can concentrate on an extremely small number of high-value targets.

Given the presumption of the vulnerability of the Nimitz class carrier, any cost/benefit analysis reaches negative conclusions about this carrier's real worth. The Nimitz class carrier becomes most useful in scenarios against second rate powers.

It is unquestionably a devastating weapons platform against those who cannot disable it; but is it worth the cost?

First, is this the kind of war that the American public and their leadership believe in fighting?

Second, are current carrier assets with their 35 year useful life cycle sufficient to wage this type of war in the future should the U.S. become involved?

Third, what are the opportunity costs of continuing to invest $5 billion in Nimitz class carrier task forces?

As can be seen in the Roles and Missions section of this report, the opportunity costs to the U.S. Navy and to the national defense are staggering. While the U.S. has superior numbers of major combatants those numbers have dwindled as a result of the block obsolescence of World War II ships. Our surface combatant forces must be built up in many separate classes of highly capable ships. We will not be able to accomplish this given any realistic estimate of ship construction budgets, if we continue to build super-carriers. The United States Navy needs more ships, and highly capable ships to meet realistic mission requirements. The supercarrier, rather than solving the Navy's problem of contracting power, only exacerbates it.

Impacts of New Technology

There are a number of programs now in research and development which work both to the advantage and disadvantage of the Nimitz carrier.

First, the AEGIS air-defense system if it can be made to work, could be instrumental in absorbing a Soviet mass attack against our carrier forces. AEGIS will be put to sea no sooner than FY1982. Every carrier task force will have two AEGIS—equipped ships as escorts but it will be well into the 1980's before all of our carriers at sea are escorted by AEGIS systems.

It remains to be seen if AEGIS can perform as hoped. But assuming this is the case, there is always the truism in R&D that for every advance, there is a counter. For its part, the Soviet Union has been working on an antiship missile with ballistic trajectory and speed. If the Soviets can work the problems out of this weapons system, and if they can develop proper guidance for it, then AEGIS will not be able to protect our carriers. But these are two vary large "ifs". Another possibility that is more in line with Soviet practice is to try to overwhelm the AEGIS defensive system by sheer numbers. Between now and the time our carrier task forces are protected by AEGIS, the USSR can build over 200 carrier disabling surface ships and submarines. It will be difficult for any defensive system, no matter how sophisticated, to keep up against these odds.

Option 2: Cost-benefit analysis: The midi-carrier (CVNX).

Another proposal that has been suggested by some is the nuclear powered Midi-carrier—a smaller version of the Nimitz, approximately two-thirds the size of the Nimitz, with a proportionally smaller air group. From the perspective of bureaucratic politics, the Midi may make some sense: It offers a way to wean the carrier admirals away from the costly Nimitz class, while still awarding them with additional carriers.

What are the positive aspects of choosing a nuclear-powered Midi instead of a Nimitz? First, it will save precious resources that can be applied to other urgent naval construction needs. The Nimitz advocates have argued that there will be little cost savings by going to a smaller carrier, once design and R&D costs are factored in. They are correct up to a point, but they pointedly do not include the cost of the different sized airwings in their analysis. While the Navy has not yet publically released detailed life cycle cost studies of the Nimitz vs. Midi including the costs of the air group, it is reasonable to assume that there would be at least a cost savings of $4.0 billion over the estimated 30 year lifecycle of the carrier by going to the Midi-carrier based on its smaller air wing.

Because of its smaller size, the Midi would be hard pressed to project power ashore; because of this, the Navy would hopefully fit the ship in primarily a sea-control configuration. This would greatly increase our capabilities in this mission area, but all of this is conjectural as the Navy is clearly wedded at the present time to power projecting power ashore against third world nations.

What are the drawbacks of the nuclear-powered Midi compared to a Nimitz? The Midi will not and cannot house the airpower that is on board the Nimitz. Therefore, when it is called upon to project power ashore there will be less power to project. To some extent, this can be countered by the theater use of precision guided munitions. But in scenarios calling for massive air strikes against inland targets where the U.S. has no access to land bases, the Midi will be at a disadvantage.

The Midi will be at a clear disadvantage in projecting power ashore in high threat areas. Against the Soviet Union and the Warsaw Pact, the Midi would be even more vulnerable than the highly vulnerable Nimitz class carrier. It is hoped that for this reason the Navy would configure a Midi to perform sea control rather than power projection.

So far, we have only talked in terms of the drawbacks of the Midi compared to the Nimitz. To a far greater extent, the drawbacks of the Midi and the Nimitz are the same, the only difference being one of degree. A class of Midi's will create many of the same problems for the Navy as the Nimitz class, only to a lesser degree.

The Navy will still be vulnerable to the "too many eggs in one basket" situation with nuclear-powered Midi carriers; the Navy will still suffer a great shortfall in ship construction investment, which will be exacerbated by the Navy's insistence on a relatively few, very expensive platforms; the Navy will still be purchasing relatively few high value targets which are extremely vulnerable to attack; the Navy will still have a great degree of difficulty in supporting amphibious operations with Midi's in high threat environments.

In a summary, the nuclear powered Midi is a better choice than the Nimitz, mainly because it can free up ship construction resources to more useful programs, and because it may help wean the carrier admirals away from their luxurious habits.

Option 3: The conventional Midi-Carrier (CVX).

The choice becomes more clearcut between a conventionally powered Midi and a nuclear powered Nimitz class carrier. By going with conventional power, the Navy could build a much larger fleet of carriers, which would alleviate the problem of putting "too many eggs in one basket." Further cost savings could result from a decision to minimize design costs by emulating the design for the Midway classes. The Navy should be able to build between two and three conventionally powered Midi-carriers for the price of one Nimitz; additional savings would accrue from reduced aircraft procurement and operation and maintenance costs. The cost of the conventionally powered Midi may still be too high, if we consider its primary mission as sea control. But this Midi would still be a multimission capable ship.

The greater number of conventionally powered Midi's that could be purchased makes possible the use of these platforms for power projection, as a number of carriers could be used together if needed. The two or three conventionally powered Midi's that could be purchased for the price of one Nimitz could pool their airpower, which would be greater than that of one Nimitz. In this manner, the Midi could still operate in high threat areas if called upon to do so. At other times, the two or three smaller carriers could patrol separate areas of the ocean.

But if the U.S. Navy is to perform sea control in the most cost effective manner possible, then it makes sense to buy a less expensive platform still.

Optional 4: The Mini-Carrier or VSS—the optional carrier.

A far better solution to the carrier problem would be to build a large number of highly capable vessels that are able to control the seas, project power in low threat environments, control the airspace, and show presence.

The Mini or VSTOL Support Ship (VSS) is the affordable way of achieving all of these objectives. The VSS is essentially a helicopter carrier, although it can carry vertical and short take-off and landing aircraft (VSTOL). VSS designs vary, but the ship may displace slightly more than 20,000 tons (compared to a Midi's 60,000 tons and a Nimitz's 90,000 tons). In carrying up to 35 helos or VSTOL aircraft, VSS platforms can house as many if not more antisubmarine warfare aircraft than are presently on board the Nimitz. The VSTOL aircraft can carry stand-off, precision guided munitions to provide either an offensive or defensive capability.

One of the problems with VSTOL aircraft has been its limited range, performance, and payload. An improved VSTOL aircraft (the AV–16) is currently in the final phases of research and development which would double the Harrier's range and payload. Two other VSTOL aircraft are in the R&D process and may present even more exciting possibilities.

There are additional mission possibilities for a VSS ship. The ship appears to be heavy enough to accommodate the AEGIS system, which would provide it with a significant air defense capability, as well as its ASW capability. The costs of adding AEGIS would be high, but certainly well below current plans to place AEGIS on the strikecruiser (CSGN), which will place the cost of the CSGN at $1 billion per copy.

The low cost of the VSS is the best thing about the ship; the Navy estimated in 1975 that the follow-on ship costs for this class of ships to be $300M per copy. This means that we could build at a rough estimate, at least eight VSS class ships with associated air support for every Nimitz carrier task force. Taking away the Nimitz mission of projecting power ashore in high threat areas, which is a dubious capability at best, the Nimitz and the VSS would be performing the same tasks; but the VSS would be doing them at a fraction of the cost. For an equal capital investment, eight VSS ships can be performing these tasks in many parts of the ocean; the Nimitz and its task force can only be in one part of the ocean at the same time. Of course, the numbers of VSS's that can be purchased will necessarily be lower if the AEGIS capability is added.

What additional benefits could accrue with a large fleet of VSS ships? First of all, it would cut down considerably on the Navy's expensive aircraft procurement programs, thus freeing up even more money for additional highly capable ships. Likewise, operation and maintenance costs would be cur-

tailed or shifted to other programs, particularly the ship maintenance accounts. For an equal capital investment, eight VSS would provided three times the number of aircraft at sea than would a Nimitz task force. This posture will provide the U.S. with a sea control sorely lacking at the present time, while still maintaining an offensive capability.

Because so many more highly capable ships would be at sea with a VSS fleet, the Soviet sea denial mission would be tremendously complicated; it would be extremely difficult to mount a saturation attack against so many targets operating in so many areas.

The largest drawback of the VSS approach to sea control and power projection is that it totally goes against the ethos and power structure of the U.S. Navy. Perhaps this is why the program has been downgraded at the expense of luxury platforms like the Nimitz and strike cruiser. In late 1975, the Navy actually planned to fund the first VSS in 1977, and two ships each year thereafter for the next three years. The Navy's newest five year SCN program funds only one VSS, and that in FY 1980.

Option 5: The Strike Cruiser (CSGN).

The Department of the Navy is proposing procurement of a class of nuclear-powered surface combatants known as Strike Cruisers. The Strike Cruiser will be equipped with the AEGIS air defense system, surface to surface missiles, and two VSTOL aircraft or helicopters. Construction of the leadership will begin in FY78; current plans call for it to be ready for delivery by December 1983. Cost for the leadship is estimated at $1.37 billion; following ships are estimated at $1 billion per copy.

The strike cruiser will indeed be a highly capable ship. The Navy expects it to perform alongside the carrier in high threat areas, trying to fend off saturation attacks. The CSGN can also operate independently of the carrier, as the head of its own task force. Nuclear power will give the CSGN amazing endurance.

But is the strike cruiser worth its cost? Can the roles and missions of the strike cruiser be performed by other less expensive platforms?

First, lets look at the air defense role. There is no doubt whatsoever, as the Navy has testified, that "strike cruisers will increase markedly the difficulty of mounting saturation-level missile attacks on U.S. carriers or cruiser task groups by Soviet submarines, aircraft, or surface ships."

But isn't there a cheaper way to help absorb mass cruise missile attacks? The Navy intends to use a $1 billion investment to protect the carrier investment. If AEGIS works as advertised, and if the Soviet threat does not become more severe, the Navy Strike Cruiser may prove its worth. But if it fails, then there will be precious few ships in reserve; at $1 billion and $2 billion per ship, we will not be building too many of these nuclear powered platforms, and what if AEGIS is moderately successful? Does this mean that the Strike Cruiser and the carrier will receive only too hits apiece instead of four? What it the Soviet threat increases, as can be expected? The USSR can build 110 carrier-killing surface and submarine platforms before even the first Strike Cruiser is deployed. The Soviet response would, however, be more limited than this due to cost and shipyard limitations.

What about the Strike Cruiser's capability to operate independently? First, is it reasonable to expect independent operations until we have enough AEGIS-equipped ships at sea to protect our forward deployed carriers? We are looking well into the 1980's before AEGIS Strike Cruisers can be expected to operate independently. Second, the CSGN's nuclear power bonus will only be useful if all its escorts are likewise nuclear powered. This seems highly unlikely in view of fiscal constraints.

A much cheaper and more practical alternative is available—and that is to place AEGIS on conventionally powered platforms. One possibility is to build a greater number of AEGIS Destroyers, designated as DDG–47's. Another candidate that should be carefully reviewed is the VSS, or helicopter carrier. As discussed earlier, an AEGIS VSS would be far superior to a strike cruiser in terms of its ASW because each VSS houses 35 aircraft compared to the Strike Cruiser's two aircraft and missile capabilities. Most importantly, it would also be much less expensive.[10] At least twice the number of AEGIS platforms could be provided to the fleet utilizing the conventionally powered VSS approach than the nuclear powered strike cruiser. The greatest drawback here is that AEGIS VSS platforms cannot keep up without nuclear powered carriers. AEGIS DDG–47 destroyers, however, do have enough speed to keep pace with nuclear-powered carrier operations.

The strike cruiser is the perfect companion for the Nimitz class carrier. Both are true blue chip properties; both are mutli-mission ships. Both are the logical extension of the Navy's understandable desire to counter the growing Soviet threat on the seas with "bigger and better" ships. The problem with this approach is that (1) these ships may still be extremely vulnerable and (2) they will certainly eat up construction funds for additional ships. If our "first Line" of naval defense does not work as advertised, then we will have precious little to fall back on.

IV. C.—NUCLEAR VERSUS CONVENTIONAL SHIPS

Few would question the desirability of nuclear power for our submarine forces. Nuclear power provided a technological breakthrough that permitted submarines to operate indefinitely while submerged, making them an almost invulnerable strategic delivery vehicle and a worthwhile tactical investment. But the case for nuclear powered surface ships is more complex, and certainly questionable.

What has brought this issue into sharp focus is congressional passage of Title VIII of the Military Authorization Act, enacted August 5, 1974. Title VIII provided that "New construction major combatant vessels for the strike forces of the U.S. Navy authorized subsequent to the date of the enactment of this Act becomes law shall be nuclear powered . . ." The provisions of this law apply to aircraft carriers, cruisers, frigates and destroyers. However, conventionally powered ships in these categories may be proposed by the President if he advises Congress that construction of nuclear powered vessels for such purposes "is not in the national interest."

The five year ship construction program provided by the Secretary of Defense in his Annual Statement indicates that four nuclear powered ships will be sought by FY 1981 (including two nuclear-powered carriers and two nuclear-powered strike cruisers). Elements of the Department of Navy and some members of Congress favor an expanded program, including an effort to make all of the AEGIS ships nuclear powered instead of the conventional nuclear mix that DOD has proposed.

The critical question facing Congress is whether the investment in nuclear power for surface ships is worthwhile. To answer this question, one must have some estimate of the costs and benefits of one sort of platform as opposed to another.

The Cost of Nuclear Power

Attempting to quantify the disparity in nuclear versus conventional ship costs is no simple task. Nevertheless, a meaningful range of estimates can be derived. This range is based on the following representative data:

(1) A comparison of the costs of nuclear as opposed to conventional platform for the AEGIS weapon system.[11] Estimates show that the nuclear powered leadship is 42 percent greater than its conventional counterpart ($1.185 billion versus $835 billion in FY 1977 dollars); the disparity rises to 65 percent for followships ($760 million versus $460 million in FY 77).

(2) An estimate of the construction and 30-year fuel costs of aircraft carriers with conventional and nuclear propulsion, showing the nuclear version costing 54 percent more.[12] The same is true for cruisrs.[13]

(3) Life-cycle comparisons on a single ship basis reported by the Secretary of the Navy indicating that the nuclear ship costs about one-third more than a conventional ship.[14]

(4) An estimate by Admiral Rickover that the lifetime cost for a complete nuclear test group (CVN plus four escorts) is 6 percent greater than a conventional carrier with four conventional escorts.[15] While the 6 percent would still be a sizeable amount (over $1 billion), it appears to be an overly optimistic figure. Studies conducted in the Office of the Secretary of Defense have cited figures showing that six conventionally-powered escorts have full life-cycle costs (investment, operating, and support and escort ship costs) that are almost identical to comparable costs for four nuclear-powered escorts. At the opposite extreme from Admiral Rickover is Admiral Zumwalt, who stated that five conventional ships are lost for every single nuclear ship built.[16]

Based on the above and other evidence, it appears that the full life cycle costs (including an allotment for support vessels) of a nuclear powered ship is one-third to one-half greater than the cost of a conventional ship. In other words, the outlays required to build and fully maintain six nuclear powered surface ships could construct and support eight to nine conventional vessels.

The Benefits of Nuclear Power

The first and most important advantage of nuclear power is the added endurance, especially at high speeds, that it provides. The claim is frequently made that nuclear vessels have "unlimited" endurance. This is quite misleading. Even a complete nuclear task group will be constrained in range because of its requirement for (a) aviation fuel, (b) ordinance, (c) food. More room is available for these supplies on a nuclear vessel (e.g., 50 percent more capacity for ordinance), but not that much more.

The real question, however, is how much endurance is enough. A conventional escort can steam for several thousand miles at 20 knots. How much extra steaming capacity does it need? The Navy's answers to this question are not satisfactory. For example, a key Department study of conventional as opposed to nuclear task forces pointed to a nuclear task force's capability to go from the West Coast to the North Atlantic. Such a marginal capability hardly seems worth the extra cost.

A second advantage of nuclear power is reliability. While claims along these lines are no doubt true, significant differentials have not been demonstrated.

Nuclear ships also have the decided advantage of not being dependent upon conventional power. Modern nuclear carriers are designed to run for fifteen years without needing their energy cores replaced. The recent oil crisis makes it important that the Navy not be solely dependent on oil or upon good relations with the oil-producing countries. Oil, it is argued, could be our Achilles heel in future conflicts. This fear can be exaggerated, however, since the U.S. Navy consumes only 1% of the U.S. oil consumption and this amount would no doubt always be available to it.

Nuclear engineers have consistently increased the life of reactor cores to the fifteen year mark and can be expected to progress

Footnotes at end of article.

even further as the state of the art is improved. The goal is to eventually provide a power plant to a ship equivalent to the total life-span of the ship which is approximately 30 years. This could save millions of barrels of oil since "the energy equivalent of the core of a nuclear carrier is 11 million barrels of oil, or a chain of tank cars that reaches from Washington to Boston." [17]

As of mid-1975, the U.S. has 112 nuclear ships in operation. One-hundred and five are submarines and 41 of these are Polaris or Poseidon ballistic missile submarines (SSBNs). The remaining 64 are attack submarines (SSNs). The U.S. also has seven nuclear powered frigates and a nuclear cruiser. Thus, there are enough nuclear powered ships to compose one and a fraction all-nuclear carrier task forces at present. Thirty-six additional nuclear-powered ships have been authorized at present.[18]

Advocates of the nuclear boats stress that these submarines and ships are more expensive to build than conventional ships, but they give you significant additional military power and less vulnerability than conventional ships. Nuclear powered submarines with ballistic missiles can, for example, hide under the polar icecap and launch their missiles through holes in the ice pack. This frustrates antisubmarine warfare against them. Conventional submarines could not do so.

Nuclear powered carriers would be free of the need for oilers and can carry 50% more ordinance and significantly more aircraft fuel. Moreover, their size will allow them twice the aircraft launch rate and the longer platforms are safer for aircraft, saving lives and expensive aircraft. The nuclear carrier is also faster than its conventional counterpart and can run at top speed for an indefinite period of time.

Of course, expensive nuclear powered escorts are needed to keep up with such a nuclear supercarrier in order to maximize its capabilities. As one advocate of nuclear power describes it:

"In a real combat situation a sophisticated enemy would make a determined effort with nuclear submarines to interrupt our supply lines and sink our replenishment ships. Under such circumstances, the ability of nuclear warships to retire at high speeds from the areas of highest threat in order to replenish combat consumables in areas of lower threat and then return to the strike area at high speed could mean the difference between victory and defeat in the strike area." [19]

Nuclear carriers can travel approximately as fast as the attack submarines they are pitted against. Their speed can aid their survival. Moreover, since they can carry food to last for 75 days they can stay at sea for the entire duration of any short war. No longer at the mercy of their slow and easily-targeted oilers and supply ships, the CVANs can operate with great combat flexibility, assuming they can survive against threats directed against them.

Advocates of a nuclear Navy argue further that if the Navy is restricted to "only" twelve carriers, it would make sense to make these carriers as capable as possible to cover as many of the sea tasks that were formerly assigned to fifteen carriers. This is based on the assumption that fifteen was a number required to carry out the foreign and defense policy of the U.S.

Admiral Rickover, in arguing for a nuclear powered fleet summarizes the case for nuclear ships and submarines. He states that:

"These studies have brought out time and again that a nuclear surface warship has a higher initial investment coat than its conventional counterpart, but that when overall costs are taken into consideration, the nuclear ships are not much more expensive and provide greatly increased military capabilities." [20]

Disadvantages of Nuclear Power

A decided disadvantage of nuclear powered ships is that because of their enormous expense, they reduce fleet sizes. This can have an adverse effect upon the ocean area that the Navy can cover at any point in time. As the Navy likes to point out over 70% of the earth's surface is ocean and numbers of ships do matter because the areas under the combat radius of the fleet vary as the numbers of ships vary.

The reduction of fleet sizes also increases the vulnerability of the Navy to surprise attack. While one nuclear ship may be superior to one conventionally-powered ship, there are likely to be fewer nuclear ships at a given deployment. These provide a small number of high value targets to a Soviet Navy that has "first strike" capabilities. Thus having three conventional as opposed to two nuclear ships can provide a far more survivable force even though on a one-for-one basis the nuclear ship is better, especially if surrounded by nuclear-powered escorts.

Clearly, the Navy goal of 600 ships is out of reach if the Navy opts for a surface force of nuclear-powered ships. Fiscal restraints are too great to permit the kind of national investment that would create a 600 ship nuclear-powered navy. Indeed it is difficult to see how the Navy could build a 600 ship Navy in any case, since the 600 ship navy would assume unlimited Navy budgets in the years ahead, more skilled Navy Yard workers than are likely to be available, more shipyard capacity available than is now likely to be available, faster ship production than has been the norm, and a great deal more political support than is now evidenced by Congress for an expanded fleet size in an era of reduced confrontation with the Soviet Union.[21]

Nor is a much larger nuclear Navy feasible without heavy investments in an expanded nuclear shipyard capacity. There is only one yard, Newport News, that is currently performing work on nuclear powered surface combatants. As one analyst observes, "The ability of Newport News to build such vessels at the levels the Navy desires must be met with considerable skepticism in light of its past ship construction problems as well as its additional defense and commercial workload." [22]

Nuclear ships may also not be necessary for operations and missions directed against opposition other than the Soviet Navy. Aside from the Soviet fleets, the U.S. Navy is virtually unchallenged on the world's oceans. If the carriers most likely mission is to provide tactical air support in limited wars in third world countries such as Korea and Vietnam and if the likely opponents cannot deal even with conventionally-powered ships, then the case for a nuclear powered Navy for those missions is moot indeed. It should be noted that the Soviet Union has yet to build any nuclear-powered surface warships.

Options: A High-Low Mix or Many More Conventional Ships

There are three primary choices facing defense anlysts with regard to nuclear power: (1) go along with the directions of Title VIII and build all nuclear-powered ships. This is an unrealistic option given the great price of such vessels. Much to the concern of Congressional sponsors of Title VIII, the Navy rejected this option in their testimony on the FY 77 budget already this year; (2) develop a mix of very expensive nuclear-powered surface ships and submarines with a greater number of conventionally-powered ships; (3) abandon nuclear powered surface ships and build far higher numbers of conventionally-powered ships.

Whether one favors option (2) or option (3) depends basically upon one's evaluation of nuclear carrier capabilities and vulnerabilities. If such expensive vessels provide only marginal offensive capabilities and yet are still extremely vulnerable to attack submarine or airplane or cruise missile attacks, then, the Navy would do better to invest in lower-cost platforms to preserve the fleet through numbers rather than through mobility and added firepower. Since the nucleus of seven surface combatant are already built it would seem wise to flesh out the current two nuclear attack carriers with nuclear-powered escorts; The two nuclear-powered carriers now under construction can be accompanied by high speed conventionally-powered escorts. A large force of conventional VSSs and conventional escorts would seem a wiser idea in view of the continued vulnerability of surface combatants. Safety and survival of the Navy seems to lie in numbers. This is the lesson of the new military technologies represented by precision-guided missiles and the nuclear powered attack submarine. Dispersion and numbers are likely to insure the Navy's survival more effectively than massing all Navy resources in a small number of blue-chip platforms. Dispersion and numbers are the key to the Navy's ability to effectively carry out its roles and missions. Current Navy leadership may well understand this fact of life, but it is unable to give up its most cherished blue chips. Until it is forced to do so, our Navy will continue to be overly expensive and vulnerable.

IV. D.—SHOULD WE INVEST IN GREATER READINESS AND FEWER NEW SHIPS?

In a speech delivered August 30, 1974, Admiral Hyman Rickover stated:

"What is the condition of the ships in our fleet? In my opinion there has been no period in the past 50 years where the fleet has been in as poor condition as it is today."

This opinion voiced two years ago is still valid for little has changed to improve the maintenance and readiness of the fleet in the past one and a half years. Official inspection reports of the U.S. Navy indicate that only 5 of 82 ships inspected during 1973 and 1974 met navy standards for combat readiness. If these samples were representative, and there is no reason to think they are not, this would mean that only about 30 of the present 477 ships in the U.S. Navy meet the Navy's standards for full combat readiness.[23]

These deficiencies in readiness and maintenance can degrade the Navy's combat capability as readily as lack of ships, aircraft, or missiles. The conditions are caused by a combination of several factors including (1) shortages of skilled manpower aboard ships, (2) underfunding of Operation and Maintenance (O&M) activities, (3) problems with the shipyards, and (4) problems with new construction. What is important to bear in mind is that the Navy operates with a relatively fixed budget from year to year. If all available money is sunk into new ships and O&M funding is held down, the fleet may be in far worse shape than if the same funds were invested in O&M and funding of shipyard personnel. Also, shipyard capacity is somewhat fixed and perhaps a better investment of time and skills might be made if ships were repaired in larger numbers and built in fewer with the same available resources.

A vivid example of the tradeoffs between investing in new ships versus investing in increased maintenance is provided by the fact that for the price of one nuclear-powered strike cruiser ($1.2 billion), the Navy could pay for repairs and modernization for all 74 ships in the current overhaul backlog (priced at $1.0 billion).[24] Clearly such investments in readiness ought to come first since more added combat power can be

Footnotes at end of article.

produced per dollar in O&M than through new construction.

SUMMARY AND CONCLUSIONS: SEAPOWER

Several conclusions flow from the foregoing analysis:

First, the United States remains the foremost naval power in the world today, stronger than any rival Navy including the Soviet Navy. The addition of naval strength of the U.S. allies including Canada, Japan, France, Italy, and the United Kingdom dramatically increases the naval capabilities of the U.S. vis-a-vis any combination of naval rivals.

Second, this is not to imply that the Soviet Navy does not provide a formidable challenge to that of the U.S. in fulfilling our missions of sea control and reinforcement of NATO by sea. It is easier to deny the sea lanes to another power than to protect them.

Third, the studies to date of what kind of attack aircraft carriers to build for the future have been incomplete. U.S. Navy force planning has not been coherent and new studies should be initiated to examine the mini-carrier option as well as the conventional midi-carrier as compared to the nuclear powered midi-carrier or the mini-class nuclear-powered super-carrier. A far clearer picture of costs, performance tradeoffs, and congruence with specified missions must be made. Such a study should be honestly conducted, perhaps by the Office of the Secretary of Defense and the Joint Chiefs of Staff, and made available to the Congress before major investment decisions are approved. While the picture is still not completely clear, the very high-cost Nimitz would appear to be an inappropriate choice for fleshing out the entire 12 carriers projected for the future.

Fourth, more Navy funds should be reprogrammed for ship maintenance and repair and extensive efforts should be made to improve the dismal readiness record of Navy Ships, submarines, and aircraft. The fleet is in a state of disrepair which, if corrected, would do more to improve combat effectiveness than any similar investment of Navy funds in any other program.

Fifth, the Navy should eliminate its own official requirement for aircraft carriers to operate in extreme high-threat areas like the Eastern Med. Other U.S. ships should be assigned the power projection role in such contingencies.

Finally, until the new Carrier Alternatives study is done in great detail including a cost-effectiveness comparison of the mini-carrier, the conventional midi, the nuclear midi, or the Nimitz carrier class, no further funding of new aircraft carriers should be funded by Congress. The $350 million in funding for an additional Nimitz-class carrier requested in a supplemental to the FY 1977 Navy budget should be disallowed until it is clear from such a study that building an all-Nimitz carrier force is the way to go. This study should be available for hearings on the FY 1978 budget and any appropriations should wait until then.

FOOTNOTES

[1] This estimate and others are based on figures supplied by the Congressional Budget Office. CBO, FY1977 Report, March 15, 1976, p. 85. Maintaining 600 ships would cost $3.2 billion more than 500 ships. 650 ships would cost $1.6 B beyond 600 ships at $3.2 B per 100 new ships.

[2] Alva M. Bowan, "U.S. Naval Expansion Program: An Analysis of the Cost of Expanding the Navy from 500 to 600 ships", Library of Congress Report UV-10D4, Washington, D.C., April 7, 1976. Released by Rep. Aspin on April 20, 1976.

[3] Sea lane control depends upon dominance in the air, on the surface, and under the surface. The USSR may someday also need overseas re-supply capabilities as it increases its own use of third world metals and food production.

[4] This has led one observer to comment "since current trends favor the submarine over the surface ship, smaller, faster, less vulnerable surface units with enhanced striking power will be needed, and in greater numbers. Serious doubts arise about the ability of any navy at any cost to keep open lengthy or numerous sea lanes, and of most oil-dependent economies to operate for long without seaborne supplies." See John H. Morse, "New Weapons Technologies: Implications for NATO," *Orbis*, Summer 1975, No. 2, Vol. 19.

[5] Remarks of Senator Patrick Leahy on floor of the Senate, April 13, 1976. These were based on information provided Senator Leahy by the Joint Chiefs of Staff.

[6] *Ibid.*

[7] Hearings, Senate Armed Service Comm., Defense Procurement, FY76 and FY7T, p. 820.

[8] Quoted from Holloway's first press conference at Pentagon after he was made CNO. October 30, 1974.

[9] Secretary of the Navy Middendorf recently said, "It is going to be so hostile out there, the survival life of a ship will be measured in minutes in some cases in high threat areas. See: House Armed Service Committee Hearings, FY1977 DoD Budget, Part 1, pp. 851–852.

[10] The addition of AEGIS plus SAMs will drive costs of VSS.

[11] Alya M. Bowen, "Aegis Weapon System Ship Selection," (Washington, D.C.: Congressional Research Service, 1975), p. 18.

[12] Barry Blechman, Edward Gramlich, and Robert Harman, *Setting National Priorities*, the 1976 Budget, (Washington, D.C.: The Brookings Institution, 1975), p. 108.

[13] FY76 HASC, pt 1, pg. 167, FY76 ADA pt 1, pg. 343.

[14] Secretary of the Navy William Middendorf, answer to prepared question from Senator Stennis, *FY1976 and Transition Period Authorization for Military Procurement . . .*, Hearings before the Senate Committee on Armed Services, 94 Cong. 1 Sess., (1975), p. 783, part 2.

[15] See Rickover's Testimony in *DOD Appropriations for 1975*, Hearings before the House Appropriations Subcommittee on Defense, 93 Cong., 2 sess., (1974) pt. 8, p. 19.

[16] "Zumwalt Describes Nuclear Theology, *Science Magazine*, Oct. 10, 1975.

[17] Admiral Hyman Rickover, testimony before House Comm. on Armed Services, Hearings on Military Posture, Dept. of Defense Authorization, FY77 and FY7T, Seapower Subcommittee Hearing on the Procurement of Naval Vessels, March 17, 1975, 94th Congress, 1st Session, Part 3, p. 3661.

[18] *Ibid*, p. 347.

[19] *Ibid*, p. 3670.

[20] *Ibid*, p. 3674.

[21] See "The Feasibility of A 600 Ship Fleet" by Representative Les Aspin, Report to the Military Affairs Committee of Members of Congress for Peace through Law, Fall 1975. Aspin argues that a 600 ship Navy is not at all feasible given the Navy's own assumptions and the conditions of the shipyards and labor market. He projects a force of 550 using the Navy's own planning assumptions, a force of 514 ships using even the assumption of unlimited budgets, a force of 490 ships assuming limited budgets, and a force of 425 ships as a "pessimistic" fleet projection.

[22] *Ibid*, p. 10.

[23] See "The State of the Fleet", Report by Representatives Les Aspin, September 22, 1975, p. 8.

[24] Estimate of Secretary Middendorf, *Fiscal Year 1796 and Transition Period Procurement Authorization*, Part 2, p. 780. See also, Aspin, "The State of the Fleet", p. 11.

U.S. FOREIGN AND DEFENSE POLICY ALTERNATIVE POSTURE STATEMENT: PART 2, U.S. DEFENSE MANPOWER ISSUES

I. INTRODUCTION: OVERVIEW OF DOD MANPOWER

By far the largest costs in the Department of Defense FY77 budget go to defense manpower in the form of pay, fringe benefits, and operations and maintenance costs. Overall 51.7% of the FY77 budget is allocated to manpower costs. A total of $51.8 billion will be spent in FY77 if the DoD budget is fully approved, an increase of $2.4 billion over FY76.

Altogether, 5,622,300 persons were paid by the Pentagon in FY76. This breaks down into the following categories:

People paid by DoD

[End of fiscal year 1976]

MILITARY	
Active duty military	2,101,000
Drill paid reserves	885,100
Retired military	1,100,000
CIVILIAN	
Direct hire civilian	1,017,000
Indirect hire civilian (foreign)	95,500
Contracted out work	100,000
Student programs	23,700
Military morale and welfare	300,000
Total: Both military and civilian	5,622,300

Further, DoD supplies the administrative support for several other categories of reserves that are not directly or indirectly paid except through increased retirement points if they choose to volunteer for extra training. These include:

Individual ready reserves	738,000
Standby reserves (active)	386,000
Standby reserves (inactive)	81,000
Total unpaid reserves	1,205,000

The IRR force can be activated if the President declares a state of emergency. The standby reserves require an act of Congress to mobilize them. Thus, the universe of defense manpower, short of resurrecting the draft, is 5.6 million paid military and civilians and 1.2 million unpaid reserves. In addition, there are 483,000 people in the Army and Air Force National Guards maintained by the states.

Defense manpower is the largest area of investment in the Defense budget. If large savings are to be realized in Defense spending, it is here. If the Defense budget were to be justified from the ground up, one would ask such questions as:

(1) What kind of foreign policy should we have and what defense manpower force is needed to maintain it? How do changes in foreign translate into changes in defense manpower?

(2) If one assumes the present foreign policy is correct, how can you do the same job more efficiently or economically? How can you either increase combat power through changes in defense manpower or decrease costs while maintaining the same level of military capability?

(3) Finally, what kinds of changes in compensation for Military manpower make sense both from the criterion of equity and of costs?

The following analysis is an attempt to deal with these issues. First, let us look at the relationship between defense manpower levels and alternative foreign policies.

II. DEFENSE MANPOWER AND FOREIGN POLICY ALTERNATIVES

A. Current policy and deployments

The U.S. now deploys 467,200 troops abroad in support of its current foreign policy and

defense commitments to 42 countries. Of these forces approximately 140,000 are located abroad in Korea, Japan, the Philipines, Taiwan, Thailand, or are afloat in the Western Pacific. The forward deployments of U.S. forces abroad is as follows: [1]

Unit, location, and mission:

1st Armored Division, 3d Armored Division, 3d Infantry Division (M), 8th Infantry Division (M), Bde, 1st Infantry Division (M), Bde, 2d Armored Division, Bde, 4th Infantry Division (M), W. Germany, Force presence. In concert with allied and other U.S. forces, deter Warsaw Pact aggression. Failing that, stop any Warsaw Pact ground attack and stabilize the military situation without major loss of NATO territory.

2d Infantry Division, S. Korea, Force presence. Provides ground combat and security forces for South Korea.

Army separate brigades

Berlin Brigade, W. Germany, Force presence.

193d Infantry Brigade, Panama, Defense of Canal Zone.

172d Infantry Brigade, Alaska, Defense of Alaska.

Navy ships and aircraft

Sixth Fleet *, 2 Attack/Multi-purpose Carriers, 16 Surface Combatants, 19 Attack Submarines, Patrol Ships and Auxiliaries, 1 Amphibious Ready Group *, 1+ASW Patrol Squadrons (12 aircraft), Mediterranean, Provide peacetime naval presence throughout Mediterranean. Maintain Mediterranean sea lanes in NATO conflict. Provide tactical air and amphibious "protection" forces in support of NATO land war, particularly any Warsaw Pact initiatives against the NATO southern flank. Provide crisis management or contingency force in Mediterranean.

Middle East Force *, 1 Flagship, 2 Surface Combatants, Persian Gulf, Arabian Sea and Indian Ocean, Provide peacetime naval presence in Persian Gulf, Arabian Sea and Indian Ocean. Provide limited contingency force in the area.

Seventh Fleet & Western Pacific*, 2 Attack/Multi-Purpose Carriers, 18 Surface Combatants, 20 Attack Submarines and Auxiliaries, 2 Amphibious Ready Groups,** 4 ASW Patrol Squadrons, Western Pacific, Maintain Western Pacific sea lanes in NATO or Asian conflict. Provide tactical air and amphibious "projection" forces in support of Asian conflict. Provide crisis management of contingency force in Western Pacific. Provide peacetime naval presence throughout Western Pacific.

Marine Corps Forces

Marine Amphibious Unit (afloat), Mediterranean, Provide forward afloat force presence in the Eastern Atlantic/Mediterranean.

Battalion Landing Team (afloat), Caribbean Deployed afloat intermittently, Provide forward afloat force presence in the Caribbean.

Special Mission Force, Guantanamo Bay, Cuba, Defense of Guantanamo Naval Base.

3d Marine Division (—), Okinawa, Provide forward deployed ground/air combat forces with amphibious forcible entry capability.

1st Marine Aircraft Wing (—), Japan and Okinawa.

Marine Amphibious Unit (afloat), Western Pacific, Provide forward afloat force presence in the Western Pacific.

Battalion Landing Team (afloat), Western Pacific.

Air Force Tactical Fighter Aircraft

26 Squadrons ***, 9 U.K., 8 W. Germany, 1 Netherlands, 3 Spain, 1 Iceland, 4 Dual-based, Provide force presence in forward areas. Provide close air support, gain air superiority, and provide interdiction for a NATO conflict.

9 Squadrons, 2 Philippines, 4 Okinawa, 3 Korea, Provide force presence. Provide close air support, gain air superiority, and provide interdiction for an Asian conflict.

Approximately $23 billion a year is spent on maintaining these Asian forces and the CONUS forces directed to an Asian Contingency.[2] Apparently there is now some tension between what we say our foreign policy priorities are and our military force deployments. Current policy is to maintain a defense line in such forward Asian states as the Republic of Korea, Thailand, and Taiwan while emphasizing verbally and with the bulk of our forces that Europe and the Middle East are considerably more important to our well-being. In Asia, Japan is considered of the most considerable direct interest to the defense and well-being of the U.S. and protection of Japan remains the cornerstone of our Asian policy.

Specific forces contributing to the Asian total are the 2nd, 7th, 9th, and 25th Army infantry divisions; the 2nd and 3rd Marine amphibious forces; the 3rd and 7th fleets; and the nine U.S. Air Force tactical squadrons based in the Philippines, Japan, and Korea.

A larger current share of the defense budget goes to maintain the forces we have in Europe and aimed at European contingencies. According to calculations done at the Brookings Institution, there was approximately $36 billion invested in such European forces by the U.S. in 1976. This breaks down as follows: [3]

[TOA in billions of fiscal year 1976 dollars]

Type of force	Europe	Asia	Unallocated
Ground combat forces:			
Army	$16.8	$6.5	$2.6
Marine Corps	.9	1.9	
Tactical air forces:			
Air Force	4.9	2.1	8.8
Navy/Marine Corps	4.0	4.0	
Naval general purpose forces	9.5	8.7	1.6
Strategic nuclear forces			17.9
Mobility forces			3.8
Total	36.1	23.2	34.8

PAX AMERICANA

The size of U.S. combat and support forces needed is very sensitive to the kind of foreign policy that the U.S. pursues and the level of risk that the country and its leadership are willing to live with. Obviously if the United States adopted a still more ambitious foreign policy than present, iin which it attempted to maintain stability and order in every corner of the globe through military presence or applied military force, it would need significantly larger forces than it now maintains.

Adopting Pax Americana would imply that the United States should maintain what the military now defines as "minimal risk forces" for current foreign and military policy implementation. Such forces would obviously carry a higher risk in implementing Pax Americana. Such "minimal risk forces," for example, would nearly double the present U.S. Army divisions from the present 16 to 30.[4] Senator Goldwater placed this minimal risk force at 24 divisions set by the Joint Chiefs of Staff on a purely military basis, for present purposes.[5] JCS views and planning tend to be based on assumptions that the U.S. needs to prepare to fight in every locale in the world and to maintain presence everywhere and they tend to reflect the force levels needed if we had such a stated foreign policy.

Such Pax Americana forces would resemble the "minimal risk forces" described by Assistant Secretary of Defense, Leonard Sullivan. Note his chart below: [6]

"REQUIRED" CONVENTIONAL FORCE LEVELS

	Minimal risk	Prudent risk	Fiscally constrained
General purpose forces (Active/Reserve):			
Army divisions	30/0	[1] 16/8	[2] 16/8
Marine divisions	5/0	[1] 3/1	[2] 3/1
Air Force tac fighter wings	45/0	24/10	24/10
Navy carrier wings	25/0	16/2	12/2
Marine Corps air wings	5/0	3/1	3/1
Carriers	25	16	13
Patrol A/C squadrons	60	30/12	24/13
Surface combatant ships	590	215/51	181/30
Submarines	225	95	92
Mobility forces	NA		
C-5/C-141		70/234	70/234
Tactical airlift (Active/Reserve)		266/410	234/368
Sealift (MIL/CIV cargo ships)		285	285
Amphibious force lift (divisions)	3	2	1½

[1] Fully manned.
[2] Not fully manned.

Clearly Pax Americana would be extremely expensive. Even assuming that such a policy did not draw the U.S. into further costly limited wars, the defense budget could be twice as large as it presently is if the force structure to maintain it were to resemble the JCS projection of a "Minimal risk" force level. Such a policy could cost twice as muh as our current defense forces in FY 1976 dollars.

Option 3: Pacific Pullback/Europe First. For those who would not embrace a U.S. foreign policy of Pax Americana or the Status Quo, a third option may appear more attractive, namely a policy of Europe-First with a pullback of U.S. military forces and its defensive perimeter in the Western Pacific. Such a policy would include pulling U.S. troops out of Korea, Thailand, and perhaps Taiwan as well as demobilizing some of the amphibious forces in the Western Pacific area. At the same time this policy would keep the present strong commitment and forces in Europe in support of NATO defenses and Middle Eastern contingencies.

What would a Pacific Pullback/Europe First Foreign Policy require in the way of military forces in Europe and Asia? There are two basic alternatives. First, present European forces could be maintained at their current level of 314,000 U.S. troops. In addition, U.S. forces in the Western Pacific region could be reduced by all the U.S. Forces in South Korea (42,000). In addition, two of the U.S. light infantry divisions now earmarked for Asian contingencies in the U.S. (CONUS) could be demobilized. U.S. Marine divisions would then abandon their amphibious role and training and would "heavy up" with armor or anti-tank weapons and would be assigned to European contingencies. All of this would allow the U.S. to demobilize over a period of five years some 72,000 troops with a conservative five year cost savings of $720 million in 1976 dollars if these were phased out in 20% increments over that half-decade.

Those who would argue for a pullback to offshore Asia are especially concerned that U.S. combat forces will be committed to a second Korean War. Many believe that this

* Figures shown are approximate averages. Most ships are rotated to distant assignments from U.S. homeports. Mediterranean and Western Pacific forces, however, contain a few units selectively homeported overseas, including one CV homeported in Japan.

** An Amphibious Ready Group (ARG) is one-ninth of an Amphibious Task Force (ATF). It consists of 3 to 5 amphibious ships with a Marine Battalion Landing Team or a Marine Amphibious Unit embarked.

*** Includes four squadrons dual-based in CONUS.

Footnotes at end of article.

would be a catastrophe for the United States, and would quite possibly become nuclear. Critics of the U.S. presence in South Korea point out the parallels with Vietnam. A second Korean War would quite likely not have the support of the American people or the U.S. Congress. Such a conflict could have tragic domestic and international consequences. It could strain the belief of the U.S. people and even members of the armed forces that they were participating in the direct defense of the United States. Many would see the defense of the dictatorial South Korean regime as a government not worth the spilling of American blood or the spending of American resources. Many would see no strong relationship between the defense of South Korea and the defense of Japan, much less the defense of the United States.

It is also argued that the forward deployment and presence of U.S. nuclear weapons in South Korea could make any future Korean conflict a nuclear war. There are several hundred U.S. nuclear weapons in South Korea. Some are deployed close to the DMZ. They might well be overrun or used in a clash of forces in Korea. If overrun by North Koreans they might be used against U.S. troops. If seized by South Koreans they might be used against the North. Their use against North Koreans by U.S. troops could well invite Soviet or Chinese retaliation in kind against South Korea. Even unanswered first use of U.S. nuclear weapons could be a catastrophe for U.S. diplomacy worldwide as denunciations and possible retaliations took place against such actions. Moreover, such useage of nuclear weapons would break the 30 year moratorium on nuclear weapons use in combat. It would be a very dangerous precedent to set.

A second option would be to make the same kinds of cuts in the U.S. military structure in the Western Pacific region and to transfer these same military units to Europe or to CONUS assigned to NATO contingencies. Exercising this second option would beef up the conventional forces available to the U.S. in a European war and would narrow the gap between NATO and the Warsaw Pact in conventional forces. Whether the U.S. exercises options one or two depends on the degree of risk that policy-makers see of a conventional attack in Europe and the degree of risk such policy-makers decide to live with both in Europe and in Asia.

Risks and opportunities of an Asian pullback policy

Critics of our present stance in Asia argue that we might improve that stance by removing ourselves from situations in Korea where there is danger of bogging down in another Asian land war. Rather, they suggest that U.S. ground combat forces and bases be removed from the Asian mainland. First, they argue that the defense of these regions are not of direct significance in defending the United States. Second, they argue that even if a forward U.S. defense perimeter is desirable, it can best be maintained where the United States is strongest and has a clear advantage in technology and geography.

Those critics of the current posture point out the significant advantages of a defense perimeter that relies upon the superior U.S. Naval forces standing between mainland Asia and off-shore Asia, and the superior U.S. air forces that can be deployed from carriers and from bases in the Pacific. These forces plus the barrier created by the sea, they argue, form a more natural and reliable defensive perimeter than one in which U.S. troops are committed to the Asian mainland.

For those that would like to see the United States take a lower profile in South Korea several options present themselves. First, the U.S. might decide to immediately remove all 42,000 U.S. troops in South Korea including the tactical nuclear weapons and military weaponry they now maintain in Korea. Second, the U.S. might simply de-nuclearize the forces in South Korea to remove the possibility of nuclear war there. Third, the U.S. might move its forces further south of the MZ, perhaps south of the Hahn River of 37th Parallel. Fourth, the U.S. might move its troops south for the present and then begin to gradually move them out of Korea altogether over the next several years. Fifth, the U.S. might move its ground troops and tactical nuclear weapons out of Korea immediately or within a year while leaving the U.S. Air Force units inside Korea until the South Korean Air Force is sufficiently modernized to maintain a favorable air balance with the North Korean air forces. This is likely to be the case by 1980 or before.

Those who would support a minimal U.S. involvement in Korea, argue that the forward deployment of U.S. combat ground troops is unnecessary and takes away from the flexibility that should be available to the President and Congress in the event of another war in Korea. The forward deployment of U.S. troops near the main invasion routes south of the DMZ make it inevitable that they would be involved at the outset of hostilities. This may add a bit to deterrence of such an attack, but leaves U.S. leaders no option but to fight.

Some argue that the United States ought to begin by removing all tactical nuclear weapons from South Korea. These could be returned in the event of war but ought not to be on location where they may be introduced too soon into combat. And it can be argued that they ought never to be used in a purely Korean war.

Other critics of our current stance have suggested moving our forces further south from the Korean DMZ so that the President and Congress would have the option of not entering the conflict with our ground troops if they so decided, yet would have them close by if their use were approved. This would improve the flexibility of the U.S. but would cost about $500 million more in military construction.

Still another option would be to remove the U.S. ground troops completely, but retain the U.S. Air Force units in South Korea for a time until the ROK Air Force reaches parity or superiority with the North Koreans. South Korean ground and naval forces are already considered superior by military analysts. This option would preserve the conventional balance of power in the peninsula while phasing out the American presence and removing the danger of nuclear first use in Korea. While immediate savings would be moderate, an estimated $2 billion between 1976 and 1981, the long term gains would be substantial.

Apart from the effects on the attitudes and policies of the Japanese, it is not at all clear that the U.S. withdrawal from Korea poses dangers to U.S. national security if done in a gradual and sensible manner. A gradual withdrawal should also give the Japanese time to digest the change and may prevent any major shift in their own relationship with the U.S.

Option 4: Retrenchment: Lower Profiles in Europe and Asia.

Still another foreign policy option available to the United States is a pullback not only in Asia (as described in Option 3: Pacific Pullback) but in Europe as well. This kind of foreign policy would permit the United States to maintain far fewer combat forces abroad than at present. The arguments for an Asian pullback remain the same as discussed. Those favoring a European pullback often do not agree on the kind or level of reduction or the reasons for them.

There are any number of possible U.S. NATO options. These might include:

(1) Super NATO—this would be suitable with a Pax Americana foreign policy.

(2) Status Quo Nato—this would be suitable with either the present foreign policy or with a Pacific Pullback/European First Foreign Policy.

Or if there were a general standdown in both the Western Pacific and Europe, the U.S. might adopt the following kinds of NATO military policies:

(3) Status Quo NATO with Europeanization of NATO Forces—This would maintain present NATO troop levels while substituting European troops for U.S. troops on a one-for-one basis with perhaps 190,000 U.S. troops remaining after five years of "Europeanization."

(4) Mutual and Balanced Force Reductions—This would allow NATO and Warsaw Pact forces to conduct a parallel mutual phasedown of forces in Europe.

(5) Substantial Unilateral U.S. Phasedown (40%)—this would involve a cut of 124,000 troops from the U.S. forces in Europe with 190,000 remaining. No initial Allied replacement would occur nor Pact phasedown negotiated.

Some critics of the current posture in Europe argue that a fairer policy would result if U.S. troops pulled out of Europe in significant numbers the gaps in the lines were filled by our NATO allies. Our European allies have a population greater than that of the Soviet Union yet maintain far fewer soldiers under arms. Note below the population of the NATO European allies (Minus the U.S.) compared to the Soviet Union and the Pact. Note also the NATO European advantages in GNP.

NATO Europe versus Soviet Union

Population, GNP, defense spending, and armed forces.

NATO Europe: 312 million; $1121 B; $57.2 billion; 2,962,000.

Soviet Union: 250 million; $624 B; $67 billion; 3,525,000.

NATO versus Warsaw Pact

Population, GNP, defense spending, and armed forces.

NATO (+U.S.): 545 million; $2534 B; $121.8 billion; 5,092,000.

Warsaw Pact: 355 million; $854 B; $74.8 billion; 4,639,000.

It is obvious that NATO Europe has the resources to offset the Soviet Union in both people and wealth. These assets could be turned into equivalent military forces. What NATO Europe lacks is political cohesion and will. The U.S. provides the "glue" but whether it should provide so much of the muscle of NATO is a legitimate question.

Something of a consensus exists within the U.S. Government that the preferred means of phasing down our defense presence in Europe would be through mutual and balanced force reductions made jointly by both the Warsaw Pact and NATO. The MBFR negotiations so far have not succeeded in promoting any arms reduction in Central Europe and show no immediate promise of significant progress to date. Such a mutual drawdown of forces would reduce the threat of attack somewhat in proportion to the reduction in forces. Clearly this would be desirable; for these agreements to result in cost savings, however, would require de-mobilization of the forces involved, not just withdrawal.

Reduction through MBFR would preserve a rough military balance in Europe and still allow savings to both sides at no increased military risk. It would also be a means of phasing down that would not threaten the unity of NATO or be seen as an American withdrawal from commitment to NATO. It might also preclude the necessity of relying

so exclusively on nuclear weapons to maintain the balance. This might be required if the U.S. unilaterally removed large numbers of general purpose forces from Europe.

Unilateral U.S. phasedowns of general purpose forces from NATO might, however, be the only means of galvanizing the Europeans to take on a greater share of their own defense. Many critics of the MBFR talks indicate their dissatisfaction with the non-progress and feel very pessimistic about the talks. Indeed MBFR has served more as a barrier to the removal of troops than as a means of facilitating removal. Those who wish to keep the present level of U.S. troop commitment have used the "bargaining chip" argument to refute arguments for unilateral withdrawals. To unilaterally withdraw forces while trying to secure Soviet concessions at the MBFR negotiating table, it is argued, will undercut the U.S. bargaining position and give the Soviets no incentive to make concessions.

What kind of cost savings would result from phasing down our ground force presence in NATO? A cut of 40% in forces might mean a cost savings of $1.55 billion per year in payroll savings alone if these troops were demobilized. Perhaps demobilization costs would be offset even in the first year by savings in housing, energy use, and other troop expenses. 124,000 more people would be released for civilian work in the U.S. economy.

Unilateral cuts of this magnitude might or might not produce greater European willingness to fill holes left by U.S. pullback. Some believe that European NATO has too little political cohesiveness to replace the departed U.S. combat forces and, as a result, they believe that NATO forces would be weakened inviting instability into the region and possibly war. This, of course, depends upon the intentions of the Soviet leadership.

It can be argued also that large unilateral cuts such as a 40% pullback might have the residual effect of influencing the Soviets to follow the U.S. example. Perhaps given the opportunity, the Soviets might effect military savings of their own. This line of thought assumes that the tripwire nuclear force left behind can deter a rational Soviet leadership from attack on NATO soil. Perhaps an arms race in reverse would be encouraged by such unilateral acts followed by Soviet imitation. Of course, others feel that this would be seen as weakness causing the Soviets to apply more pressure, not less.

The degree of risk taken is in dispute although most would agree that phasedowns through mutual and balanced force reductions offers the most risk-proof means of phasing down U.S. forces in Europe. This kind of policy would enable everyone to share in the savings and might generate a desire for further burden reduction.

From a U.S. point of view, Europeanization of the NATO force is good but it increases the burdens borne by the NATO allies. This perhaps is just, but nevertheless difficult. Sharp unilateral U.S. cuts take a greater risk than either the MBFR or Europeanization routes. The costs of such large unilateral reductions are potentially very great. It can be argued that they would undermine the peace and stability of Europe. Such a policy would make the NATO reliance on nuclear weapons all the more likely. A small U.S. force in NATO might also incur cost to U.S. credibility and lead to a loosening of ties with several NATO allies. Some would argue that the "Finlandization" of Europe might not be far behind a unilateral U.S. troop withdrawal, although there is no evidence that the U.S. tripwire force would not remain an effective if more risky deterrent to Soviet aggression.

Compared to the present U.S. policy, a foreign policy of a general retrenchment in both Europe and Asia would return and demobilize 172,000 troops from overseas. Total cost savings in FY 77 would be minimal but cost savings of at least $2.0 billion can be realized over the next five years.

III. DEFENSE MANPOWER AND EFFICIENCY QUESTIONS

Obviously if U.S. foreign policy is changed, it would be logical to expand or contract the defense manpower required accordingly. However, even if the current foreign policy is assumed to be correct a second question remains. "How can we support the present policy more economically or efficiently?" Can fewer people do the job required? Can the same number of people generate a more effective combat force by restructuring the force and by better management of manpower resources?

There is obviously room for improvement in the management of U.S. defense manpower resources. Any bureaucracy that has 5.6 million persons on the payroll can safely be assumed to possess areas of inefficiency and areas where economies may be realized. Analysts and critics of the Pentagon's use of defense manpower have made a series of efficiency and economy suggestions. These include:

(1) Redressing the balance between officers and enlisted personnel. The current ratio of officers to enlisted is far too low and a "top heavy" military force is not an efficient force. There are currently too many chiefs and not enough indians in the U.S. armed services. "Grade Creep" must be stopped and the ratios improved.

(2) Cutting back on the support tail where possible to increase combat effectiveness of U.S. forces between M and M+60.

(3) Reform the U.S. reserves so as to include more within active divisions and to bring more of them up to a point where they would be ready for service by M+60.

(4) Increase service tours of duty and enlistment time. Keep military personnel in one location longer and keep them in the service for longer tours. Increase the enlistments and re-enlistments to four years for each service. Decrease transfers and turnover.

(5) *Go to an all-salary system* where pay is substituted for fringe benefits and "extra" fringe benefits can be secured only on a pay-as-you-go basis. Military pay, except for combat pay and benefits, should be equal to civilian pay for similar levels of skills. Differences should be reconciled over a 3 year period.

(6) *Revise the Military Retirement System.* Reforms of the military fringe benefits like the retirement system are long overdue. Military persons have a comparable salary to their civilian counterparts and like them should now adopt equivalent retirement systems. This means that military retirement systems that were contributory, that were "capped", that were not "recomputed", and which did not offer such rich rewards after only 20 years of service at early ages would save the taxpayers billions without being unfair to the retired military.

(7) *Adopt a revised Defense Officer Personnel Management Act (DOPMA).* This will provide a much needed overhaul of the officer management system in the Pentagon.

(8) *Adopt a 15,000 person (1.5%) efficiency cut in civilian defense manpower over and above recommendations No. 1–No. 7.* This will encourage housecleaning of excess civilians.

(9) *Initiate a 5% Pay Cap on Military Pay Increases.* This can be used to bring pay costs into line with civilian payroll of the federal government and to hold the line on the most expensive item in the Defense budget.

All together in FY 77 these reforms in defense manpower will save $4,687 millions if instituted at the beginning of the year. This would go a long way toward a more lean and efficient defense manpower force.

Please note the following analysis in support of each of these nine defense manpower recommendations.

Correcting a Top-Heavy Military

In the U.S. Air Force there is approximately one officer for every five enlisted men. USAF officers are paid approximately one dollar out of every three paid by the Air Force. In the U.S. Navy and U.S. Army there is approximately one officer for every seven enlisted men and women. Army and Navy officers account for one quarter of the payroll costs of their services. The U.S. Marines have the best ratio with one officer for every nine enlisted and with officers taking approximately one-fifth of the pay.

These totals far exceed the officer-to-enlisted ratios of World War II. During the Second World War there was one general or admiral for every 600,000 troops. By the Korean War this had gone to one for every 145,000 troops. Now there is one for every 20,000 troops.

This swelling of the officer corps is a direct result of the promotions that have come from U.S. participation in three wars in 35 years. It is also a result of increased skills needed to run a technically more complex military machine. It is also due to the poor manpower management of the Department of Defense. This is obvious when you consider that there were only 15,000 colonels and Navy captains in a force of 12.1 million military men in June, 1945. This is the same as in 1976 when this same size officer corps commands but 2.1 million troops, one sixth as many as in WWII. In looking over the entire defense manpower picture for 1976, William Brehm, Assistant Secretary of Defense for Manpower and Reserves, admitted that "there is no discernable improvement in the grade enrichment problem in terms of the overall picture.[8]"

Note the FY 1976 ratios of officers to enlisted personnel.

OFFICERS TO ENLISTED RATIOS,[1] FISCAL YEAR 1977

	People	Pay (millions)	Ratio
USAF (approximately 1 to 5):			
Officers	99,481	$2,156.3	½
Enlisted	486,285	4,163.5	
USN (approximately 1 to 7):			
Officers	64,380	341.3	⅛
Enlisted	460,028	942.2	
USMC (approximately 1 to 9):			
Officers	18,545	.342	¼
Enlisted	177,953	1.246	
USA (approximately 1 to 7):			
Officers	98,125	482.5	⅛
Enlisted	683,825	1,307.3	

[1] Compiled from tables furnished in HAC, "Department of Defense Appropriations for fiscal year 1976", pt. 3.

Recommended budget cut:

It would make sense to reduce the officer corps altogether by 30,000 which would bring the officer to enlisted ratio down to peak Vietnam war levels. This would save $750 million in 1976 dollars every year after demobilization. FY77 savings for a cut of 6,000 unreplaced officers would be roughly $150 millions.

Improving the combat to support ratio

In Central Europe Soviet forces with combat-to-support ratios of 2.4 to 1 face U.S. forces with combat-to-support ratios of 1 to 2.7. While some considerable progress has been made in improving the U.S. "tooth-to-tail" ratios in the last two years it is noteworthy that the Department of Defense was informing the Congress just three years ago that its "baseline" forces were as lean and trim as possible.

Since that time headquarters staff have been reduced 13% with no apparent loss of

Footnotes at end of article.

effectiveness and the Army has been able to create three new combat divisions solely out of existing assets by converting support "fat" into combat unit "swords". There is further to go down this road of converting manpower support "fat into swords" if the U.S. is to be ready for the intense "short war" scenarios that would be most likely to occur in a major NATO/Warsaw Pact war.

Recommended budget cut:

Last year former Secretary of Defense Schlesinger promised that the cuts in support units within the military in FY 76 represented "the beginning of the process of improvement. We have more to do." Yet this promise was not kept in FY 77 by the Pentagon for only 1,000 personnel slots were purged from almost 2.1 million military in the proposed FY 77 DoD budget. This is tokenism. Within the 2.1 million military worldwide another 15,000 slots can be found and retired by years end FY 77 or they should be removed from the military ranks by setting a lower ceiling less 15,000 troops in FY 78. The result will be either one additional combat division (fat into swords) or an additional savings to the taxpayers of an estimated $188 million beginning in FY78 (fat into savings).

Reform the Reserves

Perhaps the most inefficient use of defense manpower has been in the reserve forces. The Department of Defense is beginning to move in the right direction by increasing the integration of active and reserve forces which gives far more realistic training to the reserves and will simplify the transition from normal peacetime operations to operations of a single force after mobilization.

One savings that could be immediately realized is the elimination of "double dippers", persons who work in the federal civil service who are also members of the reserves and who draw dual compensation when they are excused from their federal jobs to train with the reserves. Such "double dippers" ought to be converted into "single dippers" who receive only their higher salary and perhaps transportation expenses. This, if implemented throughout FY77 would save an estimated $60 million, a savings that would be realized annually thereafter. 150,000 federal civilians are "double dippers."

Further, DoD should be required to eliminate dual-slotted reservists who would be of more value to the total war effort in their civilian jobs. These should be eliminated from the reserves since there is no use to continue paying and training persons who would never be called to active duty. In FY77 this should be subject to a Department study with recommendations for legislation beginning in FY78. The Secretary of Defense would be encouraged to implement this within the Department on an ad hoc basis consistent with the current law.

The Department of Defense is moving in the right direction in suggesting that 50,000 drill paid naval reservists be transferred to the non-paid Individual Ready Reserves and Congress should back legislation permitting this. Estimated annual savings of $36 million would result from this move.

There is further improvement to be made in the reserve use of manpower. These suggestions are but a start. More and more reserve units should train with active units to the extent possible, they should be organized increasingly to carry out their mission by M+60 days or before since a short intense war is the most likely scenario for any future general war. Major new initiatives by DoD in the reorganization of the reserves should be encouraged.

Initiate a military salary system

The present military salary system is a compilation of many visible as well as hidden forms of compensation. The regular military compensation (RMC) of a service person includes his basic pay, quarters, subsistence allowance and the tax advantage of allowances. Added to this figure is the retirement actuarial for those who obtain retirement (it is not a contributory retirement system), health care, commissary and exchange facilities, and government contribution to social security. RMC also does not include military servants for officers, re-enlistment bonuses, and separation payments.

It is time to go to a visible salary system for the military system for the military. Now that the military is an all-volunteer force, it is important that the pay scale be visible for all to see. This should help recruitment and eliminate the inequities and misunderstandings on both sides as to what the military person is actually being paid.

Recent studies done outside the Department of Defense show that the average military person is paid better than his civilian counterpart at a similar grade level in the civil service,[9] although DOD disputes this. Bringing the pay scale into the open is the only means to dispel the misconceptions.

A salary system would then eliminate most fringe benefits except on a contributory "pay-as-you-go" system that civilians have. Military pay, except for combat pay and benefits tied to combat injuries, should be equal to civilian pay for similar levels of skills.

No one pretends that initiating a salary system will be uncomplicated. It is cutting into a complex thicket of problems. Yet it can be the means of better fiscal management of our defense payroll, providing equity as well.

Legislative Recommendation for FY77: have an independent task force separate from the Pentagon draw up model legislation for converting to a salary system by end of FY77.

Increased Service Tours of Duty and Fewer Transfers/Less Training Time.

Approximately one in every seven U.S. military people is in training or transit at any given time. This is an extremely high and wasteful number. Extended tours and extended enlistment times are perhaps the major answer to this problem. Less turbulence in personnel would result if the average tour of duty in one location were increased, from 14 months to 18 months. The major impediment to this reform is the mid-tour retirement, or people leaving the military when they have completed their obligation, regardless of the impact on readiness. This would be retarded if they were in for longer periods. Hence, it is recommended that enlistments for all services be extended from three to four years. This is already the case in the Air Force. Increasing the average tour of duty from 14 to 18 months in one place is also recommended.[10] This would save 20,000 man years of time spent in transit valued at $250 million in FY77. This amount of "dead time" would be eliminated.

Also recommended is an increase in the student/teacher load in military training from 1.5 to 2.0 students per instructor. This would save $520 million in FY77. Military ratios of students to instructors are obviously far lower than ratios found in colleges, vocational schools, and high schools. Some of this is accounted for by the necessity to protect expensive equipment from mishap by inexperienced students, part by the necessity to make sure that troops are thoroughly trained in use of combat arms, part by the large support base provided on Army, Navy, Marine, and Air Force posts which house, feed, and shelter the students unlike the high school or college or vocational school which lets the society provide those services. Nevertheless, anyone who has carefully inspected the numerous training schools of the military will conclude that manpower inefficiencies exist and the increase from 1.5 to 2.0 students to instructor can be done by cutting into administrative "fat" without harming manpower readiness.

Footnotes at end of article.

Also recommended is the shortening of the average training course period from 67 days to 60 days. Knocking one week off the instruction period would save 8,000 manyears of time spent in training. This would force elimination of less important courses and material and would force efficiencies in coursework and presentations. The savings in FY77 would be one milion dollars and, more importantly, would free defense manpower for more combat roles if needed. Today almost 10% of military manpower is in some kind of training, a good part not directly related to combat skills.

Retirement benefits for defense manpower

Retirement costs for defense manpower are getting out of control. In FY76 DoD is spending $7.4 bilion or 8% of all outlays on military retirement costs. CBO estimates that cost will increase to $12.8 million by FY 1981 and will continue to increase with time as more and more military retire toward the end of the century. Without reform, the retirement costs will be astronomical by that time.

Contributions to Retirement

There are several places where reform is needed to bring these costs under control. First, the military should be put under a contributory retirement system similar to that of the civilian civil service. While no noticeable changes would occur in FY77 such a system would save tens of billions of dollars by the end of the century and should be initiated in FY77 on a sliding scale of smaller to larger payments up to five years when full contributions would be required up to civilian levels.

Capping Retirement Annuities—Keeping Retirement consistent with Cost of Living Index

Capping retirement annuities would be a reasonable companion to the 5% "pay cap" and could save an additional $200 million in FY77 with increasing savings in out years. Military retirement costs can also be substantially reduced by eliminating the "one-percent kicker" which allows military retirements to grow at 1% greater than the rate of inflation.

DoD can save $90 million in FY77 by removal of the one-percent kicker. Dropping this plan can avoid also retired pay "inversions" where the retired military force receives a larger pay raise than the active forces while literally contributing nothing in that time period to added defense capability. This breeds resentment in the active force and is unfair.

Recomputation Costly

Pending before Congress is legislation to recomputate retired pay to keep up with the increase in active duty military pay since 1958. The difference is that active duty military have been given "catch up" pay raises in the last five years which have allowed active duty pay increases of 430% since 1958 while the retired military make 280% more than they earned if retired in 1958. Recomputation legislation was designed to pass the difference on to retired military as well.

Legislation pending before Congress would add billions of dollars of added spending on the retired military with no military capability added to our defense efforts. Some recomputation plans are more limited than others. One limited recomputation plan that would allow recomputation based on pay scales in effect January 1972 for all those who reach age 60 would cost the Defense Department an added $550 million in FY1977 increasing to $1.0 billion in FY1980. Other recomputation plans would cost more.

Considering that no legal obligation is owed to retired military to recompute their benefits and also considering the liberal retirement benefits of the military compared to the civilian population, and the fact that

retirees after 20 years often go on to lucrative second careers while drawing good military retirement benefits, there is no strong equity reason for recomputation. Passage of a recomputation measure would entail enormous additional defense manpower costs that would add nothing to U.S. national security. It is therefore a reasonable recommendation that recomputation be dropped as a good-hearted, but too-expensive idea.

Retirement Plan Stretchout Reform

The current military retirement system pays 50% of basic military pay after as few as 20 years of service. This rises to 75% after 30 years of service. Military people do not contribute directly to this retirement system. This makes retirement costs very expensive. The Retirement Modernization Act before Congress would reform this system which produces many 20 year careerists or early dropouts from military service.

It would remove the "either-or" pattern from military service by stretching the time of service when full present benefits could be realized and by providing some benefits for those who stay in the service as short a time as 10 years. RMA would reduce the present 50% retirement pay of 20 year careerists to 35% for the first 10 years of retirement. This is estimated to save $800 million by the year 2000.

The federal Interagency Committee proposed an even more far-reaching and less costly retirement plan recommendation in 1971. The Federal IAC plan would reduce the 20 year careerists retirement income to 30% of basic pay restoring the full 50% only at age 60. This plan would reduce substantially those retiring at the 20 year mark and would save significantly more than the RMA plan both in retirement benefit payments and in retraining costs of new personnel.

Either the Retirement Modernization Act or the Federal Interagency Committee plans merit close attention and one of them ought to find their way into legislation in FY 1977 to head off spiraling retirement costs. Savings in FY 1977 would be small but this would change with the passage of time as billions of dollars would be saved under the Federal IAC plan by the year 2000, and nearly a billion dollars under the Retirement Modernization Act by that time.

While RMA or the Federal IAC plan would be marginal steps in the right direction, neither is drastic enough to substantially change the direction, sharply upward, of retirement costs for the military. A more serious proposal would be the deferment of all retirement costs and benefits until the retiree had reached age 55 or 60 depending upon service length. Adoption of this proposal would produce significant savings of perhaps $1.5 billion by FY 1981 and tens of billions by the end of the century. One study indicated that the savings could run as great as $110 billions in the next quarter century. (See Chart below).

The deferred retirement payments plan could be softened by giving the early retiree a substantially smaller one-time bonus in a lump sum at the time of retirement as an alternative to the larger amount he or she would get after age 55 or 60.

In view of the spiraling costs of military retirement to the country it is clear that trimming back these programs should be a first order of business for the United States Government.

EXPECTED SAVINGS RESULTING FROM CHANGING CURRENT MILITARY PENSIONS TO A DEFERRED BENEFIT BASIS*

[In millions of dollars]

Fiscal year	Present	Proposed	Savings
1977	164.5	155.0	9.5
1978	508.1	425.7	82.4
1979	875.6	635.2	240.4
1980	1,272.1	819.2	452.9
1981	1,693.0	983.3	709.7
1982	2,151.5	1,147.2	1,004.3
1983	2,645.6	1,315.2	1,330.4
1984	3,151.2	1,470.7	1,680.5
1985	3,671.0	1,616.8	2,054.2
1986	4,228.2	1,771.7	2,456.5
1987	4,828.3	1,925.3	2,903.0
1988	5,466.4	2,032.7	3,433.7
1989	6,166.1	2,102.3	4,063.8
1990	6,942.6	2,207.4	4,735.2
1991	7,773.4	2,316.0	5,457.4
1992	8,636.0	2,431.8	6,204.2
1993	9,534.0	2,549.2	6,984.8
1994	10,456.9	2,705.5	7,751.4
1995	11,385.6	3,037.0	8,348.6
1996	12,339.6	3,385.2	8,954.4
1997	13,367.1	3,756.3	9,610.8
1998	14,477.5	4,128.1	10,349.4
1999	15,657.7	4,850.5	10,807.2
2000	16,919.8	5,595.5	11,344.3
Total	164,311.8	53,362.8	110,949.0

ASSUMPTIONS

1. Basic pay is assumed to increase 6 percent annually and the Consumer Price Index (CPI) adjustments to retired pay are 4 percent annually.
2. Implementation of proposed system is assumed Oct. 1, 1976. All personnel with greater than 20 yr. of service, on current retired payroll considered not affected by the change.
*3. It is assumed that the change will affect only future retirees and not those currently on the rolls.
4. Those retiring with 21–29 yr. of service are assumed to receive annuities deferred to age 60, unless they are already over 60.
5. Those retiring with 30 or more years of service are granted benefits deferred to age 55, unless they are already over age 60.
6. Only nondisability retirements were considered since the question was addressed to those with 20 or more years of service.

DEFENSE OFFICER PERSONNEL MANAGEMENT ACT (DOPMA)

The Department of Defense has proposed to the Congress the Defense Officer Personnel Management Act. This proposal represents an attempt at a much-needed overhaul of the officer-management system in the Department of Defense.

While many features of this proposal are laudable, several major revisions should be made before it is adopted. Outlined below are areas of DOPMA that would bear further examination.

First and foremost, DOPMA should be considered simultaneously with the retirement modernization act; neither should be passed without the other.

DOPMA suggests but does accomplish the elimination of distinction between regular and reserve officers on active duty. This desirable goal can be acomplished by eliminating the granting of regular commissions to officers entering active duty, and requiring that all officers serving more than five years be regular officers.

20-year retirement should be abandoned in favor of the traditional 30-year career. Such action would reap the following benefits:

1. The career force would increase while the proportion of non-career officers as well as new accessions would decrease.

2. Reduction of new accessions also reduces the number of required accession and initial training related PCS moves, school spaces, instructors, etc.

3. An increasing number of personnel would be retained beyond 20 years, thus decreasing the number of non-disability retirements and increasing force stability.

4. Annual promotions would decrease.

It has been alleged, though not substantiated, that such a proposal would be more costly than the existing system. While this allegation appears unlikely on its face, it should certainly be explored to determine precise cost-benefit ratios.

The "sliding scale" principle of senior officer manning embodied in DOPMA is highly suspect. The principle has as its premise that the savings of a smaller force ought not to extend to a proportionally smaller senior officer corps. This thesis requires the assumption that a Colonel's job is a Colonel's job, whether it involves a platoon or a division. Additionally, reserve forces are currently more officer-rich than the active force. Since future augmentations will take place by calling up the resrves en toto, officers and all, there is no necessity for maintaining senior officers on active duty to administer a larger military.

The "selection-in" feature of DOPMA places an artificial limit on the number of O–5's and O–6's who can be separated for non-selection to the next higher grade. This limit to management flexibility is uncalled for and should be eliminated.

DOPMA confers upon the President many powers in the event of emergency. While no one would challenge the assumption that the President must have the necessary authority to direct the military in time of need, the determination of an emergency should require Congressional approval.

The grade tables for senior officers will at least bear further examination on the subject of whether they are too rich in senior officers. While modest reductions in the levels of O–5's and O–6's are evident, the tables mandate an increase in O–4's, and all tables show more senior officers than has been found to be necessary in other years.

Reduce civilian manpower levels by 15,000

While military personnel levels have dipped 22% since 1964 as a result of force efficiencies, the all-volunteer army, and the expense of military manpower, civilian totals have dropped only 5%. It is a reasonable recommendation to suggest that the civilian manpower totals be readjusted to reflect a decline similar to that of the military manpower total. Contrary to the spirit of the recent Nunn Amendment giving the military the alternative to turn fat into taxpayer savings, many military jobs have been "civilianized." These policies merely transfer the burden from one account to another without reflecting a true economy in overall defense manpower expenditures.

The Defense Department has begun moving belatedly to cut their civilian manpower totals and promise a FY 1977 cut of 26,000 from the 1,017,000 on the payroll at the end of 1975. This is a first step in the right direction but a token one for such a swollen bureaucracy. A better step might be taken by adding 15,000 additional civilian jobs eliminated, or a total of 41,000 removed from the Pentagon payroll in FY 1977. Since about 130,000 civilians will retire in FY 1977 no individual currently holding a DoD job need lose it. Reductions could be taken by attrition. A reduction in force (RIF) of 41,000 would save $580 million annually in current dollars. This would still leave civilian defense manpower at about the one million level. Setting such ceilings would encourage the Pentagon to bring its civilian manpower house into better order.

Initiate a 5 percent on defense pay increases

Perhaps the largest defense manpower savings can result from reducing or "capping" the annual salary increase given to the military and Defense Department civilians annually. Without such a "pay cap" the expected wage increases for defense manpower in FY1977 would be about 12%.

The Congressional Budget Office estimates that capping the increases at 5% annually would save $2.2 billion in FY1977. Savings of $3.7 billion annually would begin in FY1978 if the 5% increase limit were passed. This step can be strongly recommended as a means of gaining control of the soaring costs of defense manpower which is eating up nearly 60% of the military budget. In the interests of equity, any cap on Defense pay increases presumably would be part of an overall pay cap on all other federal employees as well. The effects of such a pay cap on military recruitment will have to be

evaluated over a two-year period, and perhaps revised if it proves very detrimental later.

Defense manpower: Summary and conclusions

Altogether, these suggested changes would result in a savings of $4.687 billion in FY1977 if implemented at the beginning of the fiscal year. This would represent an "economy cut", one which would eliminate wasteful practices while not sacrificing U.S. defense programs. In short, you can buy the same amount of defense with $4.687 less funding. A summary of recommended changes in the defense manpower area is found below.

Recommended defense manpower changes

[In millions]

	Savings
a. Redress the balance between officers and enlisted personnel by not replacing 6,000 officer slots	$150
b. Improving the Combat-to-Support Ratios	188
c. Transfer 50,000 naval reservists to the Individual Ready Reserves	36
d. Eliminate "double dippers" who draw 2 salaries	60
e. Increase average tour of duty from 14 to 18 mos	250
f. Increase student/teacher ratio from 1.5 to 1 to 2 to 1	250
g. Decrease average training period by one week from 67 days to 60 days	1
h. Cap Retirement Annuities at 5% increase per year	200
i. Remove the 1% Kicker for retirees	90
j. Do not approve recomputation for retirees—this would add some $550 million in FY77	----
k. Reduce civilian manpower by 1.5% in an efficiency incentive cut of 41,000 spaces (15,000 more than projected by the DoD)	580
l. Institute a 5% pay cap on all payroll increases for all DoD people in FY77	2200
Total manpower savings	4687

All of these changes require the action of Congress and some like the 5% pay cap have been recommended by the administration. Most of these changes could begin in FY1977 but some would not result in savings until FY1978 due to the time needed to implement them.

FOOTNOTES

[1] Information is taken from the *Manpower Requirements Report for FY 1977*, Department of Defense, February 1976, pp. V–21 to V–23.

[2] Barry Blechman, testimony before the House Armed Services Committee, Dec. 18, 1975. Hearings on *Overall National Security Programs and Related Budget Requirements*, p. 558.

[3] H.A.S.C. Hearings, *Overall National Security Programs and Related Budget Requirements*, Dec. 18, 1975, p. 558. See also Blechman, Gramlich, and Hartman, *Setting National Priorities, The 1976 Budget* (Washington, D.C.; Brookings Institution, 1975) p. 140–152.

[4] An estimate by planners in the Dept. of Defense. Cited in *Setting National Priorities: the 1976 Budget*, Chapter 5, "Alternative Defense Budgets," by Barry Blechman (Wash., D.C.: The Brookings Institution, 1975), p. 133.

[5] Senator Goldwater discussed this during the Senate "great debate" on foreign and defense policy in June, 1975.

[6] Testimony of Leonard Sullivan, Jr. Assistant Secretary for Program Analysis and Evaluation, Department of Defense, Dec. 10, 1975, hearings by the House Armed Services Committee on *Overall National Security Programs and Related Budget Requirements*, p. 182. Where numbers of divisions or other forces are described like 30/0 or 215/51 the first number means active forces and the second means reserve forces.

[7] 1974 statistics. 1975 figures for numbers in the armed forces. See "The Military Balance" in *Air Force Magazine*, Dec. 1975, p. 94. See also, Ruth Sivard, *World Military and Social Expenditures, 1976*, (Leesburg, Va: WMSE Publications, 1976) p. 21.

[8] HAC, Dept. of Defense Appropriations for FY 76, Pt. 3, p. 363.

[9] Data released by the Defense Manpower Commission in their report to the President in April 1976 indicated the following breakdown of military vs. non-military income at comparable levels of advancement. (See also, Kip Cooper, "Military Pay Found To Top Civilians," *San Diego Union*, March 5, 1976, p. 1.)

COMPARISON OF MILITARY AND CIVILIAN COMPENSATION AND BENEFITS (OCT. 1, 1975, PAY SCALES)

Military grade	Comparable civilian grade	Military compensation and benefits	Civilian compensation and benefits	Military advantage (+) or disadvantage (−)
Rear admiral, upper	GS–18	$54,815	$41,350	+$13,465
Rear admiral, lower	GS–17/GS–16	48,886	41,350	+7,536
Captain	GS–15	43,305	38,849	+4,456
Commander	GS–14/GS–13	35,101	31,131	+3,970
Lieutenant commander	GS–12	28,188	24,485	+3,703
Lieutenant	GS–11/GS–10	24,044	19,749	+4,255
Lieutenant (junior grade)	GS–9/GS–8	$21,729	$16,403	+5,326
Ensign	GS–7	16,914	14,710	+2,744
Chief petty officer	GS–6	20,964	12,813	+8,151
Petty officer 1C/Petty officer 2C	GS–5	14,711	11,551	+3,160
Petty officer 3C	GS–4	9,915	10,375	−465
Nonrated	GS–3/GS–2/GS–1	7,821	8,326	−500

Note: Where more than 1 civilian or military grade is shown, the amount for compensation and benefits is the average of the values shown for those grades.

[10] Based on calculations supplied by Martin Binkin of the Brookings Institution to the House Budget Committeeon Sept. 24, 1975. See HBC National Security Task Force Hearings, *Force Structure and Long-Range Projections*, Part 2, p. 150.

U.S. FOREIGN AND DEFENSE POLICY ALTERNATIVE POSTURE STATEMENT: PART 3, GENERAL PURPOSE FORCES—TACTICAL AIRPOWER

One of the largest components of the FY 1977 defense budget is for tactical airforces. At least one quarter of all defense dollars go to tactical airpower expenditures. A responsible look at U.S. tactical airpower posture requires that several key questions be asked and answered, namely:

(1) How much tactical airpower does the United States need and how do U.S. tactical airpower forces compare to those of the Soviet Union?

(2) How much tactical airpower is needed to support current U.S. foreign policy commitments? How much would be needed if a U.S. foreign policy of Pax Americana, Pacific Pullback, or of a general retrenchment in both Europe and Asia were adopted.

(3) If the current policy is taken as a given, what steps could be taken to make expenditures on tactical airpower more efficient or could be taken to purchase the same TACAIR capability with less of an investment?

(4) What tactical airforces can best perform the roles and missions of TACAIR? For example. close ground support, battlefield interdiction, deep interdiction, or air superiority?

(5) Lastly, what changes should occur in the U.S. tactical airpower posture based on the answers to the preceding questions?

Each of these questions will be dealt with in the following discussion.

TACTICAL AIR FORCES: NATO AND WARSAW PACT

NATO tactical air forces are considerably stronger than their Warsaw Pact counterparts at present. The Pact enjoys a numerical advantage in aircraft but this is offset by NATO qualitative superiority. The Warsaw Pact can put 6500 planes in the air to 4500 for NATO at the start of hostilities. This numerical advantage is offset by a more numerous NATO reinforcement capability—with aircraft of superior military capability as well. NATO and U.S. Pilots have far better and more extensive training, and more combat experience. Their aircraft have more firepower, greater range and performance, more sophisticated avionics, and as a Brookings Institution monograph recently stated:

"On balance, NATO's qualitative advantages appear to more than outweigh its inferiority in number of aircraft. While NATO may have the stronger tactical air forces overall, it seems equally clear that the Warsaw Pact countries have a formidable capability as well, especially for counterair operations. The danger is that the Pact members' air strength might, in cooperation with the extensive anti-air weapons in the hands of their ground forces, suffice to neutralize the advantage of NATO's air forces in an offensive capacity. Certainly NATO's present superiority in the air is not so overwhelming that it can be relied upon to redress any serious imbalance that might develop between opposing surface forces."

All such evaluations of the tactical air balance are static. War is dynamic and the outcome of any European air battle would be highly scenario-dependent.

Comparing the two forces is difficult because the Soviets have constructed a different type of tactical air force. First, it relies on older and more numerous aircraft that do not have the same capability for air superiority or deep interdiction. Second, they have more aircraft concentrated in the European theater but fewer in reserve and fewer overall. Third, some of their Medium Range Ballistic Missiles (MRBMs) and Intermediate Range Ballistics Missiles (IRBMs) targeted on Western Europe are the functional equivalent of NATO tactical air fighter bombers. Finally, Soviet air defenses are much denser than NATO air defenses and they possess a far higher mix of interceptors to attack aircraft. The Soviet SAMs used during the 1973 Yom Kippur War showed that their forces have a very significant anti-air capability. Nevertheless, U.S. and NATO airforces are considered still markedly superior overall.

TACTICAL AIRPOWER AND FOREIGN POLICY OPTIONS

Tactical airpower strength requirements should be sensitive to changes in foreign policy. The size and quality of the forces ought to be roughly equivalent to the number and kind of security commitments made to other states. The TACAIR forces should also reflect the kind of risks the country is willing to live with.

In an age when general war is predicted to be a very short intensive affair, tactical airforces are the single most reliable reinforcement asset that may be shifted from one theater to another in time to make a difference. In a matter of days, these mobile tactical airforces can make their presence felt across the globe. TACAIR in the Pacific can be shifted to Europe and vice versa far more easily than can naval or land forces, and in time to make an immediate difference. Thus, the size of regional deployments of tactical airforces is less important than the availability of airfields near the conflict area. Given available airfields; given one conflict occurring at a time; limited tactical air assets can be shifted from place to place to cover numerous contingencies. Only in a condition of worldwide war would the practice of shifting assets to the hottest global spot become impractical.

What kind of tactical airforces are needed to maintain the current foreign policy? And what kind is needed to support alternative foreign policies such as (1) Pax Americana, (2) a Pacific Pullback Europe-First policy, or (3) a policy of a general Standdown in Europe and Asia?

CURRENT POLICY AND PAX AMERICANA

Officials in the Department of Defense have testified that given the current constellation of forces they would require no fewer than 45 Air Force Wings, 25 Navy carrier wings, and 5 Marine air wings—a total of 75 tactical airways to insure a so-called "Minimal Risk" defense policy. This kind of force, twice the size of current U.S. TACAIR forces, would be a "go everywhere-do everything" tactical air force capable of maintaining a foreign policy of Pax Americana. The estimated cost of such an expanded tactical air force would be close to $50 billion per year in 1976 dollars. This is approximately twice as much as the cost of the present 42 U.S. tactical wings (3 Marine, 26 Air Force, and 13 Navy). These 42 air wings are deemed by the present administration as essential in maintaining current policy, and for deterring Soviet thrusts.

Given the high mobility of tactical airforces, it is possible that the U.S. can support its present policy with fewer than the 26 Air Force wings which it has on paper. During the Vietnam War the Air Force maintained but 22 wings. It is difficult to fathom why peace costs more than war, especially when the current TACAIR force is adequately supporting U.S. Policy with an inventory of aircraft equivalent to just 22 wings, although it has created 26 tactical airforce headquarters. Moreover, the U.S. has adopted a less ambitious security commitment to mainland Asia due to decisions and events of the past year. No longer are we committed to the defense of Indochina.

Thailand has ordered reductions in U.S. forces. SEATO is being disbanded and many U.S. policymakers have repeatedly warned about involving ourselves in mainland Asian conflicts. Moreover, there is a reluctance by the U.S. people to be involved in other Vietnam-types of wars. This combination of changes would seemingly argue for less U S. tactical air power needed, rather than more. Asian assets could be shifted to higher-priority European missions. This has not happened. Instead, the Air Force has asked for permission to expand its TACAIR forces. While this has now been accomplished on paper, it remains to be done in substance and it is not too late for the U.S. Government to reconsider the wisdom of such a move.

Pacific pullback, Europe-first policy requirements

Another possible U.S. Foreign policy would be that of a Pacific Pullback where U.S. Forces were pulled back from mainland Asia and its forces were placed as a barrier between mainland Asian threats and offshore Asian allies like the Japanese. U.S. tactical airforces aboard carriers would be useful for maintaining superiority or the sea lanes. Such a policy would entail only six carriers in that area of the world with two on station. These, combined with Marine aviation, could represent the entire tactical airforce in the Pacific region in support of a Europe-First, Pacific Pullback policy for the United States. The Marine could be replacements for Army units all over the Pacific and half of the 25 Marine squadrons could be phased out if the Marines were saved for only non-European Asian contingencies. This could save up to $1 billion annually.

Retrenchment: Lower U.S. profile worldwide

Finally, if the U.S. were to follow a policy of generally lower profiles in both Europe and Asia, it could substantially reduce its tactical air wings. First, it could reduce its air wings proportional to its withdrawal of ground troops if it wished only for tripwire forces abroad and wished to define the battle area as the rimland and oceans adjacent to itself. A cut of 20 of the present 42 air wings would be possible with such a policy, although at some increased risk of a European and Asian war. Tactical air would cost about 12 billion dollars (in 1975 dollars) each year.

OVERLAP AND DUPLICATION

There appears to be considerable overlap and duplication in U.S. tactical airforces. Altogether the U.S. maintains four separate tactical airforces that together maintain 26,800 tactical aircraft in both the active and reserve units. These are broken down in the following fashion:

*Four U.S. air forces**

Service:	*Aircraft*
Army	11,000
Air Force	9,400
Navy	5,100
Marine Corps	1,300
Total	26,800

*See Col. Robert Whitaker, "Four U. S. Tactical Air Forces", The Defense Monitor, October 1975, p. 3. These late 1975 figures are approximately correct for 1976.

While the missions of the tactical airforces of the U.S. general purpose forces are extremely important, there is little doubt that there is significant duplication of effort between the four services. Congress has belatedly recognized the fact that each service has developed separate tactical air forces for independent rather than mutually supporting missions. Duplication of the tactical air investment into different aircraft systems, chosen by different service planners, often for the same missions have recently led the House Armed Services Committee to form a new subcommittee on tactical airpower and close air support missions. It is already clear, even before hearings, that there is costly overlap in assignments and a wasteful duplication of effort. Such competing systems cause bureaucratic duplication and ignore the savings that might be secured from long production runs of aircraft chosen to fulfill common missions.

The tactical air mission of close ground support might better be lifted from the Marines and Army and put under the Navy and the Air Force. The Navy and Air Force should work to integrate their efforts and separate out who does what, when, and how. The JCS must be required either by law or by the Secretary of Defense to create an acceptable command and control system. Such a system is now sorely lacking and is the key to the successful reform of TACAIR assets and their good management. Service duplication stemming from service rivalry and desire for service autonomy and service empirebuilding ought to be reduced by a reorganization.

SOARING AIRCRAFT COST AND GOLDPLATING

In terms of the investment costs, tactical airforces are the most expensive components of the general purpose forces. The cost per aircraft is steadily rising in both inflated and constant dollars. Due to an open-ended design philosophy of adding all the new avionics and ordinance that is possible to new aircraft, costs of tactical aircraft continue to soar. For example, the F–15 now in the U.S. Air Force Inventory is being procured for $13.8 million an aircraft. This comes to 72 times the cost of the WWII P–51 fighter.[1] Indeed some of the missiles carried by todays attack aircraft on each wing are twice as expensive as that WWII fighter plane.

The current soaring costs of tactical fighter aircraft have led to the charges that many such aircraft have been "goldplated" with capacities exceeding their predominate mission requirements. Costly extras are not always cost-effective. More aircraft of simpler design will actually do the job now being done by high cost aircraft with significant savings in investment and operating costs. Unfortunately, the competing services have each invested heavily in aircraft programs which push performance regardless of costs, rather than in programs where there was extensive designing-to-cost. Despite much talk of the necessity of a high-low mix in aircraft inventories so that adequtae numbers of aircraft can be purchased within relatively limited budgets, the services still are overinvesting in high-cost aircraft. Even the so-called low-cost aircraft, such as the Navy F–18 and Air Force F–16, are extraordinarily expensive. A renewed effort needs to be made to develop truly cost-effective military aircraft.

MISSION PRIORITIES AND IMPACT OF NEW TECHNOLOGIES

What is the mission of the tactical airforce? The services stress three traditional missions. One mission is to win the air battle and achieve local and theater air superiority. A second mission is to carry out deep interdiction strikes against enemy surface supply lines, production centers, surface shipping, and air bases. A third mission is to provide close air support to ground forces in combat to directly aid in winning the land battle.

An independent evaluation of these missions leads to the conclusion that the U.S. tactical Air Forces are too heavily structured for air superiority and interdiction roles and too lightly structured for completing the close ground support mission.

What leads to such a conclusion? Obviously, the planner must know the character and duration of the war to be fought before he can assess the correct mix of air superiority, deep interdiction, or close ground support aircraft to buy. Many military analysts today believe that the next war in Europe would be a short, ultra-intensive war with extreme attrition of forces and equipment within the first days or weeks. A war of over eight weeks would seem unlikely. In such a war, fighting at the front is likely to be decisive and mobilization of forces that cannot reach the front in the first weeks are unlikely to change the ultimate result. TACAIR can influence the result most importantly by effective close support of the ground forces. Deep interdiction and interception will play less of a role.

A major weakness in U.S. tactical air force doctrine and structure may well be the bias toward "winning the air battle first", achieving overall long-range theater air superiority, and emphasizing the deep interdiction of enemy supply lines. It is highly probable that any meaningful interdiction campaign would take too much time in a short war, and would not have any real effect on the

Footnotes at end of article.

outcome of a ground battle. It would take an extended period for the NATO tactical air force to destroy a decisive number of the Pact's 5000 combat aircraft in North Central and South Central Europe prior to an interdiction campaign against enemy support units and facilities. Air strikes deep into the interior of Warsaw Pact lines would run into the best and most massive air defenses in the world. Thousands of Soviet interceptors plus massed anti-air defenses on the ground around high-value targets would inflict extremely heavy losses upon U.S. tactical airforces, making deep interdiction a long costly affair [2] that would not be resolved perhaps before the ground combat was concluded or had crossed the nuclear threshold. Moreover, it is not clear that deep interdiction would be very effective in preventing a massive leakage of tonnage to the forward edge of the battle.

A recent air commander in Europe sees the air situation near the battle line "pretty much determining the outcome of what's happening on the ground." This means that the most important missions are of close ground support, battlefield interdiction, and local air superiority. Unfortunately, the U.S. tactical airforces are oriented now toward missions of the more questionable priority since two-thirds of the new fighters—the F–14, the F–18, and the A–18 in the Navy and the F–15 in the Air Force are designed to fly mainly deep-penetration or interception missions. Their use in battlefield scenarios would be successful but they represent more expensive and more sophisticated aircraft than would be cost-effective over a very lethal battleground where these multi-million dollar aircraft could be brought down by increasingly effective and cheap anti-air SAMs and rockets. Increased use of the A–10 type of aircraft rather than the more expensive multi-purpose aircraft seems in order and the Air Force seems on the right track with this new emphasis on a fixed wing aircraft that carries a heavy payload, has a long-loiter time, great tank-killing capability, good maneuverability, steep rate of climb, and heavy armor against ground fire.

There is some question whether any current aircraft can be designed to match such a profile for performance in the close ground support role in an extremely hostile anti-air environment. One of the lessons of the 1973 Yom Kippur War is that small, very accurate anti-air weapons now can limit air access to the battlefield and the approaches to the battlefield for both combatants. Recent developments in high accuracy weapons can create a lethal "Bubble" over the battlefield that aircraft enter only at extreme peril. Moreover, the lethality can come from friendly fire as well as from hostile fire. A recent military exercise showed that half of the simulated TACAIR losses came from friendly fire misdirected at our own aircraft.

The 1973 Middle East War indicated that the next war will be a voracious one, consuming forces and equipment at extreme rates of attrition. Virtually everything that can be seen either by the eye or the radar can be taken under increasingly heavy and precise (but indiscriminate) fire. An evaluation of the 1973 war tends to chill previous enthusiasts for helicopter use for close ground support in high threat environments. It was generally agreed that helicopters could not have survived over the Sinai battleground or over the Golan Heights.[3]

Nor is it likely that they could long survive against the better trained U.S. and Soviet Armies. The faster fixed wing A–10 is far more lethal a tank-killer than the AAH helicopter and its chances of survival are considerably higher against the new precision anti-air weapons.

Despite the unfavorable prospects of helicopters in the close ground support role in a highthreat environment, the Army is currently planning to invest $3.1 billion for 481 Advanced Attack Helicopters (AAHs) equipped with the tank-killing TOW weapon. Two thousand, two hundred, eighty-two (2282) helicopters were lost in the low-threat battlefield of Vietnam during the U.S. role in that war. Fixed-wing aircraft did much better. They are likely to remain a better buy for a European War contingency. This is also driven home by the fact that the 16 TOW missiles carried by the AAH will cost six times as much as the average A–10 payload, but will provide only 1/60 the firepower.[4]

The extreme lethality of the anti-air weaponry at the battlefront is also an argument for greater reliance upon long range artillery, on surface-to-surface missiles, and upon remotely piloted vehicles (RPVs) for providing close ground support. Airpower cannot be relied upon to do the job of artillery. Its focus is too fleeting and its launcher is too vulnerable to the new precision-guided anti-air weapons. Smart bombs launched by aircraft will be matched by smart-anti-air munitions which will take a frightful toll of TACAIR over the battlefield. Whether this lesson will be reflected in new U.S. TACAIR force structure is moot given the propensity of our services to propagate weapons in the mold of the past. Nevertheless, intelligent choices would structure the tactical air forces to primarily achieve battlefield interdiction and to gain local air support for the kinds of close ground support that seems increasingly difficult over the battlefield of the future.

PROPER FORCE MIXES FOR GROUND SUPPORT AND BATTLEFIELD INTERDICTION

Defense officials have given significant lip service to the need for a high-low mix of tactical aircraft. This is the idea that the U.S. needs to supplement very expensive high technology systems such as the F–15 and F–14 aircraft with the cheaper F–16, F–18, and A–10 if it is going to be able to procure enough aircraft to meet its needs. The principle is a good one, but far more emphasis should be placed on the so-called "low" end of the mix for achieving significant savings and sufficient numbers of aircraft to maintain an adequate tactical airforce. Greater commonality between services and elimination of excessive or cost-ineffective systems propagated by the services mainly because they are individual to that service would create a more rational tactical air force.

For the ground support role, the F–16 and F–15 would be effective but not the most combat-effective or cost-effective aircraft for the mission. The prime requirements call for an aircraft that can be procured in large amounts to offset the inevitable heavy attrition and to counterbalance the tank superiority of the Warsaw Pact. Desirable requirements for the aircraft include: (1) heavy payload, (2) high survivability against ground fire, (3) heavy tank killing capability, and (4) good hang-time combined with high maneuverability and high rate of climb at low altitude.

The clear choice for the close ground support role is the A–10. It is designed to meet all the criteria above with the possible important exception of vulnerability to ground fire, even though it is the least vulnerable close ground support aircraft yet designed. It is unlikely that any aircraft can now achieve high survivability by past standards. Although the A–10 is currently undergoing development problems with the airframe and cost overruns and production-rate slowdowns, it looks superior to its competitors. For example, the A–10 is clearly superior to the Harrier AV–8A purchased in small numbers by the Marine Corps. The Harrier AV–8A owes its presence in the U.S. tactical aircraft inventory mainly to interservice rivalry. While its cost is comparable to that of the A–10, it carries less than one-third the external weapons load and has far less endurance, even when operated from a prepared runway. When operated in the VTOL mode its payload and endurance is degraded much further. Under all conditions, it lacks the A–10's armor and the 30m rapid-fire gun. The AV–8A Harrier exists, despite these deficiencies, for the purpose of providing the Marine Corps with an aircraft it can call its own.[5] Its sole advantage over the A–10 lies in its ability to operate, (with very small payload and loiter) from an unprepared clearing where neither an airstrip nor an aircraft carrier is available within hundreds of miles—a situation which seldom if ever occurred in Vietnam and is unlikely to occur anywhere else.

There is no reason why the Marines cannot use Air Force and Navy air wings for the close ground support mission, or alternately, use a conventional takeoff aircraft capable of acceptable performance, possibly including a carrier-based A–10 or A–9. No funds have been requested for Harrier procurement in FY 1977. There is, however, a research and development request for an "advanced Harrier", the AV–16 which is hoped to have twice the AV–8 payload and twice the range but at substantially greater cost. Research should continue on this and on other VSTOL designs as long as they appear to be fruitful.

If a cost-effective "advanced Harrier" can be built it should be assigned to the U.S. Navy for sea control purposes and not to the U.S. Marines for close ground support in amphibious missions. A–10s and other horizontal takeoff planes are better for the latter mission.

The successful development of advanced VSTOL Harriers would open the way for the building of cost-effective mini-carriers as opposed to midi-carriers or Nimitz class supercarriers. A failure to develop a cost-effective advanced VSTOL aircraft would foreclose the option of using mini-carriers in place of larger carriers for sea control.

The Advanced Attack Helicopter, or AAH, likewise owes its existence to interservice rivalry—in this case, to the Army's desire to have its own close support system. While the AAH is, by helicopter standards, very fast and heavily armed, it is still a low capability, low survivability system in comparison with the A–10, and does not offer lower unit cost. Since the AAH does have better ability than the A–10 to operate in mountainous terrain, there are conceivable situations in which it would serve a useful purpose against hostile ground troops or isolated tanks. The AAH can pop up from behind a hill, locate an enemy tank, and fire its missile. But while the AAH crew is acquiring the tank, the tank crew is also acquiring the AAH as a target. The AAH's TOW anti-tank missile is not a shoot-and-leave system; the helicopter must hover in plain view while guiding the TOW missile to its target. Conceivably the tank kill will be successful, but given the fragility of the AAH, its survival against a multiple tank force appears poor, perhaps to the point of suicide.

AAH prototypes built by Hughes and Bell are presently in a flyoff competition. In light of the marginal utility of this system, the program should be terminated. This would save $112.1 million in FY 1977. The Army should rely on the Navy and Air Force for close air support; or alternatively, should be given permission to operate its own fixed wing aircraft. It is worth noting that the entire AAH-Harrier problem would never have arisen if the Fitzhugh Commission's recommendations had been followed and all Army, Navy, Air Force, and Marine tactical airforces had been integrated into a single

Footnotes at end of article.

tactical air force command housed in one of the services.

Other close air support aircraft alternatives include the Enforcer. The Enforcer is a privately developed close support aircraft, based on a highly modified P–51 Mustang airframe with a turboprop engine. It has approximately half the capability of the A–10; for example, A–10 officials estimate that against a force of 10,000 tanks, 504 A–10s would be equal to 984 Enforcers. It appears that the Enforcer would be produced at one quarter to one third the unit cost of the A–10.

The Air Force has consistently rejected the Enforcer, primarily because it was generated on the outside and because it lacks the glamor of a jet.

Nevertheless, the Enforcer appears to offer potential as: (1) a complement to the A-10 in low-threat areas or where proliferation is desired, although the A-10 would be more cost-effective in most situations, and (2) as an export aircraft for arms clients and allies. The latter, however, is unlikely since clients and allies want the kind of aircraft we use rather than buy less capable aircraft, even when those are more suited to their needs and budgets. Unless the A-10 program fails completely, there appears to be little need for the Enforcer.

The other aircraft that might be considered for the close ground support mission is the A-7 Corsair II which was used in such roles in Vietnam, in both land-based and carrier-based versions. The A-7, however, is less capable than the A-10 will be. The A-10 will have superior armor, superior turnaround time, and greater "hang-time" over the battlefield. Because the A-7 is less capable, it too should be used less for close ground support in high threat environments than the A-10 which should be the predominant weapon in such battle conditions. It is reasonable to conclude that no new A-7s are required for FY1977 and the $235.4 million requested by the Air Force for that purpose could be better spent on other defense programs or could be saved.

Similarly, the older and less capable A-4 Skyhawk and over-capable and expensive A-6 Intruder are not as cost-effective for the close ground support mission of the Navy. It is not clear that the $102.4 million programed for purchases of the obsolete A-4 in FY 1977 is required. The A-4s do not seem well suited to their missions or are not competitive with other more cost-effective systems where missions overlap.

Possible future directions for U.S. tactical air forces

The U.S. is now committed to a number of new TACAIR programs simultaneously: The projected 749 F-15s, 650 F-16s, 733 A-10, 390 F-142, 800 F-18, and A-18s, and 481 AAHs. The combined cost of these aircraft will cost $39.3 billion in procurement costs alone in the next decade. If the 34 E-3A (AWACS) aircraft are also built and bought this will drive the total TACAIR procurement budget for these airplanes and helicopters to $43.4 billion. If Defense Department plans are fulfilled, the U.S. will spend close to $300 billion on tactical air power between now and 1985.

For such massive investments, the Congress and the Administration should take pains to ensure both efficiency and economy in force planning aircraft choices. Although the U.S. is early into its buys of the new aircraft, a year or two into each program, it is clear that hard choices will soon have to be made between competing missions. Several options seem to make sense for future force planning and revisions.

First, there are too many high-cost aircraft programmed for the inventory and too few lower-cost aircraft. The low end of the high-low mix needs bolstering by transferring funds from the F-14 to the F-18, from the F-15s to the F-16s and the A-10s.

Second, some tactical aircraft are obviously not as effective in the close air support role as others and should be avoided or phased out. This would seem to apply to the Marines' AV–8A Harrier which is far more vulnerable than other competing aircraft. It would also apply to the Advanced Attack Helicopter (AAH) program requested by the Army which will cost an estimated $3.1 billion, including $112.1 million in fiscal year 1977. The obsolete A–4 Skyhawk also should not be bought saving an additional $102.4 million in fiscal year 1977.

Questionable tactical airpower programs (Fiscal year 1977 Procurement Request)

[In millions]

	Fiscal year 1977 savings
a. Advanced attack helicopters (AAH)	$112.1
b. A–7 Corsairs	235.4
c. A–4 Skyhawks	102.4
Total of questionable TACAIR programs	449.9

Third, care must be taken in buying F–14 Tomcats that the buy does not exceed the number of medium-sized or larger carriers that have been approved into the future for the Navy by the Congress. F–14s will not operate off mini-carriers and can operate only off retrofitted midi-carriers, a very expensive ship conversion. The F–14 aircraft buy should not pre-judge the type of carrier decisions the U.S. will be making in the future. Navy enthusiasts for the Nimitz-sized carriers might well wish the F–14 inventory to swell to such a size that Nimitz class carriers are later seen as necessary rather than as just one option among many, including the option to move to smaller conventionally powered carriers with advanced VSTOL aircraft providing the tactical airpower. A movement away from procuring Nimitz-class carriers would force the Navy away from the F–14, probably to the F–18. Fleet defense would then shift over to shipborne missiles.

Fourth, the readiness of U.S. tactical air forces leaves much to be desired. While the U.S. is estimated to be ahead in TACAIR readiness, it is far from satisfactory. In one military exercise in the NATO area over half of the losses inflicted on NATO tactical air forces came from so-called friendly fire. The lack of commonality in NATO communications and the diversity of commands and units account for such confusion and lack of coordination. The Navy has a particularly unfortunate record in regard to TACAIR readiness. According to Defense Department figures in fiscal year 1975, an average of 46% of the Navy's aircraft were not fully prepared for combat at any given time. Forty-five percent of those were wholly incapable of performing any of their primary missions.

This readiness problem has recently become apparent in the F–14 Tomcat fighter program. The F–14, billed as the Navy's superfighter may turn out to be a major disappointment. 45% of the Navy's F–14s were out of commission on an average day last December because they lacked sufficient spare parts. Another 28.5% were not ready for operations because of maintenance problems. That left only 26.5% ready for operation on any particular day. Last January when the aircraft carrier, The John F. Kennedy returned to Norfolk, Virginia from six months in the Mediterranean, only 5 of the 24 F–14 Tomcats could fly. The other 19 had to be hoisted off the carrier by dockside cranes. Part of the Navy's current problems can be traced to an overeagerness to put the F–14 into full production before all the bugs were worked out. The Navy's aviation test center at Patuxent River, Maryland has discovered some 900 initial discrepancies in the F–14, during tests, from the original standards set. They recommended that the Navy not give service acceptance to the F–14 until the plane was improved. This recommendation was ignored and the Navy is now reaping the harvest of a hasty decision. F–14 accident rates are high, parts breakdowns are far too frequent, fuel consumption is 30% higher than expected, and the F–14 has had continuing engine problems which have yet to be solved. Unless the F–14 is made more reliable and the fighter is maintained in a greater state of readiness, the F–14 should be replaced with a more cost-effective aircraft, perhaps the F–18 if that fighter is thoroughly tested beforehand in a way the F–14 was not. It is very evident that within the very large relatively fixed tactical airpower budget that more funds should go into maintaining readiness and less into goldplating modernization and duplication of forces. A correction of the reliability and readiness problems is a better defense investment than buying more aircraft that later develop major flaws due to inadequate testing and maintenance.

Finally, the United States has been talented in building new tactical aircraft when cost is no object, but the armed services have a long way to go in improving TACAIR management and decision-making in securing cost-effective aircraft. A similar long road to reform awaits in achieving a coherent command and control system for tactical air forces based on an integrated system for managing, procuring, and directing TACAIR assets of the United States.

FOOTNOTES

[1] Computed in fiscal year 1975 dollars which would make the aircraft cost $190,000 as of last year.

[2] A mission that is expensive in pilot lives, pilot capabilities, and in aircraft.

[3] The fear of destroying one's own tactical airforces over the battle area will cause some limitation of the use of anti-air firepower. This will make it possible for some TACAIR to survive over even the most lethal zones and makes some use of helicopters and close ground support aircraft useful despite the "precision revolution" in anti-air weapons.

[4] An AAH can carry a maximum of 16 TOW missiles having a payload of 1450 lbs. of high explosives. An A–10 can carry a maximum load of 16,000 lbs. of high explosives.

[5] These deficiencies may be overcome in the AV–16, "Advanced Harrier" which is under development and not yet in production.

U.S. Foreign Policy and Defense Policy: An Alternative Posture Statement—Part 4, Strategic Forces

Spending for Strategic Forces, Fiscal Year 1977

The Department of Defense is asking for a 29% increase in spending for strategic weapons from $7.3 billion in FY 76 to $9.4 billion in FY 77. 95% of this increase results from recommendations for procurement of the B–1 bomber, Trident submarine, and Trident missiles. The remainder is accounted for by Research and Development increases in the area of "counterforce" technology and cruise missile development. These expanded programs seem neither aimed at furthering the objectives of our own stated strategic policy nor justified by the estimates of the Soviet threat.

A study of our strategic forces and needs indicates that the following cuts ought to be made in the strategic budget:

(1) Delete all funds for the B–1 bomber production. This would yield a savings of $1,049 million in FY77.

(2) Stop all funding of the MX Missile Program in R&D ($84 million), High-accuracy NS–20 Guidance systems ($38.3 million), and bigger MK12A Warheads ($93 mil-

lion) All of this will save $215.3 million in FY77.

(3) Delete all funds for further Trident submarines. This would save $1114.5 million in production funds and $75.3 million on Trident submarine development funds. The total savings in FY77 would be $1189.80 millions.

(4) Delete all funds for the Sea-Launched Cruise Missile (SLCM) including funds for testing. This will save $369.2 million in FY77.

(5) Delete all funding of the Minuteman III add-ons. This would save $261 million in FY 1977.

Altogether, with no loss of security, the U.S. strategic force budget can be cut by $3,089.3 millions in FY77. There are good reasons for this as an examination of some key questions concerning strategic forces will show.

The foremost responsibility of the U.S. armed forces and the Department of Defense is the deterrence of nuclear war. Our strategic forces must be kept strong enough that no rational adversary could launch a surprise attack upon the United States and hope to escape overwhelming devastation in return from U.S. strategic forces. These forces must have the capability of absorbing a nuclear first strike from either the Soviet Union or some other antagonist and still retain the capability of inflicting unacceptable damage in retaliation upon the cities, factories, transportation centers, and military bases and units of the aggressor country.

For three decades, the United States has had a secure strategic deterrent force. It still does. As of mid-1976, the United States will have at least 8900 separate strategic nuclear weapons capable each of devastating targets in any aggressor country. These 8900 strategic nuclear weapons (bombs and missile warheads) are carried by a so-called TRIAD of nuclear delivery vehicles. These include 1054 intercontinental ballistic missiles, 656 sea-launched ballistic missiles in 41 ballistic missile submarines, and nearly 500 intercontinental strategic bombers. Beyond this awesome force exists a fourth nuclear force which contains many "tactical" fighter bombers capable of attacking the Soviet Union, Eastern Europe, and the People's Republic of China, should an attack come from those sources.

In the debate over the kind of strategic forces to develop and maintain, there has been controversy over several key issues. These issues and some of the differing answers are outlined below: Let us review each of these questions in turn. The first is:

1. How can changes in U.S. foreign policy effect changes in U.S. strategic forces?

The need for a strategic deterrent is not particularly sensitive to changes in the foreign policy of the United States. If the U.S. adopted the role of a world policeman extending its nuclear umbrella to even more countries than is now the case, it is possible, but by no means probable, that it would decide to build and deploy a larger nuclear force. The one already in place is so awesome that it ought to protect any ally from attack if potential aggressors were reasonably sure the U.S. would indeed come to the aid of the additional allies taken in under the umbrella. If the U.S. adopted a more modest stance in the world such as moving to implement a pullback from mainland Asia and a continued emphasis on defense and deterrence in Europe, it would still need a strong deterrent similar in scope to the present one. And if it decided to play but a marginal role or no military role at all in Europe and Asia, it might still—in a hostile world—adopt a strong nuclear strategic deterrent force similar to the present one, although with its forward based systems (FBS) removed.

Only if it were perceived that there were no hostile powers at all capable of devastating or coercing the United States with nuclear or other weapons of mass destruction would it appear feasible to abandon the strong deterrent force capable of inflicting unacceptable damage on rival states.

Such a condition would be likely to exist only if a scheme of mutual and general disarmament were to be negotiated and implemented. Clearly this is a goal which our nation's leadership should be seeking. In the interim, and consistent with such an effort, it would be possible to scale down the overall size of U.S. deterrent forces if comparable reductions were made by rival nuclear powers. The amount of nuclear overkill possessed by both the United States and the Soviet Union is so huge, and the economic savings from such a reduction is so great, that the negotiation of such a reduction should be a prime goal of our foreign policy. Indeed, it seems unlikely that any other policy can arrest widespread nuclear proliferation which could lead to the ultimate breakdown of the nuclear deterrence strategy.

In the meantime, however, strategic deterrence policy decisions, and therefore related budget decisions, must revolve around the question of how to maintain an effective deterrence at a reasonable cost and without undermining efforts to bring the strategic arms race under control. The rest of this report deals with various aspects of this question.

2. Do we want and need forces to maintain minimal deterrence or do we want and need open-ended counterforce strategic forces?

There has been a continued controversy over "how much is enough?" In the realm of strategic nuclear forces. Many believe that if the U.S. could destroy a dozen or so major cities in the homeland of a potential aggressor government, it ought to be able to deter an attack upon American soil. Thus, the argument goes, if the Soviet leadership knew it would lose Moscow, Leningrad, Kiev, Vladivostok, Kharkov, Odessa, Minsk, Donetsk, Riga, Warsaw, Prague, Budapest, Kuybychev, Volgograd, Sevastopol, Tashkent, and Baku if it attacked the United States, it would never take the risk.

Similarly it might be argued that the U.S. would never launch such an attack on the Soviets (even if we were inclined to take on an aggressive role, which we are not) if we would lose New York, Chicago, Los Angeles, Dallas, St. Louis, Washington, D.C., Atlanta, Philadelphia, Baltimore, San Francisco, Cincinnati, and Miami in the process.

The United States and Soviet forces have long since amassed strategic weapons beyond what is needed for minimal deterrence. Calculations done in the Pentagon in the 1960s indicated that as few as 400 one-megaton nuclear weapons exploded on targets in the Soviet Union could inflict 60 million deaths and would destroy at least 75% of all Soviet industry.[1] Today, the United States maintains some 40 strategic nuclear weapons per Soviet city of over 100,000 persons and the Soviet forces number 17 strategic nuclear weapons per American city of over 100,000 people.[2] Clearly, both forces have moved far beyond minimal deterrent capabilities into an incredible surplus of nuclear overkill capacity. Clearly, both sides can destroy the other with but a fraction of their strategic forces.

Pentagon planners have long targeted more than Soviet cities when they put together the contingency plans for a nuclear war with the Soviet Union. In the Single Integrated Operation Plan (SIOP) they have targeted most cities, factories, transportation systems, military bases, and military units of the Soviet Union. Most major targets have multiple weapons directed against them. Thus, American and presumably Soviet military plans contemplate launching strategic nuclear weapons against both the civilian society and military forces of the other side in a general war. It is clear that the U.S. strategic force already is poised to fight both against Soviet military and socio-economic targets.

Despite the fact that counterforce targeting is nothing new, it has been given a new emphasis by Defense Secretaries Schlesinger and Rumsfeld. They argue that the U.S. needs still more counterforce weapons and that U.S. use of the nuclear weapons in wartime will first emphasize hitting selected military targets with an attempt to minimize destruction of population and industrial centers in the Soviet Union at the outset of a conflict.

Adopting such a posture, Pentagon leaders assert, will enhance the deterrent effect of our strategic forces by making them more believeable. They will be more believeable, it is argued, because the President will have the option of destroying only part of the Soviet Union and may thus be able to terminate hostilities and through threat of more of the same, rather than forcing the Soviets into all-out war to the finish. Such incremental doses of nuclear killing power are more likely to be used, the other side knows this, and—the argument goes—they will thus be less likely to initiate an attack than if they knew that the President had only the options of all-out nuclear holocaust or surrender. Such selective dose of nuclear seige also, it is argued, avoids the barbarism inherent in a decision to destroy millions of persons living in Soviet cities who would be the innocent victims of their leader's aggression and of American retaliation.

Most strategists who believe that a nuclear deterrent force is a necesary evil in a hostile world where others also possess such forces will agree that the President should have the option of not pushing all the buttons in such a wartime situation. What many in the debate over counterforce weapons have long ignored is the fact that the U.S. President has long had the capability to send off small groups of bombers and/or missiles against isolated military targets in the Soviet Union, Eastern Europe, or China. Such selective counterforce capabilities have long been part of the U.S. strategic forces and would be available in a war or a crisis.

Where Mr. Schlesinger and Mr. Rumsfeld part with the critics of the new counterforce doctrine and weapons proposals is in how extensively we should rely on counterforce doctrine, and how this should influence the kind of strategic forces we build and deploy. The Pentagon has argued that this new selective counterforce strategy will require: (1) a whole new class of highly accurate ICBMs, (2) extensive retraining of U.S. strategic nuclear forces in selective nuclear strike options, (3) more numerous strategic nuclear weapons to blanket all possible military targets in the Soviet Bloc, (4) an announced nuclear strategy that the U.S. stands ready to use nuclear weapons in a selected strike very early on in a confrontation and war with the Soviets.

This, Pentagon leaders argue, will enhance deterrence of war with the Soviets by making our strategic forces even more credible.

The critics of the New Counterforce Program, however, argue that these new high-accuracy ICBMs and SLBMs will be destabilizing to the nuclear balance by making the Soviet ICBMs more and more vulnerable to destruction by surprise attack. This might force the Soviet leaders to put their force into a "launch-on-warning" posture that could easily result in accidental nuclear war. WWI began as an accident of fate, the assassination of one man, and resulted in the death of millions. A similar and even more catastrophic war could be unleashed if the Soviets felt compelled to counter U.S. counterforce weaponry with a "launch-on-warn-

Footnotes at end of article.

ing" posture to guarantee their own deterrent capability. One mistake could trigger the nuclear storm.

As critics of the new Pentagon Counterforce Program point out, the new weaponry is more likely to cause pre-emptive attacks. If Soviet leaders know high-accuracy counterforce U.S. weapons can destroy their ICBM silos with pinpoint accuracy, they would be more likely to launch pre-emptive strikes during wartime or crises.

Also by setting loose within the U.S. armed forces the notion that nuclear weapons are useable and by initiating tens of new selected strike training routines, the new doctrine accustoms U.S. military leaders to think in permissive terms about the useability of nuclear force in crisis and early war encounters. These routines make the military and their civilian leaders think in terms of the "useability" rather than the "unthinkableness" of these weapons. This may give rise to the illusion that nuclear warfare is likely to remain under control if administered in finite doses. It fosters the notion that nuclear war, once initiated, can be kept from escalating. This is a dangerous notion that critics of the new counterforce emphasis oppose.

Finally, the new posture inevitably will lead to further Soviet strategic force countermeasures beyond launch-on-warning status. If their ICBM force becomes vlunerable to highly accurate U.S. missiles they may launch a new round of weapons building, creating perhaps mobile ICBMs or a larger number of sea-launched missiles, or ABM defense around the more vulnerable ICBMs. This would have disastrous consequences for SALT and would incite another round of strategic arms building in both camps. The ultimate result would be more billions of dollars for strategic weapons with no perceptible gain in it for the Pentagon such as the terminal MARV weapons, the MX missiles system, the higher-yield MK12A warhead, and the high-accuracy long range cruise missile may all be counterproductive to the United States if developed. Billions of dollars may buy more insecurity than security if invested in such systems.

Further, if the U.S. builds counterforce weapons the Soviets are very likely to follow. This will put our ICBM's at further risk and require expensive countermeasures by the U.S. Development of such counterforce weapons will also preclude meaningful SALT limitations on their development, another missed opportunity for arms control efforts to head off expensive new systems that give no further physical security to the superpowers.

3. Do we need to match or exceed Soviet strategic forces?

Since decision-makers act on perceptions of reality as well as the ultimate reality itself, some Pentagon leaders, such as former Defense Secretary James Schlesinger, have argued that the U.S. must be perceived as equal or superior to the Soviet Union in strategic force in the Kremlin leaders' eyes. A perception of American inferiority, it has been argued, might cause Soviet leaders to commit aggression in a crisis which could escalate into war. Thus, Pentagon leaders have argued that in all major indices of strategic power (numbers of nuclear weapons, accuracy, delivery vehicles, throw-weight, reliability, availability, and megatonnage) the U.S. should maintain rough parity or real superiority. The Pentagon catch phrase for this is maintaining "essential equivalence."

Critics of this new concept of "essential equivalence" argue that matching the Soviet in all phases of strategic forces is not necessary to deter attack by the U.S.S.R. Asymmetries in the two forces, it is argued, do not mean that either is insufficient to do the job it was designed to do, namely to guarantee that the other side will suffer unacceptable social, economic, human, and military damage if it launches an aggressive attack. The Soviet force with its advantages in throw-weight, in megatonnage, and in numbers of delivery vehicles can deter or destroy the United States. The U.S. strategic forces with their advantages in numbers of nuclear weapons, missile accuracy, reliability, weapons availability, and MIRV technology can deter or destroy the Soviet Union. Neither side has to be symmetrical to the other in order to carry out its strategic function.

Thus, "essential equivalence" opens the door for ever more numerous deployment of nuclear weapons with no end point in sight. Whatever the Soviets do, our hardliners argue, we must match them to maintain a perception of equivalence. What is overlooked is that the targets remain finite while the number of new weapons required under such a doctrine may stretch out into an infinity of new weapons produced in order to match every new Soviet strategic weapons move. A more sensible approach than "essential equivalence" is to conclude that nuclear sufficiency and "assured destruction" doctrines make more sense than an endless matching of Soviet capabilities. Once you can destroy the other society and much of its military force one time over, you need add no further strategic arms. The size of the forces on both sides make it wildly implausible that the leadership on either side can perceive any useable strategic advantages out of the fact that the two forces are not mirror images of each other.

They both contain such formidable destructive power that they cannot be ignored. Different as they are, both forces will deter. The attempt to match the Soviets in every category of strategic strength also has another unfortunate result. It causes Pentagon planners to develop weapons not only to match present but also projected future Soviet strategic weapons. This creates a self-fulfilling prophecy whereby we build added weapons to offset weapons they are projected to be planning to build. This funding of U.S. weapons then provides further arguments for hardliners in the Kremlin to argue for the very weapons we predicted they might build. Thus, our actions based on fear of their future arms development help create that very Soviet armament. It is this kind of dynamic that helps drive the strategic arms development on both sides.

4. Do we need a Triad and, if so, must we continually modernize it?

As mentioned at the onset, the U.S. maintains three acknowledged strategic forces and a fourth force, composed of many forward-based nuclear-loaded fighter bombers, which can be used strategically against the Soviet homeland. Within the strategic "Triad" the U.S. maintains ICBMs, SLBMs, and strategic bombers. While each system has different capabilities and vulnerabilities, together they provide an assured ability to destroy any aggressor in a retaliatory strike. While the Triad is a useful mix of strategic systems to insure survivability of the deterrent force, there is no necessity to goldplate all legs of the Triad. Continuous modernization of the bomber and ICBM and SLBM forces is not necessary at the rapid rate that we are currently turning out new and improved models. This leads to several questions about our ICBM, bomber, and submarine forces. For example:

5. Should we downgrade our emphasis on the increasingly vulnerable ICBM force? If so, what should take its place, if anything?

The 1000 U.S. Minuteman intercontinental ballistic missiles (ICBMs) are the most accurate strategic systems in the U.S. arsenal and the most likely to be able to penetrate and destroy fixed military targets of an aggressor. Within the next year, some 550 of those ICBMs will have a MIRV capability. 450 will be retained with their single warheads. 54 older Titan missiles still remain from the early sixties. All intercontinental ballistic missiles are under secure command and control and are buried in hardened concrete silos in remote areas of the U.S. ICBM command and control is considered superior to that for SLBMs and even for bombers. Any adversary seeking to destroy the entire ICBM force in a disarming attack would need to strike all of them within several minutes of the first explosion, would need to hit each with pinpoint accuracy from hundreds and even thousands of miles away, and would have to somehow hope that "fratricide effects" would not prevent secondary missiles from destroying silos where first missiles shots had failed. The probability of destroying all U.S. ICBMs in such a surprise attack is not high although a significant portion may be destroyed as accuracies of Soviet missiles increase. The most obvious U.S. and Soviet counter to such increases in accuracy might be to put more ICBMs on "launch-on-warning" status, not a desirable situation due to the possibility of accidental war.

The increasing accuracies and reliabilities of missiles on both sides make a target kill probability close to 1.0 a likely possibility for U.S. missiles in the next decade. The Soviets are thought to lag in this technology but should also master it in time.

This has led to the speculation that fixed-silo ICBMs may become more and more vulnerable to disarming attacks. This has led further to the speculation that ICBMs will then have to be made mobile, or would have to be protected with anti-ballistic missile (ABM) defenses. Or, some conclude, ICBMs must be abandoned and the strategic forces will have to rely upon sea-launched missiles and bombers to provide the deterrent. Others argue that ICBMs could retain their value if put on "launch-on-warning" status.

Such developments as these can be forestalled, if U.S. and Soviet leaders recognize clearly the fact that an attack on one element of the Triad, namely the ICBM force, would still bring a devastating attack from the bomber and submarine forces. Moreover, the presence of ICBMs would still draw resources away that otherwise might be pitted by an adversary against our bombers and submarines. Hence, the ICBM is likely to remain useful as a deterrent for some time to come, especially when it is realized that "fratricide effects" and the difficulty of achieving a high-confidence high-accuracy simultaneous attack on 1054 separate targets make it likely that U.S. ICBMs will get off the pad in some numbers even if attacked.

6. Do we need manned bombers? If so, do we need a new one now?

The bomber force is the most vulnerable to attack if caught on the ground. However, it is likely that any war would be preceded by a crisis that would give ample time for the Strategic Air Command to disperse its bomber fleet of B–52s and FB–111s. During the Cuban Missile Crisis, SAC Bombers were dispersed to over 40 civilian airfields as well as being kept at regular SAC airbases. Aided by missile depression of Soviet or Chinese air defenses, it is likely that many of the manned bombers would be able to deliver their nuclear megatonnage upon aggressor targets as ordered.

Bombers can be used in selective strikes and have the advantage of being capable of recall if the leadership changes its mind in the midst of a crisis. They can also be moved to forward areas and dispersed as signals of serious intentions during crises.

Despite these points in favor of retaining a manned bomber capability in the U.S. strategic deterrent force, there is a serious question about how important the manned bomber remains in an age of missiles. Bombers are not only the most vulnerable part of the strategic triad, but they are also the

slowest. ICBMs can traverse thousands of miles to Soviet targets in 30 to 40 minutes. SLBMs can hit coastal targets with but minutes warning time. Yet bombers will take several hours to reach their targets. Moreover, they, unlike the ICBMs and SLBMs, are vulnerable to the heavy shield of Soviet interceptors and SAMs deployed in the U.S.S.R. They are the least likely part of the triad to (1) survive and (2) pierce the active and passive defenses around Soviet targets.

Some argue that the very slowness of bombers allows negotiation even during the flight of the bomber toward the target. Others argue that the slowness allows more time for recall. Nearly all analysts will agree that bombers give the U.S. the ability to acquire new targets of opportunity in the midst of a conflict, targets that were not pre-planned. Nearly all will agree too that the addition of a bomber force makes it more likely that a considerable number of additional SLBMs and ICBMs can be launched in a retaliatory strike against an aggressor. This adds to the overall deterrent capability of the strategic forces.

Nevertheless, there is no need to goldplate all legs of the strategic "triad", especially the bomber force. Bombers are the least useful and most expensive part of the strategic forces. For example, they require highly skilled personnel and extensive operations and maintenance investments. There is considerable doubt whether they are cost effective when compared to ICBMs and SLBMs either from the standpoint of mission effectiveness or financial investment.

Ironically, manned bombers may be saved from being categorized as anachronisms by coupling them with missiles. As a standoff platform for air-launched cruise missiles or SRAMs the manned bomber may still retain a vital strategic capability. The improvements in cruise missiles and SRAMs offer the bomber a new life and renewed usefulness where it will not be required to test itself close in against the increased interceptor and concentrated SAMs surrounding many of its targets.

One of the key questions facing the U.S. in the near future is whether it needs to modernize its current manned bomber fleet of nearly 500 B52s and FB111s by producing 241 B–1 bombers or a bomber equipped with long-range-air-launched cruise missiles. Even the Air Force which has indicated an eagerness for the B–1 admits that the B–52s and FB–111s will provide an adequate bomber force into the 1990's. This being so, it is difficult to see why either the B–1 or the air-launched cruise missile should be produced at this time, except for purposes of further research and development.

Critics of the B–1 make the point that the aircraft is the most expensive ever proposed for mass production. The cost is now projected at $88 million per plane and has risen every year. They also reiterate that it is not needed since present SAC forces can do the job until the mid-1980's or later. They argue that this is the age of the missile and that the bomber is of declining importance and rising cost. Moreover, they find the extra bomb and missile capacity of the B–1 to be superfluous in an age of massive nuclear overkill. The costs of the entire B–1 fleet, some assert, would rather be spent on conventional forces where the military need is greatest or should be left out of the defense budget altogether since an expenditure of that magnitude has serious inflationary repercussions.

From an economic standpoint the B–1 is especially questionable. It is highly probable that the skyrocketing price of the B–1 could cause its early terminations after a buy of perhaps 40 or 50 aircraft. This would have a serious dislocating effect in the aerospace industry and could cause large layoffs of aircraft workers who looked to the B–1 contract to supply jobs. Indeed, critics of the B–1 argue that rather than creating numerous jobs, the B–1 will cause a net job loss in the U.S. economy. Studies done by public interest research groups and the U.S. Department of Commerce indicate that more jobs would be created if the B–1 money were invested in other sectors of the economy.[3]

Budget cut suggested

Dropping the B–1 will save $1,049 million in FY1977 and perhaps additional $90 billion over the lifecycle of 244 B–1s.

7. Should we move more of our strategic forces out to sea? Is Trident the most cost-effective strategic submarine option?

Undoubtedly, the most invulnerable part of the strategic triad resides at sea with the 41 U.S. ballistic missile submarines, half of which are on station at a given time. The ten Polaris and 31 Poseidon boats will soon be joined by the first of the Trident submarines in the late 1970s. This undersea force has about 5000 strategic nuclear weapons targetable upon adversary cities and fixed sites. With the retrofitting of ten Poseidon submarines with the new Trident I missile, these boats and new Tridents will have a missile range of 4000 miles. This will increase SLBM ranges in the U.S. force by approximately 1500 miles and will give the ballistic missile submarine fleet 15 times more ocean to maneuver within so as to avoid Soviet and other ASW forces.[4] Strategic submarine forces already were considered highly invulnerable to current ASW technology and this added range increases that degree of invulnerability immeasurably.

The Polaris A–3 and the Poseidon C–3 missiles are considered less accurate than the Minuteman III or New MX missiles being designed or deployed on U.S. ICBMs. Sea-launched ballistic missiles are considered primarily to be counter-value or counter-city weapons. ICBMs are considered to be increasingly capable of counterforce targeting and have superior command and control systems. However, if the Navy applies terminal guidance to SLBMs, particularly the Trident II missile, they will clearly have a counterforce missile system.

While decisions on the Trident II missile and terminal guidance are several years away, the necessity for such counterforce SLBMs is dubious, especially in view of the high cost of development and the possible destabilizing effect of high accuracy counterforce missiles.

In fact, the continued high cost of Trident submarines makes their continued deployment a questionable investment. Some scientific and strategic experts argue that retrofitting Poseidon submarines with Trident I missiles and then deploying the same system on a Narwhal submarine would be more cost-effective than investing billions more in the huge Trident submarines. Others have suggested building many conventionally-powered submarines armed with the Trident I missile. The Navy seems quite eager to continue deployment of the Trident system and so far no urging by critics has succeeded in getting them to *carefully* consider the alternatives of the SSBX (driven by fuel cells, not diesel engines) or SSBNX to Trident. Such a study is obviously in order and might well reduce the requirements of costs projected for a large Trident force.

Of all of the legs of the Triad, the submarine system seems the most valuable and the least vulnerable. Moreover, no significant ASW threat looms on the horizon. The increases in range that will be secured by the Trident I missile will make the force even less vulnerable to any ASW developments. As bombers remain a marginal strategic force and as ICBMs become increasingly vulnerable, it is likely that the U.S. will depend more and more upon the sea-based deterrent for protection. This force when equipped with Trident I missiles should remain adequate even without further introductions of the Trident force in large numbers through the next decade or more. Even if the other legs of the U.S. strategic Triad disappeared over night, the sea-based deterrent would suffice.

Budget cut suggested

Recommended: Deleting all funds for the Trident Submarine in FY77. This will save $1189.8 millions in FY77.

8. What is the likely arms control impact of new U.S. strategic programs?

New U.S. Strategic systems on the horizon include the MX ICBM program, the Air-Launched Cruise Missile (ALCM), the Sea-Launched Cruise Missile (SLCM), the B–1 Bomber, the terminal and evader MaRV missile systems and the Trident I missile system. Of these from an arms control point of view, the MX, ALCM, SLCM, and MaRV systems are damaging to attempts to cap and stop the strategic armaments race through a SALT agreement. In the case of each, they will make it harder to stop new rounds of arms building once tested and into engineering development.

The MX program contains at least three elements. It includes work on a more accurate missile system. It includes funds for development of missiles with a greater explosive yield and throw-weight than the Minuteman III. And, finally, it contains funds for development of a mobile land-based ICBM. This latter part of the program could have very serious and damaging impacts on SALT negotiations. Mobile ICBMs would be extremely difficult to verify by "national technical means" (i.e. by spy satellite) and would be next to impossible to count accurately without on site inspection. These mobile ICBMs might be deployed underground on tracks which run beneath multiple silo holes. Such a shell game would confuse adversary military planners since they would not know which silo opening to target. At the same time, it would make verification of the number of ICBMs next to impossible unless each silo counted as an ICBM in an arms control treaty.

Mobile ICBMs loaded on trucks or railway cars might be easily camouflaged or stored in garages and moved at night. All of this would create nightmares for the arms control community trying to negotiate meaningful and verifiable limits on the number of strategic weapons.

In similar fashion the development of cruise missiles, especially the sea-launched variety, might make SALT verification impossible. Once tested any industrialized state could mass produce and hide large quantities of cruise missiles, the numbers of which would not be verifiable by "national technical means of inspection."

Since cruise missiles are now expected to be one-fifth to one-tenth as costly as the equivalent ballistic missile, cruise missiles could lead to a quantum leap in the number of strategic warheads in the U.S. and Soviet inventories. U.S. officials have predicted that as many as 21,000 SLCMs and ALCMs might be deployed in future years. The U.S. today has "only" 8900 strategic nuclear weapons and the U.S.S.R., 3500.

Once developed, cruise missile technology may spread and allow the near nuclear countries to "go nuclear" on the cheap. Overall, cruise missiles have the potential to thwart any chance for a verifiable ceiling on U.S. and Soviet strategic nuclear weapons. At a minimum, steps should be taken to ban strategic sea-launched cruise missile tests and development so as to preserve the option of achieving a SALT limit which can be verified adequately. This can also spare the United States the necessity of eventually erecting a thick air defense system against Soviet long-range cruise missiles.

Footnotes at end of article.

SLCM budget cut recommended

This leads us to the conclusion that the Congress should delete all funds for the Sea-launched cruise missile in the FY77 budget. This will save $369.2 million in FY77.

New counterforce weaponry destabilizing

The counterforce accuracies that reside in the new MX, terminal MaRV, and Trident II missiles ought also to be foregone in the interest of preserving some stability in the current strategic balance with the Soviet Union. MX, terminal MaRV, and Trident II will merely force the Soviets to build new systems that will doubtless incite U.S. strategic countermeasures as well. It is better to leave the U.S.S.R. ICBM force relatively invulnerable to prevent another cycle of frantic arms building without achieving additional security. The movement to mobile ICBMs, to new ABMs, or even to more sea-based strategic forces would be unfortunate from the standpoint of getting meaningful ceilings set at SALT for all major strategic forces. A quantitative and qualitative freeze and cutback will be possible only when the invulnerability of the respective deterrent forces is guaranteed. MX, MaRV, and Trident II all tend to increase the vulnerability on the Soviets side and are counterproductive from an arms control and disarmament perspective.

Counterforce weaponry cut recommended

Since these new counterforce weapons will be destabilizing and will incite new rounds in strategic arms building, it is recommended that Congress delete all funding in FY77 for the MX, MK12A Warheads, and NS-20 guidance system. This will save $159.2 million in FY77.

9. How can we improve our national security through SALT and halt the ever more expensive strategic arms race?

SALT to date has failed to stop the strategic arms race. At best it has led to a better understanding of the U.S. and Soviet positions by each side. It has begun a process, but it has yet to halt any important aspect of the arms race except ABM deployments. It has been convincingly argued that the negotiations have not stopped the deployment of record numbers of nuclear weapons and that at most the negotiations and agreements to date have rechanneled the strategic arms race but not stopped the flow of new arms. Indeed, the high and permissive limits set on launchers and MIRVs at Vladivostok in late 1974 has acted to set higher force limits than the military had then requested. These ceilings thus became high planning targets rather than firm ceilings. The talks also produced the unfortunate "bargaining chip" argument whereby new weapons were granted the military under the misguided assumption that this would pressure the other side into agreements at a faster rate and on more favorable terms.[5] This was found to be untrue since all agreements to date have permitted the bargaining chip systems and left loopholes for new "chips" to be created to exploit. The negotiation of a threshold test ban in 1974 led to a race to increase testing before the testing cutoff. SALT I was purchased at the price of promising Trident to the Navy among other things. Expanded military hardware has been the price of getting the military behind SALT agreements so as to make the SALT agreements politically safe for politicians.

A meaningful SALT agreement, one that served as a basis for arms reductions rather than as platform for new arms production would include:

(1) a ceiling on all delivery vehicles and MIRVed launchers.

(2) a ceiling on all nuclear bombs and warheads (force loadings).

(3) a comprehensive test ban that included bans on peaceful as well as military tests of all kinds.

(4) a stringent limit on the development of qualitative strategic improvements such as MX, Trident II, ALCM, and SLCMs, and the Russian equivalents.

(5) an agreement not to develop systems that cannot be verified by national means of verification such as mobile missiles, long range cruise missiles, and terminal MaRV. This agreement would probably have to include a formal or tacit agreement not even to test such systems to avoid the problem of the "clandestine cache" of weapons.

(6) some limits on theater nuclear forces, especially those that have significant ranges capable of hitting the homeland of U.S. or U.S.S.R.

(7) prohibitions against testing and development of terminal MaRV.

This kind of agreement would then serve as the baseline for further arms reductions.

FOOTNOTES

[1] Alain Enthoven and Wayne K. Smith, *How Much is Enough?*, (New York: Harper & Row, 1974), pp. 207–210.

[2] Calculations are based on U.S. force loadings of 8,900 strategic nuclear weapons and U.S.S.R. force loading of 3,500. There are 200 U.S. cities of 100,000 and 219 Soviet cities of that magnitude. See Donald Rumsfeld, Secretary of Defense, *Annual Report of the Department of Defense*, FY 1977, Washington, D.C., Jan. 27, 1976, p. 54. This gives 1976 force loadings.

[3] See Marion Anderson, *The Empty Pork-barrel*, PIRGIM, East Lansing, Michigan, April 1975. See also study by Roger Bezdek, "The 1980 Economic Impact—Regional and Occupational—of Compensated Shifts in Defense Spending," Journal of Regional Science, Vol. 15, N. 42, 1975. Bezdak is the Chief, Industrial GNP Branch, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C.

[4] Testimony of Adm. Hyman Rickover, Hearing on Military Posture, Seapower Subcommittee, House Armed Services Committee, March 17, 1975, p. 3657, Part 3 of 4 parts.

[5] One such "bargaining chip" requested as a supplemental to the FY 1977 Defense Budget is $266 million in Minuteman III procurement over and above the 550 already in place. Another bargaining chip is the extra $56 million requested for strategic re-entry vehicles. Both "chips" are likely to be kept rather than traded away in future SALT pacts.

DEFENDING AMERICA: AN ALTERNATIVE FOREIGN POLICY AND DEFENSE POLICY POSTURE FOR THE UNITED STATES

Abstract: "The United States can save $8.5 billion in the FY 1977 Defense Budget Request without damaging U.S. national security. It has the option of reducing the defense expenditures by that amount or of buying a more effective defense force with the $8.5 billion identified as softspots in the present budget request. If the U.S. changed its foreign policy, the defense force needed to support it would change. The size and cost of defense forces needed to support foreign policies of Pax Americana, Present Policy, Pacific Pullback/Europe First, or a policy of General Retrenchment are identified in this report."

SUMMARY AND CONCLUSIONS

The Department of Defense has submitted its FY 1977 budget request for $101.6 billion in outlays and $114.2 billion in total obligatory authority (T.O.A.).[1] Recommended in the Administration request is a 5% pay raise for DoD personnel instead of the usual cost-of-living pay raise that is normally appropriated in September for federal employees. Failure to vote this 5% "pay cap" would result in an additional $2.2 billion in defense expenditures with defense outlays totaling $103.8 billion and total obligatory authority reaching $116.4 billion.

The magnitude of such expenditures is difficult to comprehend. For example, the FY 1977 request by the Pentagon exceeds the entire combined GNP of the 43 countries that make up the continent of Africa.[2] Indeed, only eight of the more than 150 states in the world today have individual GNPs that exceed the resources allocated to the U.S. Defense budget.

Given the magnitude of the U.S. Defense budget requests it is important that the programs of the Pentagon be given a close and critical look to insure that the money is being spent both efficiently and economically. To do less in the Congress would be to abdicate our responsibility to the taxpayer and the citizen who wants his tax dollars to buy the leanest and the toughest defense force possible for the investment made. This is the reason for this Alternative U.S. Foreign Policy and Defense Policy Statement.

Unfortunately, we have found that the current defense budget request presented for FY 1977 shortchanges the U.S. in both cost-effectiveness and economy. This study indicates how $8,537.9 million can either be saved without weakening the U.S. defense force in any significant way or can be reinvested in other defense programs that make more sense and provide more useful military capability.

This study addresses 3 basic questions:

(1) If the present U.S. foreign policy were taken as given, how can the United States more economically provide an effective defense program to support it? How can the U.S. provide the same amount of defense and deterrence for less expenditure of resources?

(2) If the U.S. foreign policy were taken as given how can the U.S. provide a more efficient allocation of defense funds? How could the U.S. provide a better program of defense and deterrence with the same investment of funds as requested by the Department of Defense?

(3) What kind of defense programs at what costs would be needed if the U.S. adopted a different foreign policy from the present one? Specifically, what kinds of forces and costs would be necessary for policies of:

a. Pax Americana Policy?
b. Present U.S. Policy?
c. Pacific Pullback/Europe-First Policy?
d. General Retrenchment Policy?

OPTION I. ECONOMY DEFENSE BUDGET: SUFFICIENT DEFENSE FOR $8.5 BILLION LESS

This study concludes that some $8,537.9 million can be saved from the FY 1977 Defense Budget, an "economy budget", without changing the essential defense capability of current programs needed to backstop our present foreign policy. We conclude that a FY 1977 Defense budget of $105.662 billion including defense manpower cost curbs would provide an adequate defense for the United States. Note where the $8.537 billion would be saved:

ECONOMY DEFENSE BUDGET ESSENTIALLY THE SAME DEFENSE CAPABILITY FOR $8537.9 MILLION LESS

Approve: $107.862 billion in Department of Defense funding (TOA) for Fiscal Year 1977. This includes funding of most major strategic and general purpose forces requests as

[1] This includes the January 1976 request and supplemental requests for naval and strategic forces.

[2] See Ruth Sivard, *World Military and Social Expenditures 1976*, WSME Publications, Box 1003, Leesburg, Virginia 22075.

well as most defense manpower funding requests by DoD.

Recommended: The following changes from current defense programs or requests.

1. Strategic forces: Suggested cuts in questionable programs

[In millions]

	Savings
a. B–1 bomber program	$1,049
b. MX missile program	84
c. MK–12A warhead program	93
d. Trident submarine funding (suspension awaiting study)	1,114
e. Sea-Launched cruise missile (SLCM)	369
f. Minuteman III missile add-ons	261
	3,051

2. Seapower: General purpose force suggested cuts in programs

[In millions]

a. New Nimitz carrier procurement funds (Long Lead-time items in FY 1977)	$350

3. Defense manpower: Suggested cuts in questionable programs

[In millions]

	Savings
a. Redress the balance between officers and enlisted personnel by not replacing 6,000 officer slots	$150
b. Improving the combat-to-support ratios	188
c. Transfer 50,000 naval reservists to the Individual Ready Reserves	36
d. Eliminate "double dippers" who draw two salaries	60
e. Increase average tour of duty from 14 to 18 mos	250
f. Increase student/teacher ratio from 1.5 to 1 to 2 to 1	520
g. Decrease average training period by 1 week from 67 days to 60 days	1
h. Cap retirement annuities at 5 percent increase per year	200
i. Remove the 1 percent kicker for retirees	90
j. Do not approve recomputation for retirees—this would add some $550 million in fiscal year 1977	--
k. Reduce civilian manpower by 1.5 percent in an efficiency incentive cut of 41,000 spaces (15,000 more than projected by the DoD)	580
l. Institute a 5 percent pay cap on all payroll increases for all DoD people in fiscal year 1977	2,200
Total manpower savings	4,687

4. Tactical airpower: Suggested cuts in questionable programs

[In millions]

a. Advanced attack helicopter program (AAH)	$112.1
b. A–7 Corsair program	235.4
c. A–4 Skyhawk program	102.4
	449.9

Total fiscal year 1977 savings 8,537.9

ECONOMY BUDGET: IA SEAPOWER

In a period when U.S. warships now number fewer than 500, the lowest total since 1939, it is poor judgment to place so much investment in nuclear powered and very high cost ships such as the Nuclear Strike Cruiser and the Nimitz supercarriers. The Navy budget should be allocated to more conventionally powered platforms which cost less. Nimitz class carriers would be vulnerable in high-threat areas in war with the Soviet Union because of the likelihood of nuclear weapons use at sea. On the other hand, Nimitz class carriers are not needed to perform missions against second and third rank military powers. Conventionally powered carriers and other ships can do the limited war missions that these would entail in low threat areas.

This careful study of the Navy indicates that the seapower budget should be reallocated to buy cheaper platforms in greater numbers. This would increase the survivability of U.S. naval forces should a major war occur since U.S. naval assets would be located on more platforms dispersed over a wider area. Moreover, 70% of the globe is covered by water, and numbers of ships and submarines do matter in maintaining sea control. The high-cost ships like the Nimitz canot be in two places at the same time and their purchase in large numbers will insure an inadequately sized U.S. Navy, unless large numbers and huge ships are built at the same time, at prohibitive costs.

Also like the TACAIR budget, the Seapower budget inadequately funds maintenance of the force. Navy readiness is in sad disrepair. As Admiral Rickover has stated "there has been no period in the past 50 years where the fleet has been in as poor condition as it is today." A vivid example of the tradeoffs between investing in increased maintenance versus investing in new nuclear powered ships is provided by the fact that for the price of one nuclear strike cruiser ($1.2 billion), the Navy could pay for the repairs and modernization for all ships (some 74 at last count) in the current overhaul backlog (priced at $1.0 billion). Investments in readines will yield more combat capability sooner than investment in dubious new construction of Nimitz class carriers and nuclear strike cruisers.

Strongly recommended is a new carrier study which looks at the cost-effectiveness of several different kinds of carriers. This study should look into the very real advantages offered by mini-carriers with VSTOL aircraft as compared with a purely nuclear-powered carrier of the Nimitz class. Investment in the goldplated high-cost surface ships now proposed by the Navy puts in doubt not only the feasibility of reaching 600 ships by 1985, but of maintaining 500 ships. Clearly, a new look needs to be taken at the Navy planning for the next decade and this MCPL report suggests several alternative routes to explore.

In the meantime, while the carrier study is being made the outcome should not be prejudged. No funds should be allocated in FY 1977 for a new Nimitz class carrier until it is clearly shown to be the way to go. All $350 million requested for a new Nimitz class carrier should be deleted from the defense appropriation in FY 1977.

Questionable seapower programs

[In millions]

	Fiscal year 1977 savings
a. Long leadtime items—Nimitz class aircraft carrier	$350

ECONOMY BUDGET: IB DEFENSE MANPOWER

The rationales for these deletions and program cuts are found in the body of the report. In the areas of the General Purpose Forces most of the reasons for the Defense Manpower changes are straight-forward and obvious.

The first reform would redress the current imbalance of officers to enlisted personnel in uniform. The second would improve the so-called teeth-to-tail ratio by turning more support people into combat personnel. These reforms will create a less top-heavy, tail-heavy military force. The other reforms are "efficiency" changes that would save money or better utilize resources and speak for themselves. Reserve reforms, retirement pay reforms, eliminating "double dippers", increasing tours of duty, improving manpower useage in training, holding the line on pay and retirement pay increases will all save billions. Overall, some $4,687 million can be saved in FY 1977 by these measures.

Recommended defense manpower changes

[In millions]

	Savings
a. Redress the balance between officers and enlisted personnel by not replacing 6,000 officer slots	$150
b. Improving the combat-to-support ratios	188
c. Transfer 50,000 naval reservists to the Individual Ready Reserves	36
d. Eliminate "double dippers" who draw two salaries	60
e. Increase average tour of duty from 14 to 18 mos	250
f. Increase student/teacher ratio from 1.5 to 1 to 2 to 1	520
g. Decrease average training period by 1 week from 67 days to 60 days	1
h. Cap retirement annuities at 5 percent increase per year	200
i. Remove the 1-percent kicker for retirees	90
j. Do not approve recomputation for retirees—this would add some $550 million in fiscal year 77	------
k. Reduce civilian manpower by 1.5 percent in an efficiency incentive cut of 41,000 spaces (15,000 more than projected by the DOD)	580
l. Institute a 5 percent pay cap on all payroll increases for all DOD people in fiscal year 1977	2,200
Total manpower savings	4,687

All of these changes require the action of Congress and some like the 5% pay cap have been recommended by the administration. Most of these changes could begin in FY1977 but some would not result in savings until FY1978 due to the time needed to implement them.

ECONOMY BUDGET: IC TACTICAL AIRPOWER

Perhaps the most disturbing aspect of the U.S. tactical airforces is that there are so many of them. Each service maintains its own. These duplicate each other in many cases. Programs of the U.S. Army (the Advanced Attack Helicopter) and the Marines (the AV–8A Harrier) appear to be particularly ill-suited to the kinds of missions they will be called upon to perform. It is recommended that Army and Marine TACAIR be taken over by the Air Force and Navy with a more integrated command and control system introduced as well. This will result in only modest savings in FY1977 with only the Advanced Army Helicopter expenditures deferred until a study can be made to determine the cost-effectiveness of this program versus the A–10 aircraft for close ground support. This suspension of AAH development will save $128.9 million in FY 1977 if implemented.

Other questionable aircraft buys, such as the A–4 and A–6 aircraft, should also be suspended. This would save an additional $108 million in FY 1977. Again, alternative aircraft should prove to be more cost-effective than the A–4s and A–6s in performing their missions.

Current Pentagon plans now call for the expenditure of close to $300 billion on tactical airpower between now and 1985. This will include $43.4 billion on projected aircraft and helicopter procurement. Far too much of this large investment is programmed for "gold-plated" aircraft which are at the high cost end of the "high-low" mix. Greater emphasis should be placed upon getting more cost-effective aircraft at the lower end of the cost spectrum. It is strongly recommended that funds for the costly F–14s be transferred increasingly to less costly F–18s, and from the costly F–15s to the less costly F–16s and A–10s.

Not only should lower cost aircraft be purchased where feasible, but greater main-

tenance standards should be met. Nearly a fifth of all Navy planes are incapable of performing their combat missions at any given time and 46% are not fully prepared. The resources now sunk into goldplated aircraft and redundant tactical airforces can be better put into TACAIR maintenance. Dollars allocated to O&M rather than procurement of the AAH helicopter program would seem a logical tradeoff. The size of the current TACAIR budget is not unreasonable given the value of tactical airforces, but much of the funding needs to be reallocated along the lines indicated here.

Questionable tactical airpower programs
Fiscal year 1977 savings

[In millions]

	Fiscal year 1977 savings
a. Advanced attack helicopter program	$112.1
b. A–7 Corsair program	235.4
c. A–4 Skyhawk program	102.4
Total questionable TACAIR programs	449.9

ECONOMY BUDGET ID STRATEGIC FORCES

The FY 1977 Pentagon budget requests for strategic forces includes numerous programs of questionable wisdom amounting to $3,051 million in unnecessary programs. These include:

Questionable strategic forces programs

[In millions]

	Savings
a. B–1 bomber program	$1,049
b. MX missile program	84
c. MK–12A warhead program	93
d. Trident submarine funding (suspended for study)	1,114
e. Sea-launched cruise missile (SLCM)	369
f. Minuteman III add-ons	261
Total questionable strategic spending	3,051

This critique of U.S. strategic forces programs is based on the fundamental assumption that the United States with its present strategic nuclear forces has a sufficiency of retaliatory power to deter any rational enemy into the foreseeable future.* There is no convincing justification for "goldplating" each leg of an already adequate strategic "triad" with such systems as the B–1 Bomber, the long-range sea-launched cruise missile, or additional Minuteman III missiles (beyond 550), or its follow-on, the MX missile. Moreover, the development of even more capable counterforce missile systems as represented by terminal MARV, the MX Missile program, and the MK12A warhead cause more problems than they solve. Building such U.S. weapons spurs Soviet reactions that could either lead to a greater chance of accidental war or costly new rounds in the strategic arms race. Counterforce weapons can put a hair trigger on nuclear war by forcing the Soviets to go to "launch-on-warning" status and/or by forcing them to go to more sea-launched missiles, mobile missiles, or to a renewed ABM program to counter U.S. counterforce threats. It is unlikely that such new Soviet programs would not spur still further U.S. strategic arms building efforts.

Moreover, the extensive testing of either MARV or of the strategic sea-launched cruise missile will likely lead to a multiplication of the number of nuclear weapons deployed in both the United States and the Soviet Union and to an inability to limit such new technologies through arms control agreements that can be verified with some certainty.

There is another questionable item in the FY 1977 Pentagon request for strategic forces. In a supplemental request $322.4 million dollars has been asked for 60 extra Minuteman III MIRVed warheads and for an early beginning for Mark 12A warhead production.

The $260.7 million for Minuteman IIIs and $56.3 million for MK12As are rationalized as "bargaining chips" at the SALT negotiations which are now deadlocked. But as one wise arms controller once noted, "finding a suitable "bargaining chip" is a fundamental problem. It is hard to think of an arms program that simultaneously is good enough to worry an opponent and bad enough for the military to be willing to give it up in negotiations."* Adding 60 more Minuteman IIIs may eventually require a raising of the MIRV limit tentatively agreed upon at Vladivostok.

Finally, the continued introduction of strategic weapons such as the B–1 bomber will cost enormous sums that could be better spent on the U.S. general purpose forces or could save the U.S. taxpayer money without decreasing U.S. national security.

Even the programs that make good sense, such as the deployment of the U.S. strategic deterrent aboard ballistic missile submarines can be done in a more expeditious manner. Trident is a good example. Trident I missiles deployed aboard many smaller submarines than the present Tridents would seem to make more sense. The long range Trident I missile will add some 15 times more ocean for strategic submarines to hide within and frustrate ASW efforts of aggressor states. Yet, these SLBMs ought to be deployed in as many submarines as possible within the limits of the Navy budget to make them even less vulnerable. For this reason it is logical to defer further spending on Trident submarines while going full ahead on Trident I missile development and the redesign of a smaller cheaper alternative to Trident submarines.

The longer range Trident I missile would allow U.S. submarines to operate closer to friendly shores and further from hostile ones. These areas can offer more defensive protection to our strategic submarines. High speed will be less needed in such submarines. Also, many of these submarines could utilize the less expensive conventional engines. Several might even be put into inland waters to guarantee their invulnerability from rival submarines. As much as half the cost of the Trident investment could be saved per ship by deploying Trident I missiles on slower conventionally powered strategic submarines. This option is particularly significant and should be considered since some in the Navy are asking for 30 Trident submarines rather than the original 10 that were first planned. Finding a cheaper alternative to Trident is a major requirement of a sound defense posture and the program should be temporarily suspended until the Navy produces such as an alternative.

All of this leads us to the conclusion that U.S. strategic forces spending in FY 1977 could be cut $3.051 billion with the savings either going into savings to the taxpayer or into stronger conventional forces for the United States.

OPTION 2: REINVESTMENT IN A MORE EFFICIENT FORCE

If U.S. decision-makers did not choose to save the taxpayers $8537.9 million while investing in a lean but adequate defense force for FY 1977, they might still delete programs of that magnitude that have been identified in this study and invest the savings back into more meaningful defense programs.

If a "fat into swords" approach were adopted (An "Efficiency" Budget), rather than a "fat into taxpayer savings" plan (An "Economy" Budget), then $8537.9 million could be diverted into such worthwhile programs as the following which make more military sense:

VSS mini-aircraft carriers, VSTOL aircraft R&D, attack submarines, TOW Anti-tank weapons, advanced surface effect ships, armored personnel carriers, NATO standardization costs, A–10s, more cargo aircraft, prepositioned supplies in NATO, new carrier alternatives study, improved ship maintenance, improved ship readiness, improved anti-tank weapons.

Satellite verification systems, command and control programs, precision-guided munitions, laser research, remotely-piloted vehicles, tank forces if cost-effective, F–18s, nuclear weapons security, NAVSTAR satellite R&D, Captor mines, new SSBN alternatives study, improved TACAIR maintenance, improved TACAIR readiness, improved anti-air weapons.

These kinds of investments make far more sense than the systems and programs marked out by this study as inadequate and questionable. They would be more cost effective and would yield more military clout for the defense dollar invested.

Care must be taken in all new defense investments that the new forces and weapons purchased are not going to be doomed to technological obsolescence in the "next war." Manned bombers such as the B–1 in an age of precision-guided anti-air weapons could well be a very poor investment.

The main battle tank in an era of cheap and accurate anti-tank weapons such as the TOW weapons now in the U.S. inventory may make huge investments in tank forces questionable. A $4000 rocket can destroy a half million dollar tank. $2 billion dollar aircraft carriers in an age of possible nuclear war at sea where every surface ship is totally vulnerable may well be questionable investments. Service traditions which emphasize the importance of the manned bomber, the battle tank, and the aircraft carrier as the major air, land, and sea weapons may be inappropriate in an age where new military technology makes each increasingly vulnerable. The revolution in precision guided high accuracy weapons makes force planning take new directions if the U.S. forces of the future are to keep pace with the implications of technological changes.

In addition to the problem of avoiding "doctrinal lag" in weapons purchases, the U.S. Department of Defense should avoid the excessive "goldplating" of weapons systems. There is a great need for DoD procurement policies that emphasize buying adequate numbers of new ships and aircraft and that de-emphasize the buying of goldplated systems. Exotic weapons such as the Nimitz class carrier, the Army Advanced Helicopter, the nuclear strike cruiser, and the very highest price aircraft take too great a share of the defense budget. The United States seems to be engaged in its own form of unilateral disarmament. Insistence on the most complex and expensive weapons irreversibly leads to lower force levels. The Pentagon has engaged in a replacement policy that has led to a harmful shrinkage in the U.S. general purpose forces.

Finally, the U.S. Department of Defense would come up with a far more efficient use of its defense dollars if relatively more money

*The United States has 2400 strategic delivery vehicles capable of delivering nuclear strikes on 8900 separate targets with an explosive yield of over 300,000 Hiroshima-Equivalents. This does not count 22,000 tactical nuclear weapons in the U.S. arsenal, some in the Hiroshima range. 5000 of these strategic nuclear weapons are aboard relatively invulnerable ballistic missile submarines. The U.S. strategic strike-back force is considered capable of surviving any surprise attack and retaliating with totally unacceptable damage against any aggressor.

*Jack Ruina of MIT.

was invested in improved U.S. ship and aircraft maintenance and readiness programs, and relatively less to new ship-building and aircraft-building, especially at the more expensive end of the high-low mix of ships and aircraft.

An "Efficiency" Defense Budget the same size of that currently requested, but designed with these principles in mind, would yield a far more potent and suitable U.S. defense force.

OPTION 3: MATCHING DEFENSE FORCES TO FOREIGN POLICIES

Adopting the EFFICENCY Defense Budget outlined in this study will not save money but will add additional defense muscle where it is needed most. Adopting the ECONOMY defense Budget outlined here would save $8,537.9 million and still provide an adequate and strong defense force.

Adopting a different foreign policy generates different kinds of defense forces to support it. We have examined the different kinds of TACAIR, seapower, and defense manpower forces needed for each of four foreign policy options:

(1) A Pax Americana Foreign Policy
(2) The Present Foreign Policy of the U.S.
(3) A Pacific Pullback/Europe-First Foreign Policy
(4) A General Retrenchment U.S. Foreign Policy

How much should be spent on defense to implement each of these? What kind of forces are needed for each?

PAX AMERICANA

This foreign policy would require a very strong and larger defense force. The U.S. Navy would be built to a level of 650 ships with as many as 25 aircraft carriers and matching escorts. The Navy would swell to 800,000 people and the Marines to 250,000. Naval forces would be assigned in strength to every ocean in the world. A Pax Americana military force would also maintain 30 active Army divisions, 5 active Marine divisions, 45 tactical Air Force wings, 25 Navy carrier wings, and 5 Marine aircorps wings. U.S. strategic force levels need not be changed significantly to support a foreign policy of Pax Americana since a massive U.S. strategic force to deter aggression is already in place. A Pax America military force would cost as much as twice what the U.S. now allocates to the Defense budget, an estimated dollar cost of roughly $220 billion per year with nearly 4 million persons in uniform and 2 million defense civilians working full time for DoD.

PRESENT POLICY: STATUS QUO

Present U.S. foreign policy commitments could be supported by a budget similar in dollar size to the U.S. Defense budget simply by adopting the administration program. Or a somewhat smaller defense budget with the suggested cuts laid out would give an economical but still impressive defense program to the country.

Present policy could be supported by an "economical" defense program costing $8,537.9 million less than the original FY 1977 Defense Department request. Still another legitimate defense posture used to support the present policy might be what would be termed an "efficient", if not economical, defense posture. In the efficient posture the $8,537.9 million saved from the "soft" programs would be plowed back into more reasonable defense programs such as PGMs, anti-tank weaponry, improved TACAIR programs, and greater readiness and maintenance programs.

PACIFIC PULLBACK/EUROPE FIRST

This kind of foreign policy would require a defense establishment consisting of a 400 ship Navy, an overseas force reduced in size by 72,000 consisting of withdrawals from Korea and scaledowns elsewhere over five years. Pacific bases would be withdrawn from Korea and a naval scaledown in the Far East would occur. Once completed such a policy would save $720 million annually in manpower costs and $7,400 million in Navy-Marine costs yearly. U.S. Naval forces would be centered around nine attack carriers at their core. Scaledowns in naval tactical airforces and tactical air units in the Western Pacific region would also allow annual cost savings of roughly $1,000 million per year once accomplished. European forces under this policy would remain similar to the present deployments. Overall this policy in fiscal terms would mean defense expenditures cuts of $9,120 million based on foreign policy changes alone. This, of course, could be combined with the "economy" cuts of $8,537.9 million described under the present foreign policy to produce an annual total savings of $17,657 million dollars in defense expenditures. Conversely, these resources could be diverted to building a stronger European force should that be necessary to maintain the military balance there under such a policy of "Europe First."

GENERAL RETRENCHMENT

A policy of general retrenchment would involve a major pullback of U.S. forces from both Europe and the Western Pacific. This policy would require far fewer forces than Pax Americana, the Status Quo, or Pacific Pullback Policies and would also require less of a defense budget investment. Under a general retrenchment policy the U.S. Navy would still retain 400 ships, nine attack aircraft carriers, and 342,000 Navy people as well as 126,000 Marines. This would represent 82 fewer ships than we now maintain and 40% fewer people. The Navy budget would thus be in the neighborhood of $28.5 billion in current dollars, down $8,900 million from the current Navy budget. Tactical airforces could also be confined to the United States or in token deployments abroad with 20 of the 42 TACAIR wings withdrawn and demobilized for a savings estimated at $12 billion in current dollars each year after such action was taken. Such a general retrenhcement policy would also permit a return and demobilization of 172,000 land-based troops from Europe and Asia at a cost savings of at least $2.0 billion per year once the transition costs have been paid. Strategic forces would remain at present levels for the purpose of deterrence of direct attacks on the United States.

Changing to a foreign policy of general retrenchment would thus require a significantly smaller defense establishment abroad. It would signal far less dependence on the military power and other advantages secured by tight alliances. The defense expenditures for such a policy would be $22.9 billion less than that needed to maintain the present foreign policy—this based solely on foreign policy changes. If the "economies" also identified in the present defense budget were taken an additional $8,537.9 million might be saved. Thus, a foreign policy of general retrenchment might lead to savings in excess of 31 billion dollars in defense expenditures.

SUMMARY

Overall, U.S. defense costs would vary in the following ways depending upon the foreign policy option elected and whether one adpoted an "Efficiency" or an "Economy" budget for the Department of Defense.

Fiscal year 1977 defense expenditures

Foreign policy adopted

1. Present U.S. Policy.
2. Pax American Policy.
3. Pacific Pullback/Europe-First Policy.
4. General Retrenchment Policy.

Efficiency budget

1. $116.4 Billion ($114.2 + 2.2B in payroll added).
2. $220.0 Billion (rough estimate) (extra cost: $104 Billion).
3. $107.3 Billion (foreign policy cuts alone) (savings: $9.1 Billion).
4. $93.5 Billion (foreign policy cuts alone) (savings: $22.9 Billion).

Economy budget

1. $107.86 Billion ($8,537.9 million saved).
2. Not applicable (all kinds of forces purchased with hedges built into budget).
3. $98.8 Billion (foreign policy + economy cuts) (savings: $17.6 Billion).
4. $85.0 Billion (foreign policy + economy cuts) (savings: $31.4 Billion).

In conclusion, we allow the reader to draw his own conclusion as to the correct foreign policy for the United States and whether to elect the economy or efficiency versions of the Defense budget. It is also our firm conclusion that there should be no rubberstamping of the FY 1977 defense budget or of any automatic cost-of-living raise in military and DoD civilian pay for FY 1977. We conclude that even if the current U.S. foreign policy is adopted, either $8,537.9 million should be reinvested in programs that make more sense such as those identified in option 2 or $8,537.9 million should be saved the taxpayer or invested in other more useful government programs. Both the economy and the efficiency budget options make more sense than the proposed FY 1977 budget now before the Congress.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The PRESIDENT pro tempore. Under the previous unanimous-consent agreement, 11 a.m. having arrived, the Senate will now resume consideration of the unfinished business, Senate Resolution 400, which will be stated by title.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The Senate resumed the consideration of the resolution.

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment offered by the Senator from Texas (Mr. TOWER) and the Senator from Mississippi (Mr. STENNIS), with a time limitation of 3 hours thereon, and with a vote thereon to occur at 2 p.m.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself, Mr. STENNIS, Mr. GOLDWATER, and Mr. THURMOND, proposes an amendment numbered 1649.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. Who has control of the time in favor of the amendment, and who has control of the time in opposition?

The PRESIDENT pro tempore. Senators RIBICOFF and STENNIS are in control of the time.

The amendment is as follows:

On page 5 strike out paragraphs (2) and (3) of section 3(a) of the amendment and insert in lieu thereof the following:

"(2) Intelligence activities of all other departments and agencies of the Government except the Defense Intelligence Agency, the National Security Agency, and other agencies and subdivisions of the Department of Defense.

"(3) The organization or reorganization of any department or agency of the Government, other than the Department of Defense, to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

Strike out clauses (B), (C), and (D) of paragraph (4) of section 3(a) of the amendment and redesignate clauses (E) and (F) as clauses (B) and (C), respectively.

Strike out clause (G) of paragraph (4) of section 3(a) of the amendment and insert in lieu thereof the following:

"(D) Any department, agency, or subdivision which is the successor to the agency named in clause (A); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in clause (B) or (C), to the extent the activities of such successor department, agency, or subdivision are described in clause (B) or (C).".

Strike out the period in section 4(c) and insert in lieu thereof "as specified in section 3(a).".

Strike out clauses (2), (3), and (4) of section 12 and redesignate clauses (5) and (6) as clauses (2) and (3), respectively.

Mr. TOWER. Mr. President, I ask unanimous consent that I may have control of the time, in the absence of Mr. Stennis.

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

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

Mr. President, as a result of the investigation conducted by the Senate Select Committee on Intelligence Activities, there is one inescapable lesson that we in the Senate should have learned about the intelligence community—that is, that the entire community is a complex, fragile, and essential asset to the security of the United States.

While the committee's investigation revealed many abuses that occurred over the years, it also showed that such abuses were the exception rather than the rule in our intelligence agencies, and that more often than not the abuses that did occur were initiated by politicians who had authority over the agencies rather than by the agencies themselves. While the results of the select committee's investigation makes it clear that changes should be made in the manner in which Congress monitors the activities of the intelligence agencies, I feel that creation of a select committee on intelligence with legislative and authorization authority is the wrong way to do this.

Yesterday, my distinguished colleague, the Senator from Illinois (Mr. PERCY), stated that he felt that the Department of Defense and all of the intelligence agencies should be subjected to oversight by one group of Senators who have the entire intelligence picture. While I do not totally agree that unified and centralized oversight is essential, I am certain that to give such an oversight committee the legislative and authorization authority for appropriations would be a serious mistake. This is true, especially of the Department of Defense, where intelligence and the defense, generally, is so inextricably bound together.

Also, in the Department of Defense, tactical and national intelligence are impossible of separation; for what, in peacetime, is apparently purely tactical information, may certainly, in times of crisis or high tension, be of great national importance. In testimony before the select committee, as well as the Senate Armed Services Committee, it was revealed that the DCI, who is responsible for the national intelligence budget, as well as Defense officials, found it almost impossible and inconceivable to separate these two areas.

For the Senate to attempt in haste to separate a major part of the Defense intelligence budget from the committee with principal intelligence responsibility for the defense generally, will, in my opinion, create grave risk to the national security. This position is supported by the recent testimony of Deputy Secretary of Defense for Intelligence, Ellsworth, who, before the Armed Services Committee, on Thursday last, stated:

We operate our intelligence responsibility in a somewhat different world from the CIA or the FBI. We operate in an extremely highly technological world, which with our facilities is very sensitive and very delicate. And that is the basis for our first concern—from the standpoint of maintaining the overall confidentiality of our sensitive and expensive military and defense intelligence sources and methods and—you know what I mean, particularly our most modern collection systems. The visibility that is created by separate budget process would entail, as we see it, grave risk. That is our first concern about the creation of a committee with the authorization for appropriations jurisdiction over these matters.

Mr. President, I think that few Members of the Senate realize that section 12 of Senate Resolution 400 would, in its present form, require a separate bill or joint resolution to authorize appropriations for the various agencies and departments involved in intelligence activities. I am concerned that this section would create unworkable problems regarding public disclosure of the intelligence budgets of the intelligence agencies and departments. For instance, the highly classified activities of the National Security Agency, if revealed in such fashion to enemy intelligence forces could be disastrous to one of our most important national intelligence assets.

For these and other very important reasons, which will be discussed more fully by the distinguished chairman of the Committee on Armed Services and the distinguished ranking member of that committee, we urge the Senate to support this amendment.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CULVER). The Senator will state it.

Mr. STENNIS. Who has control of time on the bill?

The PRESIDING OFFICER. Under the previous order, 3 hours are allotted for debate, and the time is to be equally divided between the Senator from Mississippi and the Senator from Texas and the opponents of the amendment.

Mr. STENNIS. Three hours for the so-called Tower-Stennis amendment?

The PRESIDING OFFICER. That is correct—equally divided, and the vote to occur at 2 p.m.

Mr. STENNIS. Mr. President, if I am in control of the time, I yield 10 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I support this amendment, but I shall speak in general about the proposed legislation.

While I believe we need more responsible oversight of all of our intelligence agencies, I just cannot support this Senate bill, which would set up a committee of this size, with an almost unlimited staff.

This new committee would have oversight jurisdiction of all our intelligence agencies, including the Federal Bureau of Investigation, FBI; Central Intelligence Agency, CIA; National Security Agency, NSA; the Defense Intelligence Agency, DIA; and other minor intelligence organizations.

My major reason for opposing this bill is the excessive number of members of the committee and the size of its staff.

The bill would establish a committee of 15 members, with practically no limit on the number of staff members.

Mr. President, as one who has long dealt with intelligence matters, as a member of the Senate Appropriations Subcommittee on Intelligence Operations, I have always felt there was no possible way to prevent leaks of the most sensitive and top secret information if you have a large committee and a big staff.

While our Appropriations Subcommittee does not have oversight responsibility, we do have the responsibility of getting all the information possible regarding CIA, DIA, NSA, and other intelligence operations, to justify the money being requested.

This Appropriations Subcommittee for years has been composed of only five Senators, and we have two staff members.

I think it is fair to say that almost every Senator who has served on this subcommittee felt that, because of the very sensitive information we must deal with, it should be a small committee. Most Members would be very reluctant or would even decline to serve on a committee with a much larger membership and an unlimited staff.

It is my understanding that on this new committee, the staff would have access to the most sensitive information. Mr. President, human nature is such that when too many people have access to this sensitive, interesting information, someone is bound to leak parts or all of it to an ambitious and inquisitive press.

The press people who concentrate on the business of intelligence are uncanny in their ability to piece together bits of information here and there and come up with a pretty accurate story.

The Senate Select Intelligence Committee, which has been holding hearings for nearly a year and a half, has done a considerable amount of good. They have

uncovered some things that need to be exposed. I cannot help but feel, however, that far too much information has been publicized, especially as to how our intelligence agencies such as the CIA operate in foreign countries.

These disclosures have very adversely affected the operation of our intelligence system. They have seriously damaged our intelligence agencies in foreign countries. The best example is the disclosure that Richard Welch was our top CIA agent in Greece. Shortly after he was identified as a CIA agent, he was murdered.

Examples such as this cannot help but demoralize the spirit and dedication of other CIA agents, especially those operating in hostile foreign countries.

If the Soviet Union conducted similar investigations into their KGB operations and made public all the inside operations of their spy agencies, such information would be most valuable to us. To acquire this kind of information, we would have to spend hundreds of millions of dollars.

Mr. President, intelligence plays a tremendously important role not only in the security of this Nation, but it makes possible a very large saving in military expenditures.

The more we know about what the Soviet Union or any other potential enemy is doing militarily, especially in the development of new weapons, the better we are able to determine what countermeasures we should take.

Constant surveillance by our intelligence satellites gives us accurate information as to almost every phase of foreign military activities, including troop movements and the deployment of missiles.

The present Senate Select Intelligence Committee, during its year and a half of operation, composed of 11 members, did its utmost to do a good job and try to prevent leaks of highly classified information.

The very size of this committee, however, along with its more than 70 staff members, made it just impossible to prevent very damaging leaks.

Mr. President, let me give one example of how important it is to keep some sensitive information top secret.

During World War II, when we developed the atomic bomb—as far as I am able to ascertain—not more than five Members of Congress were aware of the nearly $4 billion we secretly diverted into the development of the atomic bomb. This was one of the best kept secrets in our history. Had Hitler's Germany known early what we were doing, they might well have produced an atomic bomb before we did. They had the know-how.

Thus, world history, as we know it today, would have been changed.

With a 15-member Intelligence Committee and a staff of 60 or more having access to our top secrets of Government, no such projects involving our national security, such as the development of the atomic bomb, could ever again be realized.

Mr. President, I would favor a joint Senate-House intelligence oversight committee dealing with all intelligence matters, but I would want it to be a relatively small committee with a very limited staff. This is the kind of legislation I would support.

Mr. President, I cannot vote for this bill but I hope and pray that history will be wrong.

Mr. WEICKER. Will the distinguished Senator from North Dakota yield for a question, and I shall be glad to have it on our time.

Mr. STENNIS. Yes.

Mr. YOUNG. Yes, I yield.

Mr. WEICKER. I wonder if the distinguished Senator would tell me and my colleagues who divulged the information on Richard Welch? I ask the question since this has become a focal point as to whether or not Congress can be trusted with this type of oversight function. I would like to have the question answered: Who divulged that information? Did anybody in the Congress or any congressional committee divulge it?

Mr. YOUNG. I think it was directly associated with the investigation at that time.

Mr. WEICKER. No, I am afraid I am not going to let that point go unanswered, because it was used, as I say, as a focal point to turn around this whole investigation. It was not as the result of any information coming from the Congress of the United States. It was divulged by a foreign periodical. That is the very simple fact of the matter.

Mr. YOUNG. That he was a member of the CIA was published at the time of the CIA hearing and I do not think the Senator would deny that through the investigations, most people know how these intelligence agencies operate now.

Mr. MONDALE. Will the Senator yield just on that one point which the Senator from Connecticut raises?

Mr. WEICKER. Yes.

Mr. MONDALE. We never had Mr. Welch's name because we never wanted it. We never asked for any names of any foreign operatives, because it was not necessary to our investigation and we did not want it. In fact, the record discloses, as we looked into it later, that the CIA had urged Welch not to move into that house, because it had been known in the community that that house had been the residence of the previous head of the CIA in Greece. So when we look into the record, our committee and the House committee had absolutely nothing to do with the tragedy concerning Mr. Welch.

Mr. YOUNG. Did not the members of that committee and more than 70 staff members have access to all of this kind of information?

Mr. MONDALE. No, because we were very careful never to ask that kind of information, because we had anticipated that kind of problem.

For example, we often let CIA officials come in and testify under pseudonyms. We did not want to know their names. It was not important to our work. What we wanted to know were issues that went to the question of accountability and control.

Mr. HUDDLESTON. Will the Senator yield at that point?

Mr. YOUNG. I yield to the Senator from Mississippi first.

Mr. STENNIS. Mr. President, a parliamentary inquiry, if the Senator will yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. I understand that this comes on the time, now, of the other side?

The PRESIDING OFFICER. That is correct.

Mr. RIBICOFF. I yield some on our side.

Mr. HUDDLESTON. As a Member of the Senate committee that investigated our intelligence operations, I want to confirm what the distinguished Senator from Minnesota and the Senator from Connecticut have indicated regarding the tragic death of Richard Welch. I do this only because this matter has been brought up several times and has been used to try to denigrate the activity of the committee and the need for the oversight committee.

As Senator Mondale said, the investigating committee did not seek and did not have the identity of Mr. Welch. One further point that should be made is that it has never been established that the revelation of his identity had anything at all to do with that unfortunate occurrence. I think this matter should be put in proper perspective and that Members of the Senate should realize that that unfortunate occurrence really had no relationship to what we are discussing here today. As a matter of fact, proper oversight may very well help to eliminate or at least diminish prospects that situations similar to that of Richard Welch will occur again.

Mr. YOUNG. I am pleased to know that the committee feels there was no such leak. But the point I am trying to make is that there is no possible way to have a large intelligence committee with a staff of 60 or 70 and not have very damaging leaks such as this.

Mr. STENNIS. Mr. President, I yield myself 12 minutes. I agree to the alternating of speakers side to side, as far as that is concerned, but I do want to make these few remarks now.

Mr. President, I want to make clear that I have nothing except compliments for the select committee, the members of the special intelligence committee who have been investigating these matters. I not only assume, but I believe they acted in good faith. There are no charges to be made, by inference or otherwise.

Mr. President, we are dealing today with a problem that is not one of individuals; we are dealing with a major part of our foreign policy. We can simplify all of this greatly by just withdrawing and surrendering our position in international affairs. But if we are going to continue in the role of a world power, which I do not think we can abandon, we are going to have to have intelligence and we are going to have to adopt special rules and make concessions to handle it. That is what was done with the passage of the original CIA Act.

It was put into operation by the respective congressional committees on a kind of general understanding. The Senator from North Dakota has been a part of that for some years, as have the

Chairman of the Committees on Appropriations, Armed Services, and Foreign Relations, and others. It has been a special setup.

It was not perfect by any means. We cannot legislate an arrangement here today, or any day, that is perfect. But we did, by common consent, realize this had to be handled in a special way.

Now, this amendment, Mr. President, which we propose does not touch the CIA. It does not change the Cannon resolution as to what you are going to do about the CIA. It does not undertake anything of that kind to limit the new committee in its investigative oversight power, including power with respect to what I should call strictly military intelligence.

Having tried to state what it does not do, I want to refer now to what this amendment does do. But at the very threshold of this whole problem I want to say I do not think we can ever have a system that will work unles it jibes with and coordinates with the system of the House of Representatives. We are talking about legislation, dealing with legislative affairs, authorizations, appropriations, debates and sessions, and reports and staff work. All of those things we cannot possibly operate independently of the other body. Somewhere along the line this plan, however well motivated, will fail, I think, because it lacks that essential threshold requirement.

I have said before that a joint committee of the House and the Senate, a special joint committee, was, I thought, the route to go if we were going to have a special committee, and I believe we will have to come back to that.

What does this amendment do? It passes up all these matters that I have mentioned and merely takes out of the Cannon resolution as written now the matter of legislation and funds for the DIA and the NSA and other groups in the Department of Defense and within the services. Those items, under this amendment, would not have to go through this budget process. They would not have to be authorized as we use that term in legislation. I am one who favors authorizations, generally. But under this amendment funds for those strictly military operations would be excepted. They would not have to go through the process of authorization where the amount of money and the amount of manpower become involved. Now, these are the key points, gentlemen: An authorization, the amount of money, the amount of manpower, not only in totality but for some of these major divisions would have to be set forth and be binding on this body once the authorization process has been met as required by the resolution. It would be binding on this body in open or secret session, and then be binding on the Appropriations Committee and binding on this body when the appropriations bill came back for passage.

I am talking about the Department of Defense appropriation bill. The authorization will not be binding on the House of Representatives, not binding on their committees, not binding on their representatives at the conference that it has always had on the Defense appropriation bill. Now, that is the basic condition that this resolution, whatever its virtues may be, does not solve. It creates this additional fatal defect, I respectfully say, that will keep this system, as proposed, from working.

Our amendment merely undertakes to take out of that process this authorization.

Now, just a word on this. By and large over the years the real foreign intelligence has been highly valuable to our Nation. The military intelligence has been highly valuable, and in all the things the select committee found—and I am ashamed of a lot of those facts—there was not much, Mr. President, that was attributable to the military services.

I do not come here to defend them. I just say it is a fact that, according to your record a very small percent of the wrongdoing, the evil things that were uncovered, were attributable to the services. There you have that military chain of command, there you have the military discipline, and I pray God we will always have that discipline; there you have their pride of service and responsibility.

Anyway, the part of this operation this amendment covers is limited solely to the armed services, and there are certainly not a great deal, a great number of things evil, in all of this proof that can be attributed to them. There are no dirty tricks that they pulled. They just were not in on these matters, except in a slight degree, and that was under some special orders more or less from the Presidents of the United States during unrest and turmoil and high uncertainty.

If I may just relate this incident, talking about uncertainty, I was on my way to Capitol Hill one morning, driving my own car. Down there, very near the White House I was literally stopped, bodily stopped, and these organized groups threw a blanket over my windshield so that it was impossible to move forward.

Well, I had the presence of mind enough to know that I had better stay in the car rather than get out, but they had effectively stopped the operation of the Government so far as one Member of this body was concerned, and that is what their purpose was. I think maybe it was some of that group, the then President had had some of the military looking in on, trying to find out their motives. I know the group was successful, and this body could not have convened that day had all Senators suffered the fate that I had suffered.

I was finally released. By whom? By one of their own, one of their own group, one of the group which was stopping the operations of the government, who came up there and pushed the others out of the way and said, "This is a damned shame." He pulled that blanket away and told me to drive forward. Well, I persuaded them to let me drive backward. But I got out.

That is just a little of the atmosphere prevailing here when some of these activities might have been carried on where some part of the army got a little over the line. But of the evil about which we are also concerned, not much of it is attributable to this group.

If we have to make up a budget and any committee has to go through the process, the ordinary budget process, and bring an authorization in here and argue it, debate it, and then another committee, Appropriations, has to take it and operate under it and come back, and then if the Appropriations Committee goes over the line items subject to a point of order, all the debate back and forth could be day after day and time after time, and that is where some information will get out. I do not accuse anyone of intentionally leaking or telling anything, but it will get out. It is inevitable. It has before and it will now.

Then when we would go to the conference on the proposed authorization bill the other side is not bound by it anyway.

What kind of disclosure am I talking about?

Our friend here has already mentioned the Manhattan project that brought us the atomic bomb. I was not here then.

I refer to the U–2 which was the aircraft which became known as "the spy in the sky."

I can say on my responsibility that the activities of that group saved us billions of dollars by giving us information that caused us not to make mistakes as to the kind of weaponry we would build; I suggest that literally saved us billions of dollars.

I pass on to another. Take the efforts to raise the Soviet submarine. That went on over a period of 4 years.

By the way, I do not want to be a member of any new committee, whatever form it will be. I have been through, I believe, my share of sleepless hours about these projects.

For over 4 years we were on the verge there of getting from that sunken submarine a regular mine of information, to learn about codes and many, many other things. If there had ever been suspicion—no one had to tell it to kill it, if there had ever been suspicion—that we were carrying on that activity, that would have been the end of it because they would, naturally, have come in, and we would have had to go away.

It finally fell through for other reasons, as we know.

These are not imaginations, these are actual facts of life.

I do not support the resolution as a whole because of the defect I described in the beginning. I beg, beg even, because it is so important, that Senators reconsider the matter. Let us put in this amendment so as to have a special category.

The PRESIDING OFFICER (Mr. NUNN). The Senator's 3 minutes have expired.

Mr. STENNIS. One minute.

Put in a special category on these highly important, necessary, unusually sensitive items, and just say as a fact of life that they cannot go through the ordinary process. We will find another way to be effective, because the budget

process, the authorization, the debates, and the point of order just cannot apply.

Mr. President, how much time is there on this amendment?

The PRESIDING OFFICER. Fifty-nine minutes.

Mr. STENNIS. I thank the Chair.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, I yield myself 10 minutes.

Mr. President, this amendment would deny the new committee any legislative, authorization, or oversight jurisdiction over the intelligence activities of the Department of Defense.

It would fundamentally alter the compromise language offered by Senator CANNON last Wednesday.

I must strongly oppose this proposed amendment.

The new committee must have concurrent legislative and authorization jurisdiction over the national intelligence activities of the Department of Defense for the following reasons:

The Department of Defense is the Nation's primary collector of intelligence information. It controls 80–90 percent of the Nation's spending on national intelligence programs, and most technical collection systems are developed, targeted, or operated by Department of Defense personnel. The Department also supplies a great deal of information to nonmilitary intelligence agencies. It provides critical information of national security policymakers on a multitude of issues including strategic arms limitations and peace in the Middle East.

Accordingly, the executive branch treats the DOD intelligence activities as an integral part of the entire national intelligence community. For example, in February, the President charged a new committee on Foreign Intelligence, chaired by the Director of Central Intelligence, with responsibility for overseeing and coordinating the Government's entire national foreign intelligence program, including DOD's intelligence program.

If the new committee did not have jurisdiction over the defense intelligence agencies, it would be denied jurisdiction over most of the intelligence community.

It is very important to achieve the proper relationship between the civilian intelligence agencies and the military intelligence agencies. The two different types of agencies must work closely together to assure as accurate and unbiased intelligence as possible for use by all military and civilian decisionmakers. It would be difficult to achieve this goal if responsibility in Congress for the intelligence community was split up so that one committee was responsible for the civilian intelligence agencies and one the military intelligence agencies.

The Department of Defense has an enormous technological capability that could be used to violate the rights of American citizens. Past disclosures of wrongdoing have included the DOD as well as the FBI, CIA, and other agencies. For example, the select committee has pointed to the following abuses:

First. Millions of private telegrams sent from, to, or through the United States were obtained by the National Security Agency from 1947 to 1975 under a secret arrangement with three U.S. telegraph companies.

Second. An estimated 100,000 Americans were the subjects of U.S. Army intelligence files created between the mid-1960's and 1971.

Third. Army intelligence maintained files on Congressmen because of their participation in peaceful political meetings under surveillance by army agents.

Fourth. As part of their effort to collect information which related even remotely to people or groups in communities which had the potential for civil disorder, army intelligence agencies took such steps as: sending agents to a Halloween party for elementary school children in Washington, D.C. because they suspected a local dissident might be present; monitoring protest of welfare mothers' organizations in Milwaukee; infiltrating a coalition of church youth groups in Colorado, and sending agents to a priests' conference in Washington, D.C. held to discuss birth control measures.

Fifth. Army intelligence officers opened the private mail of American civilians in West Berlin and West Germany.

Sixth. The military joined other intelligence agencies in drafting the so-called Huston plan in 1970, and later participated in the Intelligence Evaluation Committee, an interdepartmental committee established by the Justice Department to analyze domestic intelligence information.

Just this past weekend the select committee released a 49-page report describing in detail abuses by the Defense Department intelligence activities. It describes how the DOD collected information about the political activities of private citizens and private organizations, monitored radio transmissions in the United States, investigated civilian groups considered threats to the military, and assisted law enforcement agencies in surveillance of private citizens and organizations.

The same expertise gained by the new committee through oversight of the CIA and FBI could and should be used to oversee the DOD's intelligence activities so that civil liberties are protected.

A committee with the necessary resources must closely examine the DOD intelligence agencies to avoid duplication and inefficiency and assure the best intelligence possible. The Defense Department spends billions on intelligence. Yet the Deputy Secretary of Defense, Mr. Ellsworth, testified before the Government Operations Committee in January that—

> The problem that we have had with the Defense Intelligence Agency, as I see, is the same problem that we have generally with all intelligence in this Nation. That is, there are weaknesses in the quality of analysis and estimates that our intelligence community provides to us.
>
> I do not think that there is anyone in the intelligence community that would take issue with that.
>
> Our objective is, as far as the DIA is concerned, to very substantially improve the quality of the analysis and estimates that the DIA produces for the Secretary of Defense and the Joint Chiefs of Staff.
>
> If we cannot achieve that objective, then we have got to think of some other way of structuring defense intelligence activity so that we can improve the quality of the finished intelligence product.

Problems with DIA exist despite the fact that DIA's problems have been recognized for a number of years. In 1970, the Fitzhugh report, containing the conclusions of a blue ribbon defense panel organized by the executive branch, criticized DIA's performance, concluding that "the principal problems of the DIA can be summarized as too many jobs and too many masters."

In order to avoid waste and duplication, and improve the quality of intelligence generally, the intelligence committee must have an overview of all national intelligence activities. It must be able to make choices between programs within and outside of DOD and to make changes in the way all the agencies operate and are organized. Without authority over DOD's national intelligence activities, the new intelligence committee's jurisdiction would be incomplete in a crucial respect.

The pending substitute to Senate Resolution 400 recognizes that, to be effective, the new committee must have legislative and authorization authority over the intelligence activities of the Defense Department. At the same time, it is written in such a way to protect fully the interest of the Armed Services Committee in intelligence matters.

Under section 3(b) the Armed Services Committee will share with the new committee legislative and authorization authority over bills involving DOD intelligence. Any legislation, including authorizations, reported by the new committee and involving DOD intelligence activities will be sequentially referred to the Armed Services Committee upon request of its chairman.

Section 3(c) of the resolution assures the Armed Services Committee the right to continue to investigate the national intelligence functions of DOD in order to make sure that the intelligence agencies are providing DOD the intelligence it must have to operate effectively.

Section 3(d) provides that the Armed Services Committee will continue to receive directly from all intelligence agencies the intelligence it must have to continue to carry out its other responsibilities. One of the responsibilities of the new committee will be in fact to make sure that the intelligence agencies are promptly providing the other committees of Congress the information they should have.

Section 4(a) requires the new committee to promptly call to the attention of other committees, such as the Armed Services Committee, any matters deemed by the select committee to require the immediate attention of such other committees. Section 8(c) provides the new select committee with the authority and responsibility to adopt regulations that will permit it to share sensitive information with other committees in a way that will protect the confidentiality of the information.

To assure that there is close cooperation between the new committee and the Armed Services Committee, the substi-

tute reserves two seats on the committee for members of the Armed Services Committee.

The substitute does not give the new committee any legislative, authorization, or oversight responsibility for tactical intelligence. Responsibility for this type of intelligence will remain solely within the jurisdiction of the Armed Services Committee.

The new committee will only have jurisdiction over that portion of DOD's intelligence activities which provides national intelligence that DOD, the State Department, the President, and others in the executive branch need to make broad national policy decisions. The definition of intelligence in section 14(a) of the substitute to Senate Resolution 400 specifically excludes from the committee's jurisdiction tactical foreign military intelligence. The new committee will not have jurisdiction over tactical intelligence which seeks to meet the more specific technical interests of the weapons developers and field commanders.

As a practical matter, the national intelligence portion of the DOD budget may be authorized by the new committee, in conjunction with the Armed Services Committee, apart from the rest of the DOD budget.

The distinction between national and tactical intelligence is an accepted one in the executive branch.

The Defense Department already prepares a consolidated defense intelligence program which includes expenditures for intelligence of the type covered by this resolution, but excludes "intelligence related activities which belong in the combat force and other major programs which they are designed to support." The Director of Central Intelligence already prepares a national intelligence budget. Indeed, President Ford's recent executive order gives the executive branch's Committee on Foreign Intelligence—CFI—headed by the Director of Central Intelligence, responsibility to control "budget preparation and resource allocation" for the national foreign intelligence program. The President's directive provides, however, that the Committee on Foreign Intelligence will not have responsibility for tactical intelligence.

The final report of the Church Committee on Foreign Military Intelligence similarly indicates that it also was able to separate national from tactical intelligence and to arrive at separate figures for each.

Distinction between the different types of intelligence are in fact already being made for Congress by the Department of Defense as part of the budgetary process.

In September 1975 the chairman of the House Appropriations Committee wrote the Secretary of Defense as follows:

> The committee is concerned about apparent attempts to lessen the visibility of intelligence funding. Therefore, the committee directs that the 1977 budget presentations include manpower and dollar amounts for intelligence, direct support, and intelligence-related activities.
>
> The committee insists that the total cost of intelligence be presented to the Congress, and by requiring submission of justifications for these programs the committee hopes to assure the accomplishment of this goal.

Mr. Ellsworth testified before the Government Operations Committee concerning this letter that,

> The Defense Department and agencies are following this directive and are supplying to the committee a thorough justification of intelligence and intelligence-related activities in the fiscal year 1977 budget.

Mr. Ellsworth indicated that in the material being prepared for the House Appropriations Committee, the Defense Department was in fact attempting to distinguished between tactical and national intelligence despite, his testimony that the distinctions were difficult to make precisely.

In discussing Senate Resolution 400 before the Armed Services Committee last Thursday, Mr. Ellsworth did not argue that it was impossible to authorize separately the type of national intelligence activities covered by Senate Resolution 400.

There may be gray areas where it is difficult to decide whether a particular activity belongs to tactical or national intelligence. It may take the new committee several years to finally settle, in consultation with other interested committees and the executive branch, the precise dimensions of the budget.

But these technical budgetary issues can be removed. The Comptroller General wrote the House select committee November 10, that—

> Once the Congress has outlined the activities which it wants identified and reported in the intelligence budget, it will be possible to establish guidelines for the executive branch to follow in developing and submitting the budget.

The responsible committees of Congress have every right to know as exactly as possible how much DOD spends on intelligence. To the extent that this information is not available now, it should be one of the first jobs of the new committee to work with the executive branch to make sure it is available in the future.

The fact that it may take some study and work to settle all the questions is no reason to deny the new committee the crucial authorization power it must have to exercise effective oversight.

In summary, the proposed substitute to Senate Resolution 400 will assure the Armed Services the ability to have access to intelligence information, and the ability to consider legislation, including authorization legislation, involving DOD intelligence. The resolution creates a new committee that can work with the Armed Services Committee in this area so that the time-consuming and difficult work necessary to oversee the intelligence committee will not have to fall on the Armed Services Committee alone.

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

Mr. RIBICOFF. I am pleased to yield.

Mr. TOWER. I would like to suggest to the Senator from Connecticut that the Stennis-Tower amendment does not touch the question of oversight, only the question of legislation. It is addressed only to the legislative section of the resolution and not on the question of oversight.

It does not take away the authority for oversight on the part of the new select committee.

Mr. RIBICOFF. That may be true.

Mr. TOWER. The power to subpena or what have you.

Mr. RIBICOFF. But in order to do this job, and do it properly, we do believe that it is important that the new committee share with the Armed Services Committee the legislative functions involved, and I believe that this can be done. It should be kept in mind that we have provided for sequential review in such cases by both committees.

What puzzles the Senator from Connecticut is the hesitancy by the Armed Services Committees to really trust the remainder of the Senate in this way.

It has been provided in the Cannon substitute that 8 members of this committee will be taken from Armed Services, Foreign Relations, Appropriations, and Judiciary.

These are four committees that in the past have had jurisdiction—legislative jurisdiction, oversight jurisdiction, of the intelligence community.

What we are doing is adding seven more members to the committee, four from the majority and three from the minority. These seven men will be chosen by the majority and minority leaders. I, for one, have complete confidence and trust in the majority and minority leaders. My feeling is that these seven men will represent a cross section of the Senate, especially the younger men of the Senate, who have just as much of a stake, and whose integrity I have just as much confidence in, as I do the eight members from the other committees.

I have high respect for the distinguished Senator from Mississippi. There is not another Member of this 100, may I say to the Senator from Mississippi, for whom I have a higher respect and higher regard. I think the Senator from Mississippi appreciates that from the past experiences we both have had. I have complete faith in him.

On the other hand, I think the Senator from Mississippi and the Senator from Texas should realize that there are other Members who have arrived in recent years, some of the most able Members this body has ever had, and who are as deeply concerned and as deeply committed as the senior Members of this body.

Consequently, I think it is absolutely necessary, in order to have the complete support and complete confidence of the Senate in basic decisions that will be made in the future, that the committee have 15 members, with 7 members chosen from the Senate at large and 8 from Appropriations, Judiciary, Foreign Relations, and Armed Services.

Mr. President, at this time, on my time, I would like to accord the distinguished Senator from Georgia a colloquy on some problems that are bothering him as a member of the Armed Services Committee. I think the colloquy will clarify some of the questions that other members of the Armed Services Committee do have.

Mr. NUNN. I thank the Senator from Connecticut. I express my gratitude and appreciation as a Member of the Senate to the Senator from Connecticut and the Senator from Illinois, on the Government Operations Committee, and to the

Senator from Nevada and the Senator from West Virgina, on the Rules Committee, for all the diligent work which has gone into this.

I really have three separate lines of questioning, but I will start with the question of whether or not there is anything in the pending substitute to Senate Resolution 400 which would require public disclosure in any form of the amount spent on intelligence.

Mr. RIBICOFF. No. Senate Resoluiton 400 creates a new committee and defines its jurisdiction. It does not try to decide the important issue whether the intelligence budget should be disclosed publicly, and, if so, in what form. The new committee is encouraged by section 13(a)(8) to study this issue. I would expect the full Senate to give this difficult issue full consideration after the new committee submits any recommendations it may have on the matter no later than next July 1.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Another question along that line:

When the select committee reports an authorization bill for intelligence funds, how will the full Senate then consider the matter, assuming that the Senate has decided to continue to keep these figures secret?

Mr. RIBICOFF. If the Senate decided to continue to keep the overall figures secret, the process could work this way:

In the case of authorizations for defense-related intelligence activities, any bill reported by the new committee would be sequentially referred to the Armed Services Committee. As in the case of sequential referral of other legislation, there would be no need for full Senate debate prior to this sequential referral. The authorization figure would then be disguised in the DOD authorization bill approved by the Armed Services Committee, as is the case now.

In the case of an annual authorization for the CIA, after the select committee approves an authorization, I would expect that the figure would be disguised in some other authorization measure.

Mr. NUNN. I thank the Senator. I think that is extremely important, and clarifies a point that has been of considerable concern to the Senator from Georgia and I think many other Senators.

Another question along the same line: How would the new committee bring a matter involving the intelligence authorization figure to the attention of the full Senate, assuming the figures are still secret?

Mr. RIBICOFF. In that event, the Senate could invoke the same procedure for a secret session now available to the Senate. Under rule XXXV, the Senate could go into closed session and debate the matter in secrecy, just as they could debate the intelligence budget now in secret session.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on appropriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resolution 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Service Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Mr. NUNN. I thank the Senator. I have another line of questioning on this point: Under present law, the Committee on Armed Services has authorizing jurisdiction over all of the military personnel and all of the civilian personnel in the Department of Defense. The manpower requirements report indicates that there are 42,000 military personnel, 9,500 civilians, and 5,300 reservists in the overall manpower authorization for fiscal year 1976 for the intelligence and security category.

My question is, With the new Intelligence Committee having authorizing jurisdiction over Defense Department intelligence, how would the two committees handle the manpower authorization which relates to Defense Department personnel in general, but also includes intelligence personnel?

Mr. RIBICOFF. Let me respond to the distinguished Senator from Georgia and the distinguished Senators from Mississippi and North Dakota, who are so deeply involved in such matters: This is the type of situation where, in my opinion, it would first go to the Armed Services Committee and then, sequentially, to the Intelligence Committee. You would come first, in my opinion, where the bill is a general Defense Department manpower bill.

The Armed Services Committee would continue to have exclusive jurisdiction over all aspects of the legislation except for the portion affecting national intelligence. The portion of the legislation affecting national intelligence would be reviewed by both the Committee on Armed Services and the new committee, under section 3. It would be up to the new committee and the Armed Services Committee to work out the details on the procedure for actual consideration by both committees of the intelligence portion of this bill.

Mr. STENNIS. Mr. President, will the Senator yield to me and let me intervene on that same point?

If the Senator will yield, I appreciate the suggestion of the Senator from Connecticut, but the bill, as I understand it, provides to the contrary, that it would go to the Intelligence Committee first. Senators will understand that our hearings on manpower start in the fall of the year, before the budget even comes in.

Mr. RIBICOFF. Well, basically it is up to the Parliamentarian, in a sequential referral, on the basis of what is in the bill. If it is basically armed services, it goes to the Committee on Armed Services first. If it is basically intelligence, it goes to Intelligence first. It is my personal interpretation that if it provided for overall manpower, covering the entire Department of Defense, commonsense would dictate—and, of course, the Parliamentarian is the final judge—that that would go to Armed Services first.

The PRESIDING OFFICER (Mr. ALLEN). The allotted time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

It would go to Armed Services first, because intelligence would be only a part of the overall Department of Defense manpower authorization.

Then out of that would be carved out only the intelligence portion, which would then be referred sequentially to the Intelligence Committee.

May I say for the benefit of the Senate that it is my feeling that there are a lot of gray areas in this legislation. It is impossible to answer all the questions. We are going to have to work it out between all the committees and the In-

telligence Committee. All the interested committees will have to exercise a great deal of commonsense.

I would say much will depend upon the quality of that 15-member committee. Also, I think it should be pointed out that the reason why we have a resolution, and the advantage of the resolution, is that a resolution does not bind the executive branch. If this is to work, we will have to have comity between the executive branch and the Senate of the United States. I personally believe that the greatest problem America has today in the matter of foreign policy is not our problem with foreign governments or our prospective opponents, but the divisions between the executive branch and the legislative branch. I think the greatest problem we suffer as a nation in the field of foreign policy is the conflict, we have gone through in the last few years between the executive and legislative branches of the Government in the whole field of foreign policy.

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

Mr. RIBICOFF. I yield myself 2 more minutes.

Here is an opportunity for the Senate and the executive branch to work closely together with the Intelligence Committee, to work out the problems of broad policy, for the executive branch to gain a sense of what the Senate is going to do, and what the sentiment of the Senate is. I can think of no greater blow to the executive branch in our foreign policy than to find our Nation embarrassed over a matter like Angola. If the executive branch had gone before a committee like the Intelligence Committee and had obtained the sense of this 15-member committee that it just would not fly, it would never have developed into such a matter of conflict, to the embarrassment of our Nation.

I have confidence in the majority and minority leaders, that the men they will choose will make this committee work in a way that benefits the Senate and the United States.

Mr. NUNN. Mr. President, may I ask one further question on that manpower matter?

Mr. RIBICOFF. I yield.

Mr. NUNN. It is my interpretation, from what the Senator from Connecticut has said, that the overall manpower authorization, as it is now, would be submitted to the Armed Services Committee, the Armed Services Committee would act on that manpower request, just as it acts on other requests, and then the portion of the manpower proposal dealing with intelligence would be referred to the intelligence committee for their review. Is that correct?

Mr. RIBICOFF. That is the way I interpret it.

Mr. NUNN. If there were a difference between, say, what the Committee on Armed Services authorized in terms of manpower and what the intelligence community authorized in terms of manpower how would that difference be brought to the Chamber?

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

Mr. NUNN. I know the Senate would resolve it. But how would it be brought to the Chamber?

Mr. RIBICOFF. Mr. President, I yield myself 1 additional minute.

I suppose the Senate would have to resolve this as they resolve all other conflicts. There is no difference. The Senate eventually is going to decide, and they will have to make that decision. But again, looking at the makeup of the committee, with eight members coming from basic committees and seven from the remainder of the Senate, and the Committee on Armed Services being well represented by two members, personally I do not think we are going to have any problems. I do not think we are going to be that jealous or that shortsighted in this body.

Mr. NUNN. I thank the Senator from Connecticut.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the distinguished Senator from Nevada, after which I yield to the Senator from Illinois.

The PRESIDING OFFICER. How much time is yielded?

Mr. CANNON. Will the Senator yield me 1 minute?

Mr. RIBICOFF. I yield the Senator 1 minute.

Mr. CANNON. Mr. President, on May 17, 1976, the hearings on Senate Resolution 400, having been concluded, the director of the National Legislative Commission of the American Legion, desiring to express its attitude toward Senate Resolution 400, sent me a letter setting forth a resolution adopted by the National Executive Committee of the American Legion on reaffirming "the American Legion support for a viable intelligence community." In light of the colloquy, just preceded, between Senator NUNN and Senator RIBICOFF, I think it appropriate at this point, and I, therefore, ask unanimous consent that the letter and resolution be printed in the RECORD.

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

THE AMERICAN LEGION,
Washington, D.C., May 17, 1976.

Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: It is my understanding that a floor vote to invoke c'oture on S. Res. 400, to establish a Standing Committee of the Senate Intelligence Activities, will occur later this week.

The National Executive Committee of The American Legion recently met in Indianapolis, Indiana and adopted the enclosed resolution (Foreign Relations Res. No. 23) reaffirming our strong support for a viable intelligence community.

Mr. Chairman, the Legion hopes that you will keep our views and recommendations in mind when the measure is considered by the full Senate.

Your attention to this request is appreciated.

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.

Resolution No. 23.
Committee: Foreign Relations.
Subject: Reaffirm American Legion support for a viable intelligence community.

Whereas, credible intelligence operations are indispensible to any nation's security and deterrence; and

Whereas, there is presently a massive and sustained attack on the American intelligence community which has the effect of discrediting all intelligence operations; and

Whereas, these continuing attacks have already seriously impaired the functioning of the CIA, hampering the collection of worthwhile intelligence by the Central Intelligence Agency, and the CIA is also experiencing great difficulty in gaining cooperation from some foreign intelligence agencies; and

Whereas, without credible intelligence operations, the United States becomes a blinded warrior incapable of insuring even its own survival; and

Whereas, at a time when America's intelligence community has been seriously impaired, the KGB has expanded to an estimated 300,000 agents, domestic and abroad, with close cooperation from intelligence services which it has trained in Romania, Hungary, Cuba and other nations; and

Whereas, leaks of legitimately classified information with profound impact on our national security have become commonplace; and

Whereas, no Congressional oversight of the intelligence community will be effective in the absence of specific statutes concerning the leakage of classified information which affects our national security; and

Whereas, the British Official Secrets Act of 1911, as amended by the Official Secrets Act of 1920, has effectively safeguarded classified information without infringement on civil rights in a free and democratic society; and

Whereas, the U.S. Supreme Court recognized the need for safeguarding classified information in the New York Times publication case when Justices Stewart and White concurred that "it is clear . . . that it is the constitutional duty of the executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense;" and

Whereas, it is obvious that executive orders and regulations alone can no longer control the unauthorized release of classified information; and

Whereas, the U.S. Congress faced and responded to similar situations, namely the enactment of 50 U.S.C. 783(b), 18 U.S.C. 798 and the Atomic Energy Act; and

Whereas, in the Scarbeck case, the Court of Appeals of the District of Columbia pointed out that the Congress fully intended to permit a prosecution without violating the same national security that 50 U.S.C. 783(b) was designed to protect; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 5–6, 1976, that we reaffirm our support for a viable intelligence community which adequately advises the U.S. Congress of its major activities and one which operates within the current statutes and safeguards; and, be it further

Resolved, that we support enactment of federal legislation which would clarify and strengthen the safeguarding of classified information, and would provide formidable penalties for violation of its provisions; and, be it further

Resolved, that this legislation must recognize fully the spirit of the Scarbeck case, namely that prosecution under the act should not violate the same national security that the statute was designed to protect; and, be it further

Resolved, that this legislation should clearly prohibit the classification of information which does not affect the national security of the United States.

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

Mr. RIBICOFF. I had yielded to the Senator from Illinois.

Mr. PERCY. Mr. President, I am happy to yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Douglas Racine and Herbert Jolovitz of my office staff be accorded privilege of the floor during consideration and votes on Senate Resolution 400.

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

Mr. PERCY. Mr. President, the Senator from Connecticut wishes to have a 3-minute colloquy and ask a few questions at this point. The Senator from Illinois wishes about 10 minutes sometime before 1 p.m. I think we have held the floor, and the proponents of the amendment may wish to have time now.

I am happy to defer my comments until afterwards, depending on the wishes of the Senator from Mississippi.

Mr. RIBICOFF. Mr. President, I yield to the distinguished ranking minority member as much time as he wishes.

Mr. MUSKIE. Mr. President, will the Senator yield me 3 minutes?

Mr. RIBICOFF. I yield 3 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I have a more complete statement covering my support of the compromise resolution, but in light of the colloquy which has taken place between the distinguished Senator from Georgia (Mr. NUNN) and the distinguished floor manager of the bill, part of which related to the budget process, I shall make some brief observations on it from that point of view.

Mr. President, I rise and support the establishment of a new Senate committee with legislative jurisdiction over the national intelligence community.

Senate Resolution 400, as favorably reported by the Committee on Government Operations, would have created such a permanent committee. The substitute reported by the Committee on Rules and Administration would not have established the kind of committee that the times demand. The compromise amendment (No. 1643), proposed by the two committees, would set up a new select committee with sufficient authority to exercise those responsible uses of power that are required.

As the American people now know so well, Congress 40-year informal method of overseeing the activities of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and other agencies involved in domestic and foreign intelligence has been careless and ineffective. Their host of intelligence agency abuses, violations of the law, covert operations, and infringements on civil liberties—without the knowledge of Congress—has been revealed by the Rockefeller Commission and the Senate Select Committee on Intelligence Activities.

The Senate must take the lead to start anew in fulfilling the constitutional role of controlling the Nation's purse strings and formulating national policy. Vigilant legislative oversight over the intelligence activities of the United States is very much in order to assure that such activities are in conformity with the Constitution and the laws of the land.

From the Budget Committee's viewpoint, a new select committee with jurisdiction over the national intelligence budget on an annual basis fits right into the congressional process of analyzing and controlling the budget.

The aggregate outlay of the various intelligence agencies is significant. At this time, Senate committees deal with parts rather than the whole. Intelligence spending is not looked at in terms of national priorities or priorities within our foreign-defense policies. "Neither the Armed Services Committee nor any other committee has the time, because of its other duties, or the necessary overall jurisdiction to attend to the Nation's intelligence system," Senator CHURCH testified before the Committee on Rules and Administration. He added that—

The executive budgets for, and organizes and directs the national intelligence effort in a way that draws together the various components, and unless the Congress establishes a committee that can do the same, it will continue to fail in its oversight responsibilities.

Section 3 of Senate Resolution 400, as amended, would provide for periodic authorization of appropriations for the CIA and other intelligence agencies. Each March 15 that committee would submit a report on intelligence spending for the forthcoming fiscal year to the Senate Budget Committee. This is what every authorizing committee does now, in accordance with section 301(c) of the Congressional Budget Act of 1974. Section 4(c) of the compromise resolution reads:

On or before March 15 of each year, the select committee shall submit to the Committee on the Budget the Senate views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

Reports to the Committee on the Budget would be received and handled in a manner consistent with the protection of national security.

It seems to me that the colloquy between Senator RIBICOFF and Senator NUNN covers this point very well, from my point of view.

Another aspect of the legislative process involved here is helping to restore Congress role as a coequal branch of Government. I agree with the "Minority Views" statement set forth by Senators PELL, WILLIAMS, CLARK, and HATFIELD in the Rules Committee report:

In failing to adequately control the activities of the intelligence agencies abroad, Congress, in effect, has appropriated funds without knowing how they would be spent by the executive to carry out foreign policy objectives. Without the knowledge or approval of the full Congress, the CIA has received funds to carry out paramilitary operations in Chile and Laos and assassination attempts against a number of foreign leaders. At the same time, Congress has refrained from demanding access to vital intelligence information concerning matters of foreign policy upon which it is called to act.

By establishing an effective oversight mechanism, Congress can assert its right to essential information and begin to define the proper limits of secrecy in a democratic society.

A Select Intelligence Committee in the Senate with authorizing powers is essential. This committee must have primary authority to consider and act on the annual budgets for the intelligence agencies within its jurisdiction. By controlling the purse strings, the select committee and Congress will have restored its rightful role in directing America's future intelligence activities—and America's future.

I thank my good friend from Connecticut for yielding me this time to support him in his efforts and to compliment him on the effective way in which he has handled this issue and the problems connected with it.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. WEICKER. Mr. President, I have a question which I intend to direct to the amendment.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I address myself to the amendment of the distinguished Senators from Texas and Mississippi.

In the "Dear Colleague" letter they sent out, they said:

The amendment would provide:

1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The rationale is twofold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot overstress the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

The difference I have with the Stennis-Tower amendment is that I think it is absolutely unconstitutional.

I bring to the attention of the distinguished Senators article I, section 9 and that clause which reads:

No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law; and a regular Statement of Account of the Receipts and Expenditures of all public Money shall be published from time to time.

What seems rather unsettling to me is that as men sworn to uphold the Constitution of the United States apparently we have some system or some procedure

that de facto supersedes the very specific requirements of the Constitution. It does not say in the Constitution an account of the receipts and expenditures of all public money except those allotted to intelligence activities. It says all public money, all money.

And as much as I appreciate the thrust of the comments in the Chamber, which is to try to keep these moneys from public view, it seems to me that, if that is what they desire to have accomplished, then I suggest a constitutional amendment. But to me the duty placed on us in this body, in the legislative branch, and the executive branch, is very clear, as mandated by the Constitution of the United States, regardless of what the process has been in the past, and the process has been a direct violation of the Constitution of the United States.

I ask either the Senator from Texas or the Senator from Mississippi as to whether or not they feel that the way matters have been handled in the past, in fact, is an exception to this requirement of article I, section 9?

Mr. TOWER. Mr. President, I shall respond to the Senator from Connecticut. Can he cite any decision of the Supreme Court of the United States that has held that our previous procedures in the matter of budgeting our intelligence activities are unconstitutional?

Mr. WEICKER. No, for the simple reason that everyone is perfectly willing to go along with the old system, and that is exactly what is under attack today and has been for many weeks. The old system did not work, it broke down. And that is exactly why the legislation is before the Senate now, and to go back to the old system——

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

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. To go back to the old system invites the disasters that have been revealed during the course of the past year.

But I repeat, I do not care what was done; I am insisting, as I think others are, that the Constitution be explicitly followed, and to me it is not whether we want to obey it or do not want to obey it, the language is very specific:

> . . . a regular Statement of Account of the Receipts and Expenditures of all public Money. . . .

Is the Senator from Texas telling me: Yes; there should be an exception insofar as this public money is concerned? That is all I ask.

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

Mr. STENNIS. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, as I read this provision of the Constitution, I see nothing that requires a line item disclosure of every expenditure of the Government of the United States. It is not done in other departments. In fact, we do publish these figures by generic category. We do not publish everything in a line item way. If we did, we would have to list the salaries of every individual hired by the Government of the United States and the Congress of the United States.

Mr. President, I think it is significant that there never has been a court case on this. Apparently, the people of the United States are prepared to accept the fact that if this country is going to have an intelligence-gathering capability, some things must be kept secret.

The fact is that there is no public outcry for this oversight committee. There is not such an outcry outside of a 50-mile radius of Washington, D.C. We become so inundated when we read the Washington Post and the New York Times, and by what we hear from the network commentators, that we must have the impression that the American people are out there shivering in fear of the vast abuses of the intelligence-gathering community of the United States. Bunk.

There is an anti-Washington sentiment abroad in this land, but it is not focused on the FBI, the CIA, the DIA, or the NSA. It is focused on the fact that we have failed to exercise proper oversight over all agencies, departments, bureaus, boards, and what have you, that intrude themselves on the daily lives of our citizens. If there is a fear of a police state in this country, it is generated by the fact that every American's life is touched by the arbitrary acts of some bureaucrat operating under what he conceives to be or perhaps does not conceive to be a mandate from the Congress of the United States, which has delegated away its legislative authority.

Mr. WEICKER. If that is the response to the question I asked the Senator from Texas, it is a very effective presentation of his case, but it does not respond to the constitutional issues that I raise.

Nobody has asked for a line item budget, but I think the Senator from Texas is well aware that the total intelligence figure never has been released to the American people until the latest hearings came along; and even then, there is a tremendous disparity. The House thinks $9.7 billion; the Senate committee thinks $10 billion. But nobody in the Armed Services Committee has given to the American people the total—never mind line item—of moneys spent on intelligence. Have they or not?

Mr. TOWER. Mr. President, to begin with, there would be great difficulty in separating that which is purely intelligence and that which is not, because there are many agencies of Government that gather intelligence just as an ancillary function to what their line responsibility is. It cannot be separated. You cannot say that this Government employee has spent 1¾ hours in a 40-hour week on gathering intelligence; therefore, we must figure out what percentage of his salary goes into the intelligence budget.

The fact is that there never has been a test of the constitutionality of this. The fact that there is no precedent for holding this to be unconstitutional, in my view, means that what we have done in the past is constitutional, until there is such a test. Again, I think it is significant that there never has been such a test, because no citizen has ever questioned what we have done.

Mr. NUNN. Mr. President, will the Senator from Texas yield?

Mr. STENNIS. Mr. President, I yield myself 1 minute.

I know that the Senator from Connecticut is a mighty good lawyer; but under a strict interpretation of the Constitution as he has advocated, we would have to publish everything every day, and we would not need all these precautions. That would kill the entire resolution, I say respectfully. All the unbroken custom is to the contrary. There are records of every appropriation. It is accounted for. But the law does not require it for the CIA.

Mr. NUNN. Mr. President, will the Senator yield me 1 minute?

Mr. STENNIS. I yield to the Senator from Georgia. The Senator from Connecticut has the floor. I yield to the Senator from Georgia.

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

Mr. STENNIS. I yield 1 minute.

Mr. NUNN. We just went through a colloquy, a minute ago, on the question of revealing the overall budget. It is very plain in the committe bill and in the colloquy I just had with the Senator from Connecticut (Mr. RIBICOFF) that nothing in this bill requires the overall budget to be revealed.

One of the mandates for study by the new committee is to determine how to handle that very question. So under either the Tower amendment or the Cannon substitute, the same question, the constitutional question, that the Senator from Connecticut has raised applies, and it has no bearing, as I see it, on whether the Tower amendment should or should not be agreed to. It is a question that would apply to the Cannon substitute unamended or the Tower amendment if it is agreed to.

Mr. WEICKER. I think the answer is very clear that under the Cannon substitute, the question can be studied, and all our options are available to us; but under the Stennis-Tower amendment, that automatically, by virtue of what we are doing here, cuts us off from ever being able to get those figures and publishing t.em. So there is a definite difference between the two.

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

Mr. WEICKER. I yield.

Mr. CANNON. I think we have to read article 1, section 9, clause 7, together with article 1, section 5, clause 3, which reads:

> Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy . . .

So the two have to be read together. It is obvious that either House can require secrecy as to this part of the budget or other items that may require secrecy. We have to read both those provisions of the Constitution together, I believe.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, will the floor manager of the bill yield me 10 minutes?

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, first, I

shall comment on the colloquy that the distinguished Senator from Connecticut (Mr. RIBICOFF) had with the Senator from Georgia. I found that colloquy extraordinarily reassuring.

The Senator from Illinois has been deeply concerned about unauthorized public disclosure. Certainly, we have no intention or desire—and it is not in the national interest in any way—to have methods that we may use for intelligence gathering on various projects that are undertaken to be revealed publicly simply by someone being able to trace authorized amounts that have been made public.

On the basis of the colloquy that has been carried on, I have come to the conclusion that it is possible to authorize intelligence activities without public disclosure; that you can authorize such sums and explain it in a classified report; that differences can be debated in a closed Senate session and notes taken on a sense of the Senate resolution which can remain secret. The specifics will not have the force of law but will have the same impact as the Senate will be making its decision.

The Senator from Texas (Mr. TOWER) has indicated in his previous comments this morning—if my notes are correct—that the new committee still would have oversight authority even if stripped of legislative authority under the amendment. The point of the Senator from Illinois, in response to that, is simply this: A committee without legislative authority but only with oversight responsibility means that a committee's only recourse is public disclosure. It really has no legislative remedy.

In response to the comment of the distinguished Senator from Texas (Mr. TOWER) that no one outside a 50-mile radius of Washington cares about this matter, that no one cares about it other than those who read the New York Times and the Washington Post, I respond by saying that is not true in the State of Illinois. It is not true in the State of Indiana, where the Senator from Illinois has been recently. It is not true in a number of areas that can be testified to by the editorials that are available. The entire country is looking to Congress now to find a way to have effective oversight. They are counting on us.

Mr. President, I ask unanimous consent to have printed in the RECORD, as quickly as I can obtain it, an editorial from the Chicago Tribune, and the San Francisco Chronicle that evidences that deep concern with respect to the practices of the past and the expectation that the U.S. Senate is going to deal with this issue.

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

HARNESSING THE CIA

The essence of President Ford's reorganization of the foreign intelligence services lies in the focusing of responsibility on the President and on a three-member oversight board which will receive continuing reports on all intelligence activities and will report directly to the President.

The other changes and restrictions, sound though they may be, will be only as effective as the President and the oversight board make them. It is impossible, after all, to foresee all of the methods an intelligence agency might use. Mr. Ford's restrictions cover only a few of the more common or shocking tricks of the spy trade that surfaced during last year's hearings; planned assassination of foreign leaders, illegal opening of the U.S. mail, infiltration of domestic groups, and so on. Next time it could be something entirely unforeseen.

The past time of the CIA were committed under a system of supervision so loose as to be nonexistent. Vague suggestions from the White House were translated into sinister plans and activities which, in many instances, the President didn't want to know about and would never have specifically approved. The new system will work only if the President and the oversight board use their judgment as well as the rules in determining what activities are justified and what are not.

The highly controversial question that remains is how deeply Congress will become involved. It is quite proper and indeed essential that Congress be represented in the mechanism for overseeing intelligence operations. It always has been, through the agency of certain committee chairmen. That things got out of hand under the old system was as much the fault of these congressmen as it was of the executive branch.

Mr. Ford's proposal is that Congress create a joint intelligence committee to be kept fully informed of all intelligence activities. This would be better than the old system in that it would provide a more formal and systematic means of supervision. The question is whether the committee members would have the necessary maturity and proved discretion, and whether the committee's activities could be kept totally free of politics, which would be essential if the haggling and leaks of the recent House Intelligence Committee are to be avoided.

These are big questions. Already some Democrats are referring to Mr. Ford's changes and proposals as a "first step" in the "reform" of our intelligence operations. What are the next steps? When some of them say "reform," we're afraid they really mean "emasculation" by indiscriminately publicizing every activity that they happen to disapprove.

A good illustration is the decision of the House to consider holding CBS correspondent Daniel Schorr in contempt for the recent publication of the intelligence committee's report. We don't defend Mr. Schorr's behavior for a minute, as we've already made clear. But the duty to protect the secret information was not Mr. Schorr's; it belonged to the members and staff of the intelligence committee. It was they who violated their trust. It is they who should be identified and punished. Yet, so far, the House seems more interested in looking elsewhere for its villains.

Obviously Mr. Ford is right in wanting Congress to patch up its own leaks before it is made privy to any more secrets.

Most members and employes of Congress, we're sure, can be trusted. The trouble is that it takes only one leak to do the damage. So before scrambling for a place in the line to receive further CIA secrets, we suggest that congressmen move slowly—first by demonstrating a willingness to impose the same restraints on themselves that they want imposed on the CIA and that the President wants imposed on employes of the executive branch, and then by setting up a committee like the one Mr. Ford has proposed and making certain that its members and staff are of the highest caliber available.

NEW OVERSIGHT FOR THE CIA

A permanent new committee with authority to oversee U.S. intelligence activities seems likely to come into being thanks to a compromise worked out in the U.S. Senate. The committee will have 17 members with a nine-year limit on length of tenure. Most importantly, it will have purse-string control over the CIA.

The whole question of placing a legislative rein on intelligence work is a touchy and debatable one due to the nature of covert activities. Spreading authority too widely and allowing too many persons to be "in on the know" removes the essential element of secrecy, as has been shown by widespread leaks from congressional panels investigating our intelligence structure.

This power to limit the CIA's budget and thus its activities was a key element of the compromise worked out between the Senate's old guard and more reform-minded members. At one point Nevada Senator Howard W. Cannon's rules committee had voted to give the new committee no law-making or budgetary authority. Its present posture, however, gives it most of the policing powers originally recommended by the now-defunct Church committee that looked into illegal activities by our spies.

Everything will depend, of course, on the selection of Senators for the committee who can keep their eyes open for intelligence abuses but their mouths shut while they're being dealt with.

Mr. PERCY. Mr. President, the question comes up as to whether or not a consolidated committee is desirable and whether or not defense intelligence should be included. My point simply is that because of the interlocking character of intelligence, the President's Executive order puts the DCI over all intelligence, including national intelligence, but excluding tactical intelligence.

The compromise substitute offered by the distinguished Senator from Nevada (Mr. CANNON) does exactly the same thing. The administration, as I understand the testimony that witnesses gave, supports the concept of placing all intelligence in one committee. The administration made it clear that to avoid the proliferation of testimony which Mr. Colby said consumed, in 3 years, 60 percent of his time, leaving him only 40 percent of his time to administer the Central Intelligence Agency, it would prefer a joint committee. But they have made it clear that if it is the wisdom of the Senate and the House to decide on separate committees, that is our decision. And it is the decision of the Committee on Government Operations, the Committee on Rules, and the compromise group that have worked together that the Senate of the United States should establish its own committee.

I wish to read to my distinguished colleagues the words of Mr. George Bush, Director of the Central Intelligence Agency. Mr. Bush said:

The Central Intelligence Agency welcomes strong and effective congressional oversight. We have a great deal to gain from it. We gain the advice and counsel of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain the support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services, through effective executive and congressional oversight.

Good oversight will insure that the intelligence agencies operate as the government—and the Nation—wish them to. But in establishing this accountability; I believe the Congress must also insure that oversight enhances, rather than hinders, the vital operations of our intelligence agencies.

Certainly, the Senator from Illinois has been deeply concerned about this. I have

been satisfied that the compromise resolution takes that into account.

I close the quotation from Mr. George Bush by quoting this sentence:

> And so I urge concentrated oversight.

What he does not want is fractionalized oversight. The Director of Central Intelligence would like to have effective, meaningful oversight, but concentrated oversight.

I turn to the testimony given before the Committee on Government Operations. I wish to point out several prominent people who have testified, first from the Senate itself. Senator MANSFIELD emphatically believes in the creation of a new committee that would provide consolidated oversight. Senator CHURCH said:

> We need a new committee. The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well-staffed committee directing all of its attention to the intelligence community.

Senator BAKER favors a new committee. He said:

> The greater good would be the prompt creation of a new standing Senate committee on intelligence oversight, even if this leaves to another day resolving the questions of prior notification of sensitive operations and the authority of the Senate to disclose classified information.

In all fairness, I would like to point out that our distinguished colleague from Texas (Mr. TOWER) did come in and testify. He opposed the creation of a new committee. Senator TOWER made it clear that he wants to leave reforms to the existing standing committees. But certainly, the Committee on Rules and Administration and the Committee on Government Operations overwhelmingly decided that that course was not one that we would recommend that the Senate follow.

Secretary Rusk testified. He testified that he was shocked to find, as Secretary of State, how many things were being done by intelligence agencies, not under his direct, day-by-day jurisdiction, but that involved foreign policy. He was shocked later, when he left office, to find how much had been carried on. He also stated very clearly to us that he would like to see a committee as quickly as possible.

Former Attorney General Katzenbach favors a new committee.

David Phillips, the president of the Association of Retired Intelligence Officers, stated that 98 percent of his membership favors some form of a new committee.

Mr. Colby, the past Director of CIA, said that he is in favor of "'a new committee with exclusive jurisdiction for the oversight of foreign intelligence."

McGeorge Bundy, former Assistant to the President for National Security, favors a new committee.

Mr. John McCone strongly urged a new committee.

Mr. Clark Clifford, former Secretary of Defense, favored a new committee.

Mr. Richard Helms said, "It is up to the Congress whether or not to have a new comimttee," but he thinks a committee would be an improvement.

So, overwhelmingly, it seemed to the Senator from Illinois, and unanimously to the members of the Committee on Government Operations, a new committee was needed and is necessary. On whether defense intelligence should be included or not, we came to the unanimous judgment in the Committee on Government Operations, on a vote of 16 to 0, that it should be included. DIA plays a role in covert actions—for example, the Schneider killing during the Chile Track II operation. Army counterintelligence was found spying on innocent Americans, bugging, taping, and opening mail.

As I pointed out before, the 5th Army was discovered performing intelligence operations—following the activities and keeping dossiers on such distinguished Illinois citizens as my distinguished colleague, Mr. ADLAI STEVENSON, who I presume was just as shocked as anybody else to learn that he and many prominent people were being followed by the 5th Army and dossiers were being kept on them. Obviously, it has been revealed by our own intelligence committee how much spying on innocent Americans was engaged in without proper oversight.

Military clandestine intelligence activities were supervised by the CIA. When we consider that only half of what the CIA spends comes from its own appropriations—the other half comes out of Defense appropriations through transfers or advances—certainly, it is desirable and necessary, I think mandatory, to include defense intelligence.

The question can be raised, what would the compromise substitute do to the jurisdiction of the Committee on Armed Services? The compromise would give the new select committee concurrent jurisdiction over major intelligence agencies of national importance, NSA and DIA. It would also have concurrent jurisdiction over joint defense-CIA programs and over clandestine military intelligence activities now supervised by the CIA.

The Committee on Armed Services would continue to have jurisdiction in this area and would continue exclusive jurisdiction over the bulk of tactical military intelligence. It is not impossible, as has been pointed out, to sort out these national intelligence elements from the defense budget. We have identified the relevant program elements.

The new Committee on Foreign Intelligence is charged with this task and with the responsibility for a national intelligence budget.

Certainly, the members of the Committee on Armed Services have a perfect right to ask this question: Will they, in the grave responsibilities that they have assumed and undertaken and have so ably carried out for so many years for the defense and security of the United States of America, be able to fulfill that function if they do not have the legislative authority over defense intelligence?

Certainly, the bill that is before us, the compromise version before us, in every conceivable way guarantees and insures that the end product of intelligence shall always be available to the Committee on Armed Services. There are not any ifs, ands, or buts about that assertion. Everybody in this body will know and recognize that they must have that, and the concurrent responsibility that they have over the defense budget seems to have been worked out in the compromise in such a way that I hope the majority of our colleagues today would defeat the pending amendment.

Mr. STENNIS. Mr. President, will the Senator yield briefly on this point?

Mr. PERCY. Would it be possible for this Senator to yield the floor to the distinguished Senator from Mississippi so he can speak on his own time?

Mr. STENNIS. I want to ask a question on my own time, if I may have 1 minute, Mr. President, on my time.

The Senator from Illinois used the term, "concurrent jurisdiction," and referred to the Armed Services Committee having concurrent jurisdiction. I do not believe the language will support saying that this resolution gives the Committee on Armed Services concurrent jurisdiction.

That means concurrent as to time, reference, and so forth. It permits the Armed Services Committee, as I see it, to obtain this matter, whatever the pending matter would be.

Mr. PERCY. I would like to have my distinguished colleague from Connecticut answer it, and then I would like to follow it with my own interpretation.

Mr. RIBICOFF. May I say to my distinguished colleague the word used is not entirely correct. It is not the intention by this resolution to put concurrent jurisdiction in the Intelligence Committee and the Armed Services Committee. We specifically call it sequential jurisdiction, not concurrent.

Mr. STENNIS. Mr. President, will the Senator define sequential as compared to concurrent.

Mr. RIBICOFF. Well, concurrent means both committees have jurisdiction at the same time. My understanding is depending on where the thrust is that one committee handles the matter first, as I discussed in my colloquy with the distinguished Senator from Georgia, and after the first committee completes action, it then goes to the other committee sequentially for a period of 30 days, to give them an opportunity to act on the matter that cuts across the jurisdiction of both committees.

Mr. STENNIS. Mr. President, if the Senator will yield 1 minute further on my time, the Senator's interpretation though would be to say the Parliamentarian would refer this matter first to the intelligence committee——

Mr. RIBICOFF. No, it depends—not necessarily.

Mr. STENNIS. No sequential reference.

Mr. RIBICOFF. If the matter is purely an intelligence matter it would go to the intelligence committee first. But if the matter is not predominantly an intelligence matter it would go to the Armed Services Committee, the Judiciary Committee or the Foreign Relations Committee, and it then would be sequentially referred to the intelligence oversight committee to consider only that portion that involved intelligence.

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

Mr. STENNIS. Yes, I yield to the Senator from Illinois. The Senator from Connecticut thinks concurrent jurisdiction is not the term that applies.

Mr. RIBICOFF. That is correct.

Mr. PERCY. The interpretation of the Senator from Illinois is exactly the same.

I would only like to add this comment: The Senator from Mississippi and the members of the Armed Services Committee are among the most overworked Senators in the Senate.

What the Senator from Illinois would hope would happen is that a tremendous burden of responsibility for a lot of follow-through on details in intelligence would now be taken over and assumed by the Select Committee on Intelligence Activities, providing to the members of the Armed Services Committee an assurance that the details of those programs have been looked to.

Thirty days would be available for another sequential look at it by the Armed Services Committee. But they have the assurance that 15 of their colleagues have spent months looking at these programs, and they can concentrate on their main job, which is providing for the national security of the United States, having available to them all the product of intelligence but not the necessity of overseeing all details of these programs, the ramifications of which are now apparent for all of us to see.

Mr. PASTORE. Mr. President, if the Senator will yield 5 minutes to me on this bill——

Mr. RIBICOFF. I would be pleased to.

Mr. President, how much time remains on each side?

The PRESIDING OFFICER. There are 34 minutes remaining on the side of the Senator from Connecticut, and 52 minutes remaining on the side of the Senator from Mississippi.

Mr. RIBICOFF. I would hope that after the time taken by my distinguished colleague from Rhode Island, the Senator from Mississippi will use some time. I am very anxious to give some time to the Senator from Kentucky, but my time is running out fast.

Mr. PASTORE. Mr. President, first of all, I congratulate the chairman and the members of the committee for the expeditious way in which they have handled this very important legislation. My regret at the moment is that apparently we have drifted into the sensitive question of committee jurisdiction.

We must remember, Mr. President, that what we are dealing with here now is not the composition of the committees today or the sensitivities of the various Members. What we are dealing with here today is the matter of how do we resolve this very important question that now confronts the Congress of the United States in a way that is for the public benefit.

I realize that in an open society it is always difficult to justify secrecy, living in the kind of a world we live in today. Realizing that we do have strong adversaries who would take us over in a moment if they have a chance, who conduct themselves in a secret way that goes far beyond what we have ever exercised in this country, we had better beware of what we do.

Now, Mr. President, this question came up in 1945 when the first atomic weapon was exploded, and the serious question was: What are you going to do about it? What are you going to do about it? Are you going to put it under civilian control or are you going to leave this destructive weapon under the sole control of the military?

The Congress of the United States went on record creating a joint committee.

It is regrettable that we cannot create a joint committee in this area, but maybe in time that will be accomplished. For the time being, something needs to be done, and there is not the concurrence at the moment between the Senate and the House that could bring about a joint committee, although ultimately that is the prime and the ultimate answer to this problem.

Now, what are we confronted with here? Under the Joint Committee on Atomic Energy it is written in the law that that committee must be fully and concurrently informed of all activities. If the decision of what the actions of the CIA should be will be left up to the Congress I would be against it. I would absolutely be against it because CIA comes under the jurisdiction of the National Security Council. But if all this amounts to is the fact that, like the Joint Committee on Atomic Energy, where we have not had one single leak from the time it was created, where we have been continuously, completely and currently informed by the military, by the civilians and by everybody else, if you are accomplishing this, I am all for it in this legislation, and that is the question I am going to direct to the chairman of the committee. If this legislation means that before the CIA can do anything they have to come up here and get permission of 5, 6, 10 or 15 Members of the Senate, I will be against it. But if it means that whatever they do from the moment they begin to do it they have to come up here and tell the committee, then I am all for it, and that is the question I would like to ask at this moment.

Is this putting the approval of the activities of the CIA in the control of Congress or is it merely giving Congress the authority, and mandatory upon the agency, to report everything that they do the minute they do it?

Mr. RIBICOFF. May I say that in devising this legislation we relied extensively and heavily on the experience of the Joint Committee on Atomic Energy. Under no circumstances is it the intention that this committee is going to tell the CIA or any other intelligence agency how to conduct its business on a day-by-day basis.

Section 11 says:

It is the sense of the Senate that the head of each department and agency of the United States should keep the Select Committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of or engaged in by such department or agency; provided, that this does not constitute a condition precedent to the implementation of any such anticipated intelligence activities.

Mr. PASTORE. That is taken out of section 211 of the Atomic Energy Act.

Mr. RIBICOFF. That is right. May I say we relied completely on the joint committee's experience.

Mr. PASTORE. Under that provision I cannot see how anybody can object to it because even in atomic energy or atomic matters the Armed Services Committee has a right to inquire. Actually they have a right to inquire and they do inquire. But, after all, there has to be a committee constituted by Congress to which these people are responsible, that the minute they undertake something they have to come up and tell the Congress.

Mr. PERCY. Mr. President, will the Senator from Rhode Island yield for a comment on his remarks?

Mr. PASTORE. I do not know how much time I have. I wish they had given me time to yield.

The PRESIDING OFFICER. The Senator has 1 more minute.

Mr. PERCY. One minute, if the Senator from Rhode Island will yield. The question he put was an extraordinarily good one, and one that perplexed the members of the Government Operations Committee throughout the course of the hearings. There was a body of feeling that this committee, if it were to be effective, should have prior approval, authority, and responsibility.

The Senator from Illinois from the outset was adamant that the Senator from Illinois would work against the creation of a new committee, and would fight it right down the line, if we started to move in and take over the responsibility of the executive branch of Government.

Mr. PASTORE. I am glad to hear that.

Mr. PERCY. We lose our oversight then.

Certainly, in discussing this with the President of the United States, he has agreed that the options, the problem and the various approaches would be committed to writing. It would be signed by a top officer. The President said, "by myself in extraordinary cases."

It would be available for oversight and for a study by the oversight committee, but we cannot become a part and parcel of the day-to-day decisions.

The PRESIDING OFFICER. The time has expired.

Mr. PERCY. And the judgment and experience of the Joint Atomic Energy Committee has been extraordinarily helpful.

Mr. PASTORE. I am glad to hear it.

Mr. STENNIS. Mr. President, I am glad to yield 15 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of amendment 1649, authored by the distinguished Senator from Texas, Mr. TOWER, and cosponsored by the chairman of the Senate Armed Services Committee, Mr. STENNIS, and myself, the ranking minority member of Armed Services.

This amendment would, in effect, remove from the proposed Select Committee on Intelligence the joint jurisdiction over the Department of Defense Intelligence Agencies. These would include the intelligence programs of the three sep-

arate services and the Defense Intelligence Agency and the National Security Agency.

It might be well to offer an initial and brief explanation of the activities of the agencies addressed in this amendment.

1. DEFENSE INTELLIGENCE AGENCY

The Defense Intelligence Agency is directly responsible to the Secretary of Defense and is the focal point of the military intelligence community. It maintains a balance in assimilating and analyzing the intelligence gathered by the separate military departments as well as its own efforts, all designed to enables the Secretary of Defense to act wisely on requests and programs of the military intelligence community.

2. NATIONAL SECURITY AGENCY

The National Security Agency deals with national or strategic intelligence and its collection and production apparatus serves not only the military, but other agencies of the Government such as the State Department and Treasury Department. The NSA is also the principal source for the National Security Council and ultimately the President because its work goes beyond strictly military applications. It is charged primarily with much of the electronic apparatus used in intelligence gathering.

3. SERVICE INTELLIGENCE

In addition, each of the three military departments has a limited intelligence apparatus which is directed primarily in those areas of concern to the particular department.

For instance, the intelligence service of the Air Force is targeted on foreign military aircraft and foreign activities related to the air power while the Navy's intelligence apparatus is concerned with intelligence gathering submarines and estimates of capability of the Soviet and other foreign navies.

Mr. President, the definition of the work of these military agencies shows this amendment is not a capricious effort to dilute the strength of the proposed select committee. It represents a well thought out proposal upon which I feel there is a solid basis for support. This amendment deals strictly with military intelligence by military or DOD agencies. It does not involve the Central Intelligence Agency. Therefore, I would like to list some points which I feel in support of adoption of amendment 1649.

1. OVERLAP WITH SERVICE BUDGETS

It will be extremely difficult to separate the expenses of the separate military departments from the defense budget and present it as a separate request to the select committee. It is now more an estimate, but if dealt with exclusively by a single committee, the problem of cost identification becomes most complex.

Practically all of the intelligence activities of the military departments are performed by military personnel. In any one fiscal year, an individual may be on an intelligence assignment for only a portion of that year. He may be in a school in which only a portion of that period of training involves his intelligence duties. How does one decide how much of his salary should go in the intelligence budget? How much of his training should be charged to the intelligence budget? How much of the support he receives in the way of vehicle use, air transportation, secretarial support would go into the intelligence budget?

These examples illustrate the difficulty in separating military intelligence activities from the defense budget.

Furthermore, there are certain intelligence support activities which do not require authorization, but are dealt with only as to appropriations. Here again we have the problem of separating these activities and in so doing, we come back to the often-stated problem of more disclosure and ultimately more danger to our intelligence people and the effectiveness of their missions. Before closing on that point, I would like to cite a few examples.

NAVY EXAMPLE

For instance, when a submarine goes out on a mission, a part of its work may involve intelligence gathering. However, it will have other missions and how DOD can separate the costs and expenses in such a situation is beyond my comprehension.

AIR FORCE EXAMPLE

As another example, one might take the case of a pilot flying an intelligence mission in a military aircraft. How much of the cost of the aircraft, his salary, or support costs would be charged to intelligence? This plane may be used once or twice a year on intelligence missions.

Also, our committee will still have authorization over research and development programs involving intelligence. Do we have to clear our actions with the select committee? The bill language is not clear on this point.

These are but some of the problems in separating such budgets. Others will reveal themselves if this separation is required by the Senate.

2. DISCLOSURE

Mr. President, there is no doubt in my mind that to support this new committee of 15 members and a staff whose size is not defined in this bill, will require much more disclosure on the simple basis the information is being spread among a greater number of people.

Here again we are putting another layer on top of the four responsible Defense committees and the very separation of the intelligence operations from defense operations is going to lead to much, much greater disclosure.

3. IMPROVING MILITARY INTELLIGENCE

Mr. President, this step, in my judgment, in no way improves military intelligence. It may well have just the opposite effect by making intelligence work less attractive for our more qualified people because of the threat of disclosure which results by proliferation of data.

There is nothing apparent to me in this bill which improves military intelligence. It merely inserts another layer of authority. The Senate must realize that those abuses in the past would be better corrected by passage of new laws rather than new layers of legislative oversight and authorization. I certainly favor strengthening the oversight of the past, but when a President tells the Army to augment the Secret Service at a political convention, the Army can hardly be blamed for obeying that order. Oddly enough, these orders were never revealed, even to the Joint Chiefs nor to the Congress so it would appear to me that a law to control the Chief Executive would answer this issue if such is the will of Congress.

4. ADDITIONAL EXPENSES

Also, it seems every time some problem arises in Government the solution is to reorganize, insert another layer of supervision, add 50 more GS–18's in the executive branch, set up a new committee in Congress with a large staff, and in general, throw money at the problem.

The fact is that allowing the select committee authorization and legislative jurisdiction over the Defense intelligence activities will mean that these agencies will have to add to their personnel strength in order to respond to the requests for information and data which will be forthcoming from these new layers of supervision.

The Senate appears to ignore the point that the abuses and problems of the past few years in military intelligence agencies represent only possibly 2 or 3 percent of the entire intelligence effort. Yet we are restructuring the entire authorization program in an attempt to deal with a problem representing only 2 or 3 percent of the total effort. These problems could be dealt with by laws to prevent such abuses rather than an attempt to manage military defense intelligence agencies. Military intelligence will no longer be an arm of the executive branch, but rather an arm of the Congress.

5. COORDINATION WITH HOUSE

Mr. President, another point favoring this amendment is that the best information available to me indicates the House of Representatives plans to demand from the Executive that the intelligence budget be submitted as in the past. This raises another problem in establishing a select committee in the Senate, especially when DIA, NSA and other military intelligence activities are involved. The CIA, being a civilian agency not answerable to DOD, could possibly be separated from the defense budget, but I fail to see how the military agencies could be realistically separated.

In summary, Mr. President, this amendment should be approved by the Senate for any one of the reasons I have mentioned: First, there is the overlap of service budgets in the Defense request. Second, the problem of disclosure through proliferation. Third, the fact that this offers no improvement of military intelligence, but rather weakens it. Fourth, additional expenses will result with little promise of improved intelligence production. Fifth, the problem of coordination with the House is highly aggravated.

Mr. President, these are but a few of the reasons I am cosponsoring the proposed amendment. This amendment makes a great deal of sense and I urge my colleagues to give it their most careful consideration before casting their vote.

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

Mr. STENNIS. I thank the Senator

very much for his very timely remarks and very convincing argument.

Mr. President, the Senator did yield back such time as he did not use, as I understand.

The PRESIDING OFFICER. The Senator is correct. Who yields time?

If neither side is yielding time, the time runs equally.

Mr. RIBICOFF. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 27 minutes and the Senator from Mississippi has 39 minutes.

Mr. STENNIS. Mr. President, the Senator from Arkansas (Mr. McCLELLAN) is to arrive later.There is such a slight attendance present, Mr. President, I ask unanimous consent that we have a quorum call for not over 4 minutes, to be equally divided, or 3 minutes.

Mr. RIBICOFF. I am also reluctant to have Senator HUDDLESTON or Senator Church talk to an empty Chamber. Senator CRANSTON has a colloquy. I would rather use 2 minutes in that fashion.

Mr. STENNIS. I withdraw my request.

Mr. CRANSTON. Mr. President, I am speaking primarily for purposes of legislative history, so I will be concise on this particular point.

Yesterday I suggested that certain language be added on page 12, line 7, of the pending substitute to clarify the standard which the President must apply in objecting to a committee determination to publicly disclose appropriately classified national security information submitted to the committee by the executive branch. Prior to raising this issue, I had discussed this clarification with the distinguished floor managers of the bill and the Senator from Connecticut (Mr. WEICKER). They were prepared to accept the clarifying language that I was prepared to offer. However, when it developed that my clarification raised some questions with other Senators, I decided not to pursue the matter.

Yesterday, the Senator from Michigan (Mr. GRIFFIN) stated on page S 7414 that the Senate had "rejected" that clarification. I think the record will show that this was not the case at all. Indeed, the record will show that I did not formally offer an amendment but only raised a suggested clarification. There was no action of any sort taken by the Senate.

Mr. RIBICOFF. If the Senator will allow me to respond, that is correct. There was no formal amendment offered. There was a general discussion, and the Senator from California, if I recall, talked about his language. But, after considerable discussion, the language was not adopted. Changes were made after a discussion between the Senator from Michigan, Senator WEICKER, and myself, and I believe the Senator from California was in on that discussion.

Mr. CRANSTON. I thank the Senator. As the Senator knows, and as all Senators know, one reason that some of us are reluctant to offer amendments when there is not an agreement is that we have been working together in the spirit of compromise on a compromise proposal introduced by the Senator from Nevada. I am one who has worked on this compromise and, therefore, I have restrained myself from proceeding where we have not had general agreement. I know other Senators have done the same thing.

In regard to the matter that I brought up yesterday, it must be understood that neither this resolution nor rule XXXV nor XXXVI in any way establish the standard which the committee or the full Senate is to use in deciding in a vote if particular classified national security information should be publicly disclosed. That is a determination which each Senator must make for himself in deciding how he would vote in such a matter, using the standard and balance of competing considerations which he deems appropriate.

I would like to ask the Senator from Connecticut, the distinguished floor manager of this bill, who has performed so magnificently in this effort, for his understanding of the restraints that would be upon a President in the light of all this in deciding when to seek to persuade the Senate not to release information publicly.

Mr. RIBICOFF. The Senator may recall that the distinguished minority whip, the Senator from Michigan, had raised a question on page 12, line 8, concerning the use of the word "vital."

After discussion with the Senator from Michigan, I suggested alternative language so it would read:

> • • • and personally certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

So it is obviously our intention that the President would not act capriciously, but only act if it were a matter of gravity. Of course, none of us could tell the President of the United States what he considers to be a grave matter. I would assume, on the basis of comity, that the President certainly is not going to abuse his discretion. It is my feeling that the President will act responsibly, as I would expect the intelligent oversight committee would act responsibly, in determining whether a matter should be publicly disclosed.

I would imagine that the President would seldom issue a certification under this procedure, so as not to wear out his standing with the Senate. Yet I would not want to put into the definition what the President must consider a matter of gravity. I am confident the President will not act capriciously and that he will only act to certify that the matter should not be disclosed if he thinks that the threat to the national interest posed by such disclosure is of such gravity that it outweighs any public interest in disclosure.

Mr. CRANSTON. I thank the Senator. That clarifies this matter fully and adequately. Obviously, the Senate will always be able to make its own decision in its own way as to whether a matter is of such gravity or not.

I would like to ask the Senator just one other question.

Let us assume that the new committee on Intelligence receives information which is not classified under established security procedures. Let us also assume that the committee additionally has determined that the release of such classified information would not damage the national security of the United States. Is it the intent of this compromise version that the new committee would be able to release such information without referring it to the full Senate for review?

Mr. RIBICOFF. Well, if it is the type of information the Senator mentions, yes, the committee could release such information without referring it to the full Senate, since the compromise version anticipates that the process of Presidential certification will only be operative when the information is the kind described by section 8(b)(1) of this resolution.

The compromise version permits this new committee to hold hearings and otherwise function like any other Senate committee, if the information is unclassified, and the committee has concluded its release would not damage national security.

Mr. CRANSTON. I thank the Senator very much.

Mr. ALLEN. Mr. President, will the distinguished Senator yield me 3 minutes for a unanimous-consent request and explanation?

Mr. RIBICOFF. I yield.

AMENDMENT OF THE ADMINISTRATIVE PROCEDURES ACT—REREFERRAL OF S. 2715

Mr. ALLEN. Mr. President, I ask unanimous consent, with respect to Calendar Order No. 820, S. 2715, that that bill be rereferred to the Committee on Government Operations for a period of 30 days.

This bill was originally introduced and assigned to the Committee on the Judiciary and the Committee on Government Operations. The Judiciary Committee approved the bill, and while it was still before the Committee on Government Operations, the distinguished chairman of that committee (Mr. RIBICOFF) and the distinguished minority member of the committee, in order to permit the bill to come in before the May 15 budget deadline, waived the jurisdiction of the Committee on Government Operations in order that the bill might be reported prior to May 15.

I now request—and this has been cleared with the distinguished chairman of the committee (Mr. RIBICOFF) and the distinguished ranking minority member of the committee—that the bill be rereferred to the Committee on Government Operations for a period of 30 days.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The PRESIDING OFFICER (Mr. STONE). Who yields time?

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

I ask unanimous consent that Mr. Braswell, Mr. McFadden, Mr. Sullivan,

and Mr. Kenney of the staff of the Committee on Armed Services be permitted to be in the Chamber during the debate on this measure.

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

Mr. STENNIS. Mr. President, I want to make clear, since some other Senators have come in, that there has been no reference here to any Senator not being trustworthy, or any suggestion that any Senator would go out and leak a matter of consequence. No one charges that, and never has. This matter is related to trying to reduce to a minimum the opportunities for exposure in one way or another, with reference to some of these item which are so sensitive and so material.

I have been hounded for years—in a good way, and I do not blame anyone—because I just would not say how much, so far as I knew, was included in what we have called the budget for intelligence. As I say, I do not blame anyone.

Mr. President, may we have order? I can hear people talking there at the desk.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. So this is an effort not dealing with individuals, not a matter of who has what to do. We are talking about a system here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. I yield myself 3 additional minutes.

We are dealing with a system here that will afford the most protection.

I notice, according to the press reports—and the committee has done a lot of fine work—that when the motion was made that the Intelligence Committee publish the total amount of the intelligence budget this year, there was disagreement, and the committee voted 5 to 4 not to make that disclosure, but rather to refer it to the Senate.

I do not think there could possibly be a better illustration of the sensitiveness of this matter, and also of the differences of opinion about it. We all recognize there must be some protection, something less than total disclosure, and it shows that the more you get into it, the more you realize that that disclosure ought to be reduced to the very minimum.

Every time that the Senate has ever voted on this budget matter directly, it has refused to make this disclosure, whether in open session or in closed session. This conclusively proves, to my mind, the point that I have tried to make—the point that is reflected in the effort of the Senator from Texas, the Senator from South Carolina, and myself as the third author of this proposed amendment. It is just to make it more certain that we give these sensitive matters the maximum security.

When we kick a matter around through this Chamber and the various committees, with more staff, there are more opportunities for things to get out; not the substance, maybe, but matters from which inferences can be drawn. That is what Mr. Ellsworth says in his testimony, that the foreign countries which are not allied with us, our adversaries, have the most adept and most penetrating intelligence agents, and that from a mere morsel of information, or just an inference, they can piece things together as they study our processes from year to year and from time to time; and that increases or decreases in budgetary items can put them on the right track.

In this subject matter that we are trying to protect in this amendment, there are included not only the satellite programs, what they find and what they transmit, but all kinds of activities with reference to codes and working on codes, our own as well as others, as an illustration. It includes electronics of all kinds; some of it is very sensitive, some not. Some of it stays in the research and development area for years and years, and maybe never does emerge into an instrument of some kind. Then some of it does break through in the most valuable kind of instrument, weapons system, or part of a system.

Many of those projects prove to be worthless, it is true; but at the same time some of them have proven to be of immeasurable value and of far-reaching consequences; and should some inference get out or some basis for discovery get out in the beginning, in the middle, or at the end of all this long laborious effort, the entire venture would be killed.

Mr. President, so it is as to matters of that nature.

Another point has been mentioned. No one has charged anything. This does not raise the issue about civilian control and military control. Not one iota of that issue is here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. Mr. President, I yield myself 2 additional minutes.

I personally always favored the two top officers of CIA, for instance, being nonmilitary so far as that point goes. But this is not an issue about civilian control or military control. This is in the field of intelligence that we regularly charge to the military. It is those funds to which we are trying to give the highest degree of protection and subject to the least amount of chance for exposure.

Mr. President, I say with emphasis that our amendment does not alter in any way the existing language of the Cannon substitute, so far as oversight of U.S. intelligence activities, including defense intelligence is concerned. This new committee, if the amended resolution is agreed to, will have full, unlimited oversight powers, with powers of subpena, and power for investigations of all kinds and over all kinds of intelligence.

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

Mr. STENNIS. Mr. President, I yield myself 1 additional minute.

The select committee will have access, as I repeat for emphasis, to all intelligence it makes and full investigatory and subpena power over all intelligence activities.

I repeat for emphasis. Let us remember what we are trying to protect here are the very matters that have divided the committee and divided the Senate. It has always been in favor of nondisclosure as to these total amounts. There must be some basis for that position or the Senate would not have maintained that position all these years.

I yield the floor.

Mr. WEICKER. Mr. President, on the time of the distinguished Senator from Connecticut, I wish to ask a question of the distinguished Senator from Mississippi.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield the Senator 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 minute.

Mr. WEICKER. If the amendment of the distinguished Senator from Mississippi is agreed to, what will it do to this committee? The Senator has stated, in other words, what it will not do. What will it do?

Mr. STENNIS. I covered that when someone had distracted the attention of the Senator in some way. There are positive things, and I spelled them out in a brief memorandum, but I have it written out in more formal language.

It would remove from the proposed new select committee legislative jurisdiction over the Department of Defense. The rationale is, first, it would minimize the possible disclosures through the long and debated process of authorization of sensitive intelligence figures. Rather than being simply authorized by a bill or a joint resolution, passed by the Senate alone, as required by this substitute, defense intelligence figures would continue to be included in various parts of the military authorization and appropriations acts. I cannot overstress that. And so forth.

But that is the point the Senator very well raised.

Mr. WEICKER. It takes the power of the purse away from the committee, does it not?

Mr. STENNIS. Not entirely, but it gives defense intelligence matters back to the Committee on Armed Services rather than stripping the committee of that.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. I suggest to the Senator from Mississippi that the whole purpose of the committee is to give it not only oversight but also the necessary powers to go ahead and act on its oversight. We have had unfortunately an ineffective system. This is not laying this fault at the door of the Senator from Mississippi. The system itself obviously has not adequately handled the intelligence community.

Why should this committee have any less power than any other committee of the U.S. Senate?

Mr. STENNIS. This would retain in the Committee on Armed Services legislative jurisdiction, as I have described. It leaves with the other committee the oversight and access to everything included and the power to make recommendations also. We would simply give the Committee on Armed Services primary responsibility for dealing with

these kind of matters only, and they could recommend what they wished.

I thank the Senator from Connecticut who has made some good recommendations.

Mr. RIBICOFF. Mr. President, will the Chair please inform us concerning the amount of time remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 17 minutes remaining, and the Senator from Mississippi has 28 minutes remaining.

Mr. RIBICOFF. Mr. President, because of the disparity of time remaining, I hope the Senator from Mississippi would use some more of his time.

Mr. STENNIS. Mr. President, I think the point is well taken. I will ascertain if I can.

Let us have a 2-minute quorum call on the time of the Senator from Mississippi.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the quorum call for 2 minutes be charged to our side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Under the previous order, the quorum call is rescinded.

Who yields time?

Mr. STENNIS. Mr. President, will the Chair indulge me for a minute?

Mr. President, I am glad to yield to the Senator from Georgia (Mr. NUNN) 5 minutes. He has a relevant matter to present. It is not on this amendment.

Mr. NUNN. Mr. President, is the Senator from Connecticut (Mr. RIBICOFF) in the Chamber? I see that he is present. He and I discussed this amendment.

Mr. President, section 8 of Senate Resolution 400, in the nature of a substitute, deals with a very important subject, and that is the right of Congress, in this case more particularly the Senate, to declassify information that the executive branch has classified.

Section 8, subsection (a), is very clear in its wording. Subsection (b) is also clear.

Section 2 of subsection (b) beginning on page 12, is also clear, and then we get down to section 3 of subsection 3 under (b) of section 8. This section reads:

> If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

I have discussed this section with both Senator BYRD and Senator RIBICOFF, as well as Senator CANNON, and it is clear from my conversations with them that the last sentence makes reference to and is premised on the President notifying the select committee of his objections.

It is very clear in the conversations that the intent of the committee was that, once the President notified the committee that he objected to the release of this information, the information would not then be released until the full Senate was consulted and gave approval.

However, that last sentence is in a position which follows number 2 on line 12, page 12, which says that "such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration," and then that clause is followed by the word "thereafter" in the last sentence. One could interpret this section as meaning that after the committee, by majority vote, referred it to the Senate, there would be no disclosure without consultation with the full Senate.

The structure of this section could lead to an interpretation that I do not think the committee intends. The unintended interpretation would be, in effect, that the select committee could declassify intelligence information over the President's objections, if it did not, by majority vote refer the question of disclosure to the Senate. I do not think that is what the committee intends, and I am going to submit an amendment, which I will call to the attention of the Senator from Connecticut. I believe my amendment will clarify and make very clear that once the President objects, the committee, if they recommend the release of classified information, in effect declassifying that information, would have to refer it to the full Senate, and the full Senate would have to give leave.

The Senator from Connecticut may wish to respond.

Mr. RIBICOFF. I think the Senator should present his amendment.

Mr. NUNN. Mr. President, I send the amendment to the desk. I do not know whether it is in order. I ask unanimous consent that it may be in order to take up this amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object on the merits of it—but the agreement is to vote at 2 p.m.; so we will be cut off in our debate if the amendment is not adopted in a short period of time.

Mr. NUNN. It is my understanding that the minority and the majority have agreed to this amendment.

Mr. STENNIS. All right. I have no objection.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 12, beginning with the word "such" on line 14 strike all through the word "Senate" on line 15 and insert in lieu thereof the following:
>
> "The committee shall not publicly disclose such information without leave of the U.S. Senate.".

Mr. RIBICOFF. Mr. President, as the manager of the bill, I am pleased to accept the amendment.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator have expired.

The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield 5 minutes to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished floor manager of the bill.

Mr. President, first, I want to reiterate my very strong support for the substitute version of Senate Resolution 400, creating a permanent oversight committee on the intelligence activities of this country. That support is predicated upon my experience during the past 15 months as a member of the Senate select committee investigating our intelligence activities.

It is based upon my firm belief that it is absolutely essential that this Nation have the strongest most effective, and most efficient intelligence organizations, both from the standpoint of collecting intelligence and the standpoint of processing and using that intelligence once it has been collected.

Second, it is based on my strong belief that it is essential that certain information be kept secret; that there is a necessity for this Nation to have secrets.

It is also my firm belief that the approach taken by the suggested compromise is the best way to insure that we have adequate intelligence, and adequate oversight.

I will have a further statement to make, or to place in the RECORD, as we approach final passage, regarding my support of the substitute amendment to Senate Resolution 400.

At this time, however, I offer my opposition to the amendment now pending. I oppose the amendment because it is contrary to the concept of national intelligence, a concept that has been embraced by the President of the United States in his own directive which establishes the Director of the Central Intelligence Agency as the supervisor and coordinator of all our intelligence operations. It is contrary to the recommendations of the select committee of the Senate that investigated intelligence, which makes a similar recommendation. More important, in fact, it is contrary to the facts of life as they apply to the intelligence community.

The amendment would take from the new oversight committee the legislative and authorization jurisdiction over Defense Department intelligence. That means that some 80 to 90 percent of both the collection and production of intelligence and the consumption of that intelligence would be outside the effective oversight responsibility of the new committee. I use the word "effective" because it already has been pointed out that to take legislative authority from an oversight committee would diminish tremendously its effectiveness so far as exercising the proper oversight responsibility is concerned. Oversight without legislative participation is toothless oversight, as all of us in this body know.

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

Mr. HUDDLESTON. Mr. President, will

the Senator yield me 2 additional minutes?

Mr. STENNIS. I yield.

Mr. HUDDLESTON. But, not only do the defense intelligence operations comprise some 80 to 90 percent of our collection, production, and use of intelligence, they are also entities which have had their share of the abuses that have occurred, and for that reason alone should be within the effective oversight and responsibility of the new committee.

Mr. President, I think that the compromise as written—although, as has been pointed out, there are areas in which accommodations will have to be made among various committees—can be put into effect, can provide the effective kind of oversight for which there has been a crying need for a long time in the operation of the intelligence organizations of this Nation.

The pending amendment should be rejected, so that this new committee can have the full authority, together with the full responsibility, to provide the kind of oversight that is necessary throughout the intelligence community.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I support the amendment.

I believe we have to divide intelligence, as we are discussing it here today, into many, many facets. The resolution that established the select committee, in my opinion, was a wise one. Our job, supposedly, was that of ferreting out wrongdoings so far as intelligence gathering was concerned with respect to the American citizen. That is one form of intelligence. We have intelligence gathered from embassies by tapping. We have intelligence gathered by mail.

Mr. President, I am anxious to support this amendment, and I call attention to the fact that the amendment would remove from the proposed new select committee legislative jurisdiction over the Department of Defense intelligence. Why is this important?

Last week, I read several books, with which hindsight always can provide us, as to what we actually knew about the intent of the Japanese before Pearl Harbor. It was amazing. Had we had a properly working intelligence agency at that time, with the information we had gathered from a number of sources, none related to the other, we almost could have predicted the attack on Pearl Harbor to the hour. We could have resisted it and defeated the Japanese without any trouble at all. But because we did not have an intelligence agency such as the CIA at that time, we depended upon the warring factions in the services and the civilians in the War Department and the President, himself. We got ourselves into a very costly war.

That is why I support this amendment—not to prevent the establishment of a committee to have so-called oversight, but to allow the Committee on Armed Services to have that sole jurisdiction because, Mr. President, I do not care if you have a committee of one, it is almost impossible to stop leaks. As hard as our special committee tried, we could not bottle them all up, and, of course, the House was a sieve. It leaked, leaked, and leaked.

Under the Committee on Armed Services, we would handle just that intelligence that applies to the military, nothing else—no interest in the FBI, no interest in anything except the intelligence that the military has to gather.

Mr. President, I remind my colleagues in this body who have had experience in war or experience with the military that the estimate of the situation is a little formula that we are taught almost before we know what the rest of the service is about. The primary part of the estimate of the situation is intelligence: What does the enemy have, what does the enemy intend to do with what he has, what does he know about what we have, and what does he know about what we intend to do with our intelligence; Then, by working the two against each other, we come up with some possible lines of action. But if this information is made public, as we watched it be made public from the other body and from leaks downtown, then the estimate of the situation gets to be pretty much of a joke.

I know Members of this body are concerned about covert action. I know that Members feel that we should disclose, among the oversight function, any covert action. Well, Mr. President, this is dangerous. Those of us on the Committee on Armed Services, in spite of what our colleagues might think, know of many, many covert actions that were practiced during the years, many of which prevented wars between other countries, many of which prevented ourselves from getting into trouble. So, military intelligence, to me, is a most sacred item and we should look on it as such; create a full committee to take care of the abuses upon the American people, but allow military intelligence to go as it has in the past. We have developed a very fine intelligence-gathering system. In fact, I just read on the ticker tape this morning that our old friend, Averell Harriman, has recommended to the Democratic Platform Committee that covert action not be stopped, that it be encouraged because, by covert action, properly done, we prevent wars; we do not get into them.

I am afraid if a 15-member committee is ever created and given the handle on military intelligence, covert action will become something that will be very overt and we will be fighting the battles on the floor of the Senate instead of doing it in a round-about, backward, sneaky way. Call it what you want, but by doing it that way, we will prevent American men and, now, American women from being called into battle.

I hope my colleagues will support this amendment. It is not an Earth-shaking amendment. It is not going to destroy the concept of the substitute Senate Resolution 400. It will, in my opinion, protect the best interests of our country.

Mr. RIBICOFF. Mr. President, I yield 1 minute to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, as I understand the amendment offered by Senators STENNIS and TOWER, it eliminates from the jurisdiction of the new select committee any jurisdiction over defense intelligence, which would include the Defense Intelligence Agency, the National Security Agency, and the intelligence activities of the three military departments.

Under the Cannon substitute, the new select committee would have jurisdiction over defense intelligence, except for "tactical foreign military intelligence serving no national policymaking function."

Those Senators supporting the Stennis/Tower amendment argue that it is impossible, as a practical matter, to separate, for purposes of oversight, tactical intelligence activities from national intelligence activities. They therefore would opt for the Armed Services Committee to retain sole jurisdiction over all defense intelligence activities.

While I have great respect and admiration for the distinguished chairman of the Armed Services Committee, the findings of the Select Committee on Intelligence lead me to disagree with him on this point. I think that it is possible to separate those intelligence programs carried out by the Department of Defense which contribute to the national intelligence picture from those carried out to support tactical military units. The Department of Defense already distinguishes between tactical intelligence programs and national intelligence programs for purposes of its annual budget submissions to the Congress.

Furthermore, we have seen that the President's Executive order of February 17, 1976, places within the Director of Central Intelligence managerial responsibility for all national intelligence activities, including those of the Department of Defense. We have here, then, the executive branch distinguishing between "tactical" and "national" intelligence activities carried out by the Department of Defense, for purposes of managing the intelligence community. Should Congress not do the same?

I know this is a cloudy issue for a lot of Senators who are unfamiliar with how DOD conducts its intelligence activities, but I think that insofar as oversight is concerned, the dividing line would be quite clear. The new select committee, as I see it, would have concurrent jurisdiction over all DOD agencies and programs which were created primarily to collect and produce intelligence for our national intelligence estimates. The Armed Services Committee would retain sole jurisdiction over those agencies and programs of the Department of Defense designed primarily to produce intelligence for use by military commanders in the field. To be sure, there may be national intelligence activities which produce information useful to the military commander in the field, and, by the same token, tactical intelligence activities may produce information useful to the national intelligence picture. But insofar as oversight of these activities is concerned, the select committee would have concurrent jurisdiction over those activities designed to provide national intelligence, and the Armed Services Committee would have sole jurisdiction over those activities designed to produce tactical intelligence.

Unless the proposed intelligence committee does share jurisdiction over the national intelligence activities of the Department of Defense, I think its effectiveness will be seriously jeopardized. I say this for several reasons.

First, as several Senators have pointed out already, between 80 and 90 percent of the intelligence budget goes to the Department of Defense. To eliminate such a sizable amount of intelligence expenditures from the scrutiny of the new intelligence committee would be to make a mockery of it.

Second, I think it will be impossible for the new committee to study the performance of the intelligence community as a whole without looking at DOD. How, for instance, can we make a judgment about the performance of the intelligence community during a Mideast war or an Angolan crisis, unless we have military intelligence in to explain its role? And how will we have their cooperation in these studies unless we have some type of oversight authority?

Third, I fear that if, in the future, the Committee on Armed Services proves to be more favorable than the proposed select committee to intelligence activities or intelligence expenditures, we will see the intelligence community decide to have military undertake more and more of its activities in order to avoid facing the tougher committee. In short, I think that the Stennis/Tower amendment will not result in even-handed oversight of the intelligence community.

Finally, I am concerned that leaving military intelligence in the exclusive hands of the Committee on Armed Services will not result in the type of oversight we need to protect the rights and privacy of our citizens. I remind my colleagues of the Church committee findings which showed that numerous activities of the Department of Defense resulted in violations of individual rights, none of which were ever investigated by the Committee on Armed Services. I point to the existence of the NSA's Watch List and Project Shamrock, and the domestic surveillance activities of the Army during the late 1960's. In this latter case, the investigation of Army surveillance was undertaken not by the Committee on Armed Services but by a Judiciary subcommittee.

The Church committee report also found that there are approximately 5,000 military investigators still in the United States. Can we be satisfied that these 5,000 investigators are staying within legitimate bounds by depending on the Committee on Armed Services?

In short, Mr. President, I do not think we will have an effective committee or effective oversight if Defense intelligence is left out of the committee's jurisdiction. I urge my colleagues to vote against the amendment offered by Senators STENNIS and TOWER.

Mr. RIBICOFF. Will the Presiding Officer please inform us concerning the remainder of the time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes; the Senator from Mississippi has 14 minutes.

Mr. RIBICOFF. I wonder if the Senator from Mississippi would take 4 minutes and give 10 minutes to the distinguished Senator from Idaho (Mr. CHURCH) from the last 10 minutes of the distinguished Senator from Mississippi?

Mr. STENNIS. Mr. President, I do not care just to repeat things that I have already said. I want to refer to what the Senator from Arizona said.

The major part of military intelligence is so sensitive, so far-reaching, that, should error be made, in my humble opinion, we could hardly do a worse thing than to subject all of it to the ordinary legislative process of this congressional body. That is just a matter of commonsense when we consider the subject matter with reasonable caution and not overcaution. I speak with great deference to all these men who have worked on it so much. This resolution is a unilateral thing. No one in the House is going to be bound by it in the legislative circle even if this process is adopted. Where we would have a budget, it would finally be debated here and finally agreed on and then carried to the Committee on Appropriations to let them do the best they could to live with it. The Lord only knows how they would be able to live with it. But we will say they will do their best, which I believe they will, and bring it back here on the floor, where it is subject to a point of order under the terms here and can be knocked out, debated and redebated, and finally a bill is passed.

Then what happens to the appropriations bill? It goes over to the House of Representatives, and there is no one at home, no special subcommittee over there, no special Select Committee on Intelligence over there—I am talking about legislation now—no one to deal with. If you have ever been on a real appropriations conference committee with those gentlemen from the House, you know they are experts and they are not going to be compelled or bound by anything in the way of a ceiling that they had no part in fixing.

They are not going to be bound by anything that does not pertain to them, or at least that they had a part in making and legislating on—I mean in the House. It would be, I say with great deference, a great mistake. This unilateral committee will have to be redone and abandoned, or something happen to it before it has a chance to be effective in a legislative way. Unless the House comes to something in the neighborhood of the same pattern. I just can not see where it would have a chance.

Maybe I am not fair to the House. Maybe they should have gone on and gone into this thing. But they did not; they did not. All we are asking in this amendment—we are not touching the CIA, we are not touching all the others. All we are asking is just for the military intelligence to be given this routing through the Committee on Armed Services, which has the jurisdiction over all the rest of the military program, for their analysis, for their recommendation at the same time, so that the select committee can pass it, taking all the testimony they want in the whole intelligence field, subpena power undiminished and everything else.

So I hope, Mr. President, that on second thought the majority of this body will say we must call a halt, we must take another look, at least we will carve this out for the time being until we see what can be done with the House of Representatives.

I yield back the remainder of my time.

The PRESIDING OFFICER. Ten minutes remain per side.

Mr. RIBICOFF. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I am happy to yield 2 minutes to the distinguished senior Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SYMINGTON. Mr. President, as everyone knows, I have great respect for the distinguished chairman of the Armed Services Committee, but I just cannot agree with this proposed amendment. In my opinion, it will drown the CIA, the only civilian agency which in itself is a brake against the Defense Department having the exclusive right to describe the threat.

I am already worried about the executive branch reorganization of the Agency and I have so told Director Bush for whom I have the greatest respect.

I believe if this intelligence is assigned, the way it is planned under this amendment, to the Pentagon Building it would end any true civilian supervision of intelligence activities, 90 percent of which is a matter for the Foreign Relations Committee even though it is called military intelligence, unless we are at war with the country in question.

I thank my friend for yielding the time to me.

Mr. CHURCH. Mr. President, I thank the Senator very much for his remarks.

Mr. President, the Stennis amendment would strip the oversight committee of all legislative authority over strategic intelligence agencies which operate under the aegis of the Pentagon.

The resolution, the substitute resolution, does not take anything away from the Armed Services Committee. It does not in any way intrude upon the legislative authority that that committee possesses.

All this resolution does is to establish concurrent legislative authority so that the oversight committee might have adequate power to do its job.

But the Armed Services Committee, speaking through its distinguished chairman, opposed sharing any legislative authority with respect to those agencies that operate under the Defense Department.

It ought to be made clear, Mr. President, that we are speaking here only of those agencies within the Defense Department that are primarily concerned with strategic or sometimes what is called national intelligence. We are not at all concerned with, and we are not even reaching for, the Army intelligence, the Air Force intelligence, or the Naval intelligence, which is purely military and purely technical.

We are talking about those agencies within the Defense Department that deal with the collection, the dissemination, and the assessment of political and economic intelligence under the direction of the DCI, strategic intelligence, and that we must have if the oversight committee is to do its job.

Mr. President, I suggest that if this amendment is adopted it will deny the oversight committee the leverage it needs to deal effectively with those intelligence agencies which account for the great bulk of the spending. It has already been mentioned if this amendment is adopted what it means is that between 80 and 90 percent of the spending for intelligence is excluded from the legislative reach of the oversight committee, and I think that is no minor matter. In fact, instead of a club, the adoption of this amendment would leave the oversight committee with nothing more than a small stick, and would gut the committee.

Now, the substitute resolution, on the other hand, gives the oversight committee sufficient legislative reach to embrace the whole intelligence community. Thus, the oversight committee would be the congressional counterpart to the way the executive branch itself organizes and administers national intelligence.

This is a seamless web, Mr. President. If you look at the way the executive branch pulls it all together, you will see the so-called military agencies actually operate under the direction of the DCI; they operate under the direction of an overall intelligence board. This is all of a piece, and it has to be left of a piece, and if you do not give the oversight committee jurisdiction to handle as a piece then you, of course, deny the committee effective oversight authority.

Everyone who has served in the Senate knows that the power of the purse is the ultimate test. To deny the oversight committee the power of the purse where the intelligence community is concerned would be to effectively undermine its role.

Furthermore, Mr. President, if this amendment is adopted it gets us right back to the problem we are trying to solve. For years the problem has been there has been no committee in Congress that could reach out and embrace the entire intelligence community. Now we have one if this substitute resolution is adopted. But if the Stennis amendment is approved, we are right back to where we started from. The net, that seemless web, has been broken, and we are back to piecemeal jurisdiction distributed among several committees of Congress no one of which can do the job.

So, Mr. President, I do hope that in consideration of the need that has been demonstrated during the past 15 months of investigation, and the abuse we found, some of which occurred within the Defense Department—the National Security Agency was one of those that, contrary to the laws of the land, intercepted hundreds of thousands of cables and read them in a massive fishing expedition for intelligence information, all contrary to the statutes of this country.

So these agencies need to be supervised, and the oversight committee needs to have such reach so it may deal with the overall national strategic intelligence community the same way that the executive branch deals with it. Only then will you have effective senatorial oversight. Only then will you be assured that the abuses that we found in the course of this investigation can be prevented from reoccurring in the future.

So I do hope that the Senate, in its wisdom, will reject the amendment.

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

Mr. CHURCH. Yes.

Mr. MONDALE. The argument was made today that not much of the scope of the abuses that were uncovered occurred in this area of defense intelligence. So I asked the staff to bring over just the copies of the reports that deal in detail with abuses occurring exclusively in the defense intelligence areas: One dealing with surveillance of private citizens, one dealing with the National Security Agency, and each of these going into detail showing over many years in a broad and deep scope the abuse of human rights and legal rights by these agencies.

If we proceed as this amendment proposes, to exempt these agencies, not only do we exempt 80 percent of the intelligence budget but we will be creating a situation where if they wanted to repeat what has happened in the past they would simply shift these activities over into the defense intelligence agencies because these agencies can do and have done, as this record shows, precisely the things that we seek to prevent.

Mr. CHURCH. I agree wholeheartedly with the Senator. He is correct in everything he said.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired. The time the Senator from Mississippi has left is 10 minutes.

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the issue here is not whether or not we should have oversight. I think everybody agrees that we should have oversight. The question is whether or not we are proceeding on the presumption that a committee set up specifically for that purpose can do a more perfect job than the other committees having jurisdiction over various elements of the intelligence-gathering communities.

I submit that it cannot.

Now, inherent in the proposal of this resolution is the suggestion that the Armed Services Committee has been derelict in its duties for lo these 25-plus years since the Central Intelligence Agency has been in existence.

I reject that notion. If there has been any dereliction, then the entire U.S. Senate and the House of Representatives must bear the responsibility because this was the accepted way of doing business for so many years. Then when abuses were brought to our attention, we reacted, and quite properly, in mandating a special investigation.

That brings up a point, the Senator from Idaho says that without legislative jurisdiction the oversight committee would not have sufficient authority and power to deal with the business of oversight.

I reject that notion because the select committee which he so ably chaired actually got everything it wanted and it had absolutely no legislative authority. All it could do was make recommendations.

I submit that a better way to maintain oversight would be to allow the jurisdiction in terms of oversight of our various intelligence-gathering activities to continue to lodge in the committees that now exercise that jurisdiction.

I think that the process could be perfected by the creation of, in the case of the Armed Services Committee, a permanent subcommittee with a permanent professional staff required to report to the Senate on a regular basis.

The thing I fear about this oversight committee that is supposed to resolve all of our problems regarding the intelligence community is that it is going to create more problems than it solves. Certainly, it is going to create problems in terms of the effectiveness of our clandestine activities.

Now, already, the debate on this resolution preceding that investigation, the Senate-House committee, has undermined foreign confidence in the ability of the United States to carry on intelligence-related activities in a confidential way.

We have damaged our credibility with the intelligence services of allied nations and they feel less disposed to cooperate with us now, feeling that much might be disclosed about their own operations if they do cooperate with us.

So what we are doing here is engaging in an exercise that, in my view, has the potential for seriously undermining the intelligence-gathering capability of the United States.

I cannot see that the need for the creation of such a committee, whatever the merits in the proposal are, outweigh the potential dangers to the security of the United States in terms of the proliferation of disclosure of confidential, classified and sensitive information.

The fact of the matter is that in the creation of this new committee we do not solve the problem of the proliferation, we exacerbate that problem.

Now, we have a brand new committee of 15 members, we also have a staff, for every member plus the regular permanent staff, and this is an enormous undertaking, particularly when we consider all the security precautions this committee will have to take.

This means that the potential for disclosure of sensitive information increases geometrically rather than arithmetically and the potential is very much there.

Yes, the select committee had a pretty good record of not leaking that which it chose not to disclose. I think the committee chose to disclose more than it should have.

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

Mr. STENNIS. I yield the Senator a minute.

Mr. TOWER. But we can always expect this to be the case.

The experience in the House is that the

House committee, investigating intelligence committee, did not leak; it poured.

There is a vast potential for mischief here. This is not a committee that is being established on the basis of popular demand. The popular fear in this country, by citizens generally, is not that the CIA and the FBI are going to invade their rights, because most people being law-abiding, have no such fears. Their concern is that other agencies of the government have intruded much too much in their lives.

The preponderance of the American people believe, I feel, that we have disclosed too much, not too little, and the dangerous potential is here, that we shall disclose much more and that we will impact adversely against the security of the United States through such action.

Mr. STENNIS. Mr. President, I just have one point.

This effort about holding disclosure to a minimum, everyone understands that we are not trying to keep the information away from the Senators or from the American people. This means disclosures to our adversaries, those that are pitted against us, that are planning against us.

I am sorry that there has not been more said about better ways of getting intelligence. Everything here directed about disclosures, demand, everybody have access. Let us have some better ways of getting better intelligence, more accurate intelligence, better system, better method, better arrangement, better protection for our men and those we hire, better alternative methods, will bring better and more valuable results.

I hope that this little amendment—and it is small—for the protection of this part of the intelligence program will be passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order, with one show of hands, to order the yeas and nays on the pending Stennis-Tower amendment, the Cannon substitute, and Senate Resolution 400, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the pending matter now before the Senate?

The PRESIDING OFFICER. The amendment No. 1649 to amendment No. 1643 to Senate Resolution 400.

Mr. STENNIS. Is that the amendment that has been referred to here as the Tower-Stennis-Thurmond amendment?

The PRESIDING OFFICER. The Senator is correct, the Tower-Stennis amendment.

Mr. STENNIS. Mr. President, I intend to speak in support of the amendment by Senator TOWER, myself, and others to the pending substitute proposed by Senator CANNON. Before discussing the amendment in detail, I shall address the substitute as a whole.

PRINCIPAL EFFECT OF THE PENDING SUBSTITUTE

I realize the pending substitute, which reverses the version reported by the Rules Committee, represents a good faith effort and hard-bargaining on the part of all those involved. For a number of basic reasons, however, I cannot support the substitute.

Although there are many provisions in the substitute on which I have reservations, I will limit my comments to the principal thrusts of the substitute.

The substitute would create a separate intelligence committee with legislative, oversight jurisdiction over all intelligence activities in the Federal Government. Defense intelligence activities would be broken out from the Defense budget. At the same time, any cognizant standing committee could request on a secondary and limited basis the referral of intelligence legislation except as to the CIA.

Of equal significance is the provision that no funds will be appropriated for U.S. intelligence activities after September 30, 1976 "unless such funds have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activities for such fiscal year". If intelligence funds have not been specifically authorized, appropriations for intelligence activities could be subject to a point of order.

OBJECTIONS TO THE PENDING SUBSTITUTE

Mr. President, any Senate arrangement for legislation and budget authority such as the pending substitute that does not include the House of Representatives is bound to fail in the Congress. Moreover, by creating a new and second budgetary process for intelligence, the substitute would increase the potential for disclosures. Whatever reform that is needed to improve U.S. intelligence should be undertaken through a unified approach between the House of Representatives and the Senate.

The pending substitute would also result in a proliferation of involvement by Senate committees in intelligence matters and would inevitably lead to greater disclosures on the nature and scope of U.S. intelligence activities.

Finally, the pending substitute would do nothing to improve U.S. intelligence; on the contrary, its effect could well be to weaken present U.S. intelligence-gathering capabilities.

ADVANTAGES OF THE TOWER AMENDMENT

I have joined Senator TOWER in sponsoring an amendment which would protect military intelligence from these two main hazards of the pending substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. The Tower amendment would do three things:

Keep the legislative jurisdiction over military intelligence with the Armed Services Committee while leaving the select committee with oversight jurisdiction for all military intelligence.

Avoid a report by the select committee of its views and estimates on military intelligence to the Budget Committee.

Eliminate the requirement for a separate authorization for military intelligence funds.

The effect of this amendment would be to reduce the risk of serious intelligence disclosures and preserve the integration and strength of military intelligence within the overall U.S. defense posture.

I fully support a strengthening of congressional oversight for intelligence and have endorsed the concept of a new "watchdog" committee for intelligence. The Tower amendment would in no way reduce the power of a select committee created by the pending substitute to guard against possible abuses in the U.S. intelligence community. The select committee would have undiminished oversight authority over all intelligence activities including CIA and military intelligence. It would have access to all military intelligence information, budgetary and otherwise. It would also have full investigatory powers, including subpena power. Thus, the Tower amendment has neither the aim nor effect of restricting congressional vigilance over any U.S. intelligence activities.

Rather, the Tower amendment would preserve the regular authorization process for defense intelligence resources. In other words, the Armed Services Committee would continue to examine the merits of complex research and development, procurement, and construction associated with high technology intelligence equipment. The Armed Services Committee would continue to scrutinize military intelligence manpower through the authorization of overall military end strengths. These authorizations are studied initially by the various subcommittees of the Armed Services Committee such as the Research and Development Subcomittee, headed by Senator MCINTYRE, the Military Construction Subcommittee, headed by Senator SYMINGTON, and the Manpower and Personnel Subcommittee, headed by Senator NUNN, and so forth. Military intelligence matters would then be passed on by the full Armed Services Committee in conjunction with annual authorization for the budget of the Defense Department. It is this process that has served this Nation well over the years and has been responsible in large part for creating the most effective intelligence service in the world.

WHAT THE TOWER AMENDMENT WOULD NOT DO

There have been abuses of activities in the intelligence community, some quite serious and inexcusable. They have been spread out over the 30-year period which has recently been under review, but they cannot be justified, and I have been ashamed of the abuses which have been reported.

For the purposes of the amendment, I want to point out that most of the abuses have not been associated with defense intelligence. The uniformed military by and large has not engaged in covert operations and the so-called "dirty tricks." While certain surveillance operations, ordered by higher authority, have provoked criticism, the military agencies

have engaged, for the most part, in collecting and analyzing intelligence information. I believe they have done so skillfully and in the Nation's best interest.

In the exuberance to prevent abuses within the intelligence community, the Congress must not fail in its responsibility to give intelligence its proper emphasis and security for the defense of this country.

HOW THE PRESENT SYSTEM WORKS

At the present time there are no laws requiring that intelligence funds in the Federal Government be authorized annually as a condition for the appropriations of intelligence activities. There is a sound reason for not requiring a separate annual authorization law. The reason is to prevent disclosure of the amounts of these funds and the annual changes which would surely be revealed if a separate law were utilized.

Let me also emphasize that the appropriations for the various defense intelligence funds are now contained in 23 different defense accounts and are authorized in part by the annual military authorization bill. In addition, there presently is no separate budget for defense intelligence activities in the sense that there are separate accounts that can be audited for the Congress by the General Accounting Office. In other words, the military intelligence budget is composed of merely estimates of intelligence spending rather than strict budget accounts. For example, an Air Force mechanic may work part-time on fighter aircraft and part-time on intelligence-gathering aircraft. He is paid out of a general defense operation and maintenance account rather than any account for defense intelligence.

Thus, this substitute would force the creation of a completely new and unwieldy budget system for intelligence in the Senate while the Houseof Representatives would continue under the existing budget system.

SEPARATE AUTHORIZATION REQUIREMENT WOULD LEAD TO GREATER INTELLIGENCE DISCLOSURES

A requirement for separate authorization of military intelligence funds will inevitably result in serious disclosures on the nature and scope of U.S. intelligence activities. To meet the separate authorization, as contemplated by the pending substitute, would result in identifying crucial aggregates and components of military intelligence.

Such disclosures would not have to come from outright leaks. Instead, separate authorizing legislation and debate in the Senate would provide the basis for drawing inferences and reaching conclusions. These inferences could be enormously valuable to our adversaries. They could also shatter the confidence of allied nations and friendly individuals who might otherwise cooperate with U.S. intelligence efforts.

SEPARATE AUTHORIZATION WOULD PRECLUDE THE CONDUCT OF CERTAIN SENSITIVE PROJECTS

A brief historical review will show that several projects crucial to the national security could not have been accomplished under a congressional requirement for separate authorization. It would have been impossible for example to develop the atomic bomb in secrecy if the funds for the Manhattan project had to have been annually authorized by the Senate as whole.

The development and use of the U–2 reconnaissance aircraft prior to the development of satellites would have been impossible had it been necessary to annually authorize funds for this purpose.

A more recent example was the so-called *Glomar Explorer* project. This was a highly secret effort to recover a sunken Soviet nuclear submarine with all its advanced technology and weaponry. It was a multimillion-dollar project that spanned several years. If the Senate had followed the separate authorization procedures for intelligence funds as set forth in the pending compromise, there would have been sufficient budgetary information made public from which clear inferences could have been drawn that the United States was engaged in an extraordinary intelligence project. From their suspicions—and all they needed were suspicions—the Soviets could have been right on the recovery spot in the Pacific Ocean, thereby foiling the entire project.

There are many other examples involving satellites, decoding systems, and other electronic technology, which would further underscore the importance of avoiding a separate authorization requirement for intelligence funds.

OTHER DRAWBACKS TO A SEPARATE AUTHORIZATION FOR DEFENSE INTELLIGENCE

An authorization requirement for defense intelligence activities would pose additional problems. There is no meaningful distinction between tactical or local intelligence and strategic or national intelligence.

A single intelligence collector such as an aircraft or satellite can provide simultaneously information that will be useful to force planners, weapons developers, and the national command headquarters.

The facilities, maintenance, logistics, and operations associated with an intelligence-gathering system cannot be separated in a budget sense from the general facilities, maintenance, logistics, and operations of the Defense Department. For example, a KC–135 intelligence aircraft uses a military airport, supplies and fuel from military stocks, military aircraft maintenance personnel and military pilots.

To segregate defense intelligence activities into a single budget would be administratively costly, requiring additional expenses, staff, and automation equipment. Furthermore, the mere compilation of such a new intelligence budget would substantially increase the risk of intelligence disclosures.

To the extent that defense intelligence activities must be separately authorized, the Defense Department would lose the flexibility to adjust quickly the level and type of defense intelligence activity. This would be especially damaging in a crisis situation.

DEFENSE INTELLIGENCE SHOULD NOT BE ISOLATED FROM THE OVERALL U.S. DEFENSE PROGRAM

In addition to using the product of the defense intelligence community, the Congress has a fundamental role in the production of defense intelligence. All of the various elements of the defense program—such as intelligence, tactical air power, and strategic submarine forces—must be evaluated and balanced together in order to provide the most effective overall national defense. Valuable defense resources must go to the areas where they will make the maximum contribution to national defense. This requires that all of these elements be reviewed together in one place by a single committee.

Given its responsibility for the "common defense generally" the Armed Services Committee should be the one to weigh needs and priorities across the spectrum of defense activities so as to best channel resources into intelligence activities. Only the Armed Services Committee can review research and development, procurement, and manpower for intelligence activities in relation in airlift capabilities, command-and-control facilities, and so forth.

Defense intelligence must not become an end in itself. It must be designed to support and enhance U.S. defense efforts. Separating it from the Armed Services Committee will facilitate the development of intelligence as a separate activity operating independently of the Defense Department and U.S. national defense efforts.

Giving the select committee jurisdiction over defense intelligence would be like giving the Commerce Committee authority over military airlift or the Space Committee authority over strategic missile development. The result must inevitably be to fractionate and dilute U.S. national defense efforts.

CONCLUSION

For the reasons I have stated the Tower-Stennis amendment should be adopted. In that way we can avoid the long and cumbersome process of preparing, debating, and passing an authorization measure to cover military intelligence.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I sent to Senators on this matter dated today.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 19, 1976.

DEAR COLLEAGUE: As you know, Amendment No. 1649 (the Tower-Stennis Amendment) to the pending Substitute to S. Res. 400 will be considered at 11:00 this morning. First, I would like to call your attention to what said Amendment No. 1649 does *not* do.

1. The amendment will not alter in any respect the Substitute as it relates to the Central Intelligence Agency.

2. The amendment in no way alters the existing language of the Substitute as it relates to oversight of U.S. intelligence activities including defense intelligence. The select committee will have access to all intelligence information as well as full investigatory and subpoena powers over all intelligence activities.

The amendment would provide:

1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The

rationale is two-fold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot overstress the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

2. Intelligence activities, as carried on within the Department of Defense, are as much a part of national defense as the Strategic Air Command, Polaris submarine fleet, or any other vital defense element. The Senate should not fractionalize national defense by having a separate authorization for intelligence manpower, intelligence research and development, and intelligence procurement involving such matters as cryptology, satellites and other electronics. Intelligence is an inseparable element of national defense.

The new select committee, by retaining complete oversight, would be empowered to investigate and prevent any abuses. At the same time the necessary secrecy and strength of defense intelligence would be preserved.

One final comment. With the Senate acting alone, the entire proposal will ultimately fail. With the House continuing under the present system, with the basic differences in Congressional management of the intelligence program, legislative reconciliation becomes unmanagable and impossible to attain. The fate of national intelligence should not be left to chance.

I hope you will see fit to vote for the proposed Amendment No. 1649.

Most sincerely,

JOHN C. STENNIS.

ADDITIONAL STATEMENTS ON TOWER-STENNIS AMENDMENT

Mr. TAFT. Mr. President, I rise in support of the amendment offered by Senator TOWER and others which would avoid a very serious problem created by the substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. This is one of the points I addressed in my testimony before the Rules Committee which unfortunately has not been resolved in the final compromise version of the resolution.

Furthermore, as I understand it, the Tower amendment would add constructively to the resolution by establishing the following things:

First, it would maintain the legislative jurisdiction over military intelligence within the Armed Services Committee, while preserving the select committee's oversight jurisdiction over military intelligence.

Second, it would obviate the requirement that the select committee report its estimates on military intelligence to the Senate Budget Committee.

Third, it would avoid the requirement that a separate authorization for military intelligence funding be employed.

The intendment of the amendment is to alleviate the risk of disclosure of military intelligence and to provide for the continued coordination of military intelligence with our entire U.S. defense position.

Mr. President, in my opinion it is virtually impossible to separate the budgeting process for the intelligence function from the process of authorizing and appropriating funds for our national defense. It is clear to me from my work on the Armed Services Committee that intelligence is an integral part of the national defense. It can be analogized to a complex network that could not be unraveled without destroying its entire structure. For example, Navy ships and military bases carry intelligence gathering equipment, for both tactical and national defense purposes. My question is, how can these funds for these systems be separately authorized and appropriated? In practice, it is impossible to draw a distinction between national and tactical intelligence, much less say that one system gathers only national, and another only tactical intelligence. These differences exist only on paper, in Senate Resolution 400, and not in point of fact. Moreover, I believe Senator STENNIS has made a good point here when he said that Congress has a vital role in the production of defense intelligence. He stressed that all of the elements of our defense program, such as sealift capability, defense intelligence, air power, must be evaluated together in order to provide the most effective overall national defense capability. He urged that valuable defense resources must go to those areas where they will have a maximum contribution to national defense. I could not agree more. It is my conclusion that this requires all of the component elements to be reviewed together in one place by a single committee having the expertise to make such evaluations. I submit that this is properly an Armed Services Committee function.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Delaware (Mr. ROTH) in connection with this matter.

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

STATEMENT BY SENATOR ROTH

I regret that due to a long-standing speaking engagement in Delaware, I am unable to be present for the final votes on S. Res. 400, including the vote on the Tower amendment and on the Cannon substitute.

If present, I would vote against the Tower amendment and for the Cannon substitute.

The Tower amendment would exclude from the jurisdiction of the new Intelligence Committee all Defense Department intelligence programs, including the National Security Agency (NSA) and the Defense Intelligence Agency (DIA). Since these agencies are involved in preparing national intelligence information that is the basis for general foreign policy and defense policy decisions, I believe that it is essential that the new Intelligence Committee have jurisdiction over these programs along with the Armed Services Committee. This is necessary for the new committee to have a coherent and complete understanding of our national intelligence effort, to review the various programs to eliminate any unnecessary duplication and maximize efficiency as required by one of my amendments to S. Res. 400, and to perform basic oversight responsibilities. Under the Cannon substitute, the Armed Services Committee will have sequential jurisdiction, and, of course, that committee will also properly retain exclusive jurisdiction over tactical military intelligence, the kind of intelligence commanders in the field need in a battlefield situation.

The Cannon substitute to S. Res. 400 is the compromise worked out by members of the Government Operations and Rules Committees to establish a new permanent Intelligence Committee. I joined in introducing this substitute because I believe a new committee with legislative jurisdiction is needed to help restore public confidence in our intelligence services while providing effective oversight. Finally, the substitute incorporates the essential provisions of the amendments I introduced to protect national intelligence secrets and examine a number of problems, including the morale of intelligence personnel, the analytical quality of our foreign intelligence information, and the desirability of charters for each intelligence agency, which I believe have not yet been adequately addressed.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

On this vote, the Senator from North Carolina (Mr. HELMS) is paired with the Senator from Tennessee (Mr. BAKER). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Tennessee would vote "nay."

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—31

Allen	Fong	Scott, Hugh
Bartlett	Garn	Scott, William L.
Bellmon	Goldwater	Sparkman
Brock	Hansen	Stennis
Buckley	Hruska	Stevens
Byrd, Harry F., Jr.	Johnston	Taft
Cannon	Laxalt	Talmadge
Curtis	Long	Thurmond
Eastland	McClellan	Tower
Fannin	McClure	Young
	Nunn	

NAYS—63

Abourezk	Gravel	Montoya
Bayh	Griffin	Morgan
Beall	Hart, Gary	Moss
Bentsen	Haskell	Muskie
Biden	Hatfield	Nelson
Brooke	Hathaway	Packwood
Bumpers	Hollings	Pastore
Burdick	Huddleston	Pearson
Byrd, Robert C.	Humphrey	Pell
Case	Inouye	Percy
Chiles	Jackson	Proxmire
Church	Javits	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Schweiker
Culver	Magnuson	Stafford
Dole	Mansfield	Stevenson
Domenici	Mathias	Stone
Durkin	McGovern	Symington
Eagleton	McIntyre	Tunney
Ford	Metcalf	Weicker
Glenn	Mondale	Williams

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So the Tower-Stennis amendment (No. 1649) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS ON THE CANNON SUBSTITUTE AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, as a member of the Committee on Rules, I have worked closely with other Senators in writing the substitute amendment offered by Mr. CANNON to Senate Resolution 400. I am keenly aware of the compelling need for effective oversight of the intelligence community, and I also recognize that the best interests of the United States demand that the intelligence community must be able to function effectively and that there are matters which, in the national interest, the Government must be able to keep from public disclosure.

I believe that the compromise substitute offered by Senator CANNON and myself and other Senators to Senate Resolution 400 will provide the best legislative response to these legitimate competing interests.

The membership of the new committee would be drawn from the entire Senate, while at the same time drawing from the substantive committees which have expertise in intelligence-gathering matters—recognizing that members from these committees not only must continue to work closely with intelligence matters to enable their committees to fulfill their responsibilities properly; but, also that these members bring a special understanding and knowledge of intelligence activity matters to the new select committee.

The new committee, in exercising exclusive jurisdiction over the CIA, will be able to deal with the complexities of intelligence activities, without the burden of responsibility over other large areas of legislation which the substantive committees now shoulder. Centralization of responsibility for the CIA in one committee, while providing for closer oversight, also decreases the risks of inadvertent publication of highly sensitive material on the part of the Senate. Conversely, responsibility to only one Senate committee demands and will allow full cooperation and candor with that committee on the part of the CIA.

At the same time, the compromise proposal offered as a substitute for Senate Resolution 400, recognizes that in other areas of the intelligence community, the working relationship of the intelligence arm of the respective departments and agencies are so closely intertwined with the other activities of the departments that isolated oversight of these intelligence activities by one Senate committee would be detrimental to the proper functioning of both the affected department and the Senate in carrying out its constitutional oversight responsibilities.

The compromise also provides adequate protection against unwarranted disclosure of sensitive material, I believe, thus correcting a serious deficiency in the original bill.

Mr. President, it is a most difficult task to shift jurisdiction in the Senate to allow for the changing priorities which the national interest demands. It is not that our present committee structure did not want, or try, to prevent abuses in the intelligence community—the fact is that the intelligence activities of our Government have grown so large and so complex that the substantive committees, with all of their other heavy responsibilities, could not hope to give the necessary time and develop the specialized expertise needed to constantly monitor and effectively control the intelligence community.

Recognizing the reality that an effective intelligence community is an absolute necessity for our country's security, but also realizing that past abuses by some segments of the intelligence community require the Senate to act to restructure itself in such a way as to be able to exert the necessary legislative oversight to prevent future abuses, I urge the Senate to adopt the Cannon substitute proposal and pass Senate Resolution 400 as so amended.

Mr. TAFT. Mr. President, after a thorough study of the issues involved, and after actively participating in the debate on Senate Resolution 400 as well as offering several amendments thereto, I am constrained to vote against the so-called Cannon compromise. This is not to say that I do not favor a central committee of the Senate which would have legislative and even perhaps appropriations jurisdiction over our intelligence activities. I believe we all agree on the objectives for creating such a body—more adequate and continuing control on the part of the Congress over our various intelligence functions. But I differ with the Cannon compromise with respect to the means employed to achieve these objectives.

I believe that the compromise in several ways is premature and hastily drawn. The compromise calls for the creation of a select committee of the Senate which in effect has the powers and authority of a standing committee of the Senate. The substitute establishes a wholly new intelligence committee with legislative, budgetary, and oversight jurisdiction wrapped up in one committee. It is my view that this is an extremely serious undertaking and should not be approved until all of the implications of creating a committee like this have been thoroughly developed over an extended period of time.

I believe it is also proper to have an informed input from the select committee to study the Senate committee system prior to our adoption of the compromise resolution. It would certainly seem logical that any proposal to establish in effect a standing committee of the Senate should receive study by the committee which the Senate has authorized for that purpose in conjunction with its overall study of committee jurisdictions. I believe we are depriving our Select Study Committee of jurisdiction over a matter which the Senate has previously agreed is eminently within the jurisdiction of this body.

I have additional problems with the compromise resolution as it presently stands. I successfully offered two amendments during the debate on this measure which I feel will strengthen the resolution. However, one of my amendments dealing with the Senators' committee assignments was defeated yesterday and I believe that this was a crushing blow to the establishment of a new Select Committee on Intelligence. Without going into detail into this issue, which is a matter of record, I believe that we have not given this committee a realistic chance to succeed because there is no accommodation made for a Senators' work on this select committee with his normal activities in the conduct of other senatorial committee assignments.

I am also concerned that the pending substitute will cause a proliferation of committee involvement in intelligence matters and will unavoidably lead to greater disclosures of our intelligence activities. While I recognize that the bill does provide for controls over unauthorized disclosure of classified information and while there is a provision for the Senate to investigate unauthorized disclosures, I am still not satisfied that we have tightened this area sufficiently so as to fully protect our intelligence secrets. I will continue to monitor this area assuming the select committee comes into being and if there are violations and abuses, I am prepared to offer legislation to impose criminal sanctions on the violators in addition to the disciplinary rules contained in the Standing Rules of the Senate.

For all of these reasons, I would prefer the approach taken by the Rules Committee which would establish a Senate Select Committee on Intelligence with oversight jurisdiction over the intelligence community, but would leave within the various standing committees the legislative jurisdiction in respect to intelligence activities.

I believe that a separate oversight committee, fully and currently informed and having a subpena power, can provide effective oversight for the intelligence community without a grant of legislative jurisdiction. This statement is borne out by virtue of the experience of the Select Senate and House Intelligence Committees which have very successfully exposed the abuses while not having legislative authority.

Mr. President, it seems to me that in order for the Senate to succeed in this area, it must work with the House of Representatives in fashioning a joint committee of Congress acceptable to both bodies. Legislative activity as broad as what we are providing for in this select committee has got to be done in conjunction with the House of Representatives if we are to gain control over our intelligence area. The beauty of adopting the Rules Committee approach is that it would furnish us with sufficient time to further study this prospect while at the same time not diminish our inquiry into the status of our intelligence functions. I note that Congressman CEDERBERG has for himself and the minority leader of the House, introduced a

joint resolution to provide for the establishment of a Joint Committee on Intelligence which I believe shows a willingness on the part of the House to engage in a constructive dialog on creating a committee of this kind.

I would like to have the opportunity and time to develop this aspect further and it appears to me that we are going to foreclose this possibility by approving this Senate Select Intelligence Committee today.

Mr. KENNEDY. Mr. President, I strongly support the compromise amendment to Senate Resolution 400, offered by Senator CANNON and others, which I am pleased to cosponsor. This proposed substitute, as amended, would establish a permanent Select Committee on Intelligence Activities composed of 15 Members of the Senate, appointed on a rotating basis.

The committee will have full oversight, legislative, and budgetary authority over the Government's national intelligence activities. Its jurisdiction will not only cover the Central Intelligence Agency, but also the Defense Intelligence Agency, the National Security Agency, and the intelligence activities of other agencies—including the Federal Bureau of Investigation.

Although we are considering this resolution in the wake of the reports recently issued by the Senate Select Committee on Intelligence Activities and the President's Commission on CIA activities, the need for such a permanent intelligence oversight committee was recognized by the Hoover Commission over 20 years ago. In 1956 the Senate Rules Committee recommended the creation of a new congressional unit "to gather information and make independent checks and appraisals of CIA activities." Numerous other studies and reports since that time have reemphasized the need for closer more continuous, and more sophisticated oversight of intelligence activities of the Federal Government.

Under the able leadership of Senator CHURCH, the Select Committee on Intelligence Activities explored for over a year the various intelligence programs, agencies, expenditures, and activities of the Federal Government. Whatever doubts may have existed before, the over 1,000 pages of final report recently issued by that committee make it imperative that we proceed with dispatch to set up a permanent committee with broad jurisdiction and adequate powers to keep a watch over and maintain a check on the activities of all the agencies of the Federal Government dealing with intelligence.

It has taken the Intelligence Committee seven volumes of hearings and two volumes of reports to uncover, document, and analyze the intelligence activities of various Federal agencies. It would be impossible to describe in any brief floor remarks the scope of the abuses of power contained in that record.

It is replete with descriptions of bugging, wiretapping, mail opening, surreptitious entry, infiltration, assassination plots, drug experimentation, clandestine military operations, character assassinations, and more, all carried out under the banner of intelligence gathering and the protection of our national security. And all were carried out secretly, without public or congressional knowledge, without adequate controls or checks from within or without.

The establishment of a permanent Senate committee to keep tabs on the Governments' intelligence community is only the first step. Congress must proceed to develop comprehensive charters for the intelligence agencies, and guidelines for their activities. We must reorganize portions of those agencies, establish firm chains of command within and constant reporting and approval mechanisms without.

We must establish a statutory classification system and enact laws governing national security electronic surveillance. The list goes on and on. But at its head is the need to put in place a committee to oversee and study the intelligence activities and programs of our Government, to develop and review legislation concerning them, and to insure that they are in conformity with the Constitution and laws of our land.

Senate Resolution 400 has been before various committees of the Senate for over 2 months. It has been studied and debated, revised and revised again. But until the introduction of the Cannon substitute last week, what had emerged from these studies and debates and revisions was a division of this body into two basic groups—those who would put in place a permanent strong committee, equipped with the authority and jurisdiction to do the immense and difficult job of overseeing Government intelligence operations, and those who would construct a committee of paper maché, having the appearance of solidity but remaining thin on the outside and hollow on the inside. The Stennis amendment, which would strip the new committee of its jurisdiction over Defense Department intelligence functions—including DIA and NSA—reflects this second choice.

If we choose the latter course, then we are saying that the Senate tradition of ignoring the use and abuse of immense power and perhaps billions of dollars in the intelligence field is to be continued. We are choosing to put our heads back in the sand, knowing nonetheless that what we do not know and will not know could hurt us, thousands of other Americans, and our democratic society.

The evidence we have makes the former course the only responsible one. The proposed substitute to Senate Resolution 400, as it stands now, would arm the Senate with the tools to fulfill our constitutional duty to provide the controls and guidance over executive branch intelligence activities. In taking this road we are not acting as if intelligence is unimportant to our Nation. We are not saying that we should drop our guard against genuine foreign challenges to our national security. But we are asserting that Congress intends to play a direct role, a firm role, in guiding the conduct of intelligence activities and in protecting the rights and liberties of all American citizens.

I would like to turn my attention for a moment to the matter of the jurisdiction of the new committee proposed to be established by the substitute to Senate Resolution 400, which I am joining in proposing. As a member of the Senate Committee on the Judiciary, I had the occasion to hear testimony and join debate over whether any new permanent Senate Intelligence Oversight Committee should have jurisdiction to oversee the intelligence activities of the Federal Bureau of Investigation. I came away convinced that while the Judiciary Committee must maintain its historic jurisdiction over every aspect of the Bureau's operations, the new committee should nonetheless be vested with authority over the FBI's intelligence activities.

There are two reasons for this conclusion: First, there have been a myriad of abuses by the FBI, under the guise of domestic intelligence and counterintelligence, which have basically gone unchecked and undisclosed, despite the Judiciary Committee's interest in and involvement with the Bureau. And second, setting aside the issue of abuses, there is a legitimate role which the FBI has—as a full member of the intelligence community—which takes it into realms that can often best be understood and guided by a committee with broader jurisdiction over foreign intelligence activities of other agencies of Government as well.

The abuses of authority by the Federal Bureau of Investigation in the intelligence area are by now all too well known. They are not limited to narrow time frames or circumscribed geographic areas. Nor, more importantly, do they reflect the isolated acts of zealous agents out on a frolic of their own. Instead, those abuses were embodied in on-going bureaucratic programs, ordered and approved at the highest levels, spanning the country and continuing for years.

The Bureau's counterintelligence programs were, in its own words, designed to "expose, disrupt and otherwise neutralize" political groups in the United States. The Cointelpro program, targeted against five groups, extended over 15 years and was found by the Department of Justice itself to have involved practices "abhorrent to a free society." Attorney General Levi stated that many of the Bureau's activities in this field were not only "foolish," but were also "illegal."

The FBI's bag of intelligence tricks included wiretapping, burglaries, surveillance, and abusive disruptive practices. And it also included efforts to discredit and harass American citizens whose only offense was to provide leadership in the antiwar and civil rights movements.

But I do not want to dwell solely on the misuse and abuse of FBI power so thoroughly documented by the Church committee. Because, Mr. President, it is clear that even without straying from its lawful and legitimate course, the FBI retains responsibilities that are not directed primarily toward law enforcement, but which are aimed at collecting intelligence information for our Government and at blocking attempts by foreign governments from collecting information from us.

On February 18 of this year President

Ford issued an Executive order governing U.S. foreign intelligence activities. In that order, the FBI was listed alongside the Central Intelligence Agency, the National Security Agency, and the Department of Defense as a full-fledged member of the "foreign intelligence community."

In fact, while the CIA was charged with carrying out "foreign counterintelligence activities," the FBI was charged with conducting "foreign counterintelligence activities within the United States." I stress, Mr. President, that the only difference in the characterization of the responsibilities between the CIA and the FBI is the use of the geographic limitation which sets the CIA's duties outside our country, the FBI's inside. Incidentally, the Executive order spells out the Bureau's responsibilities in some detail, but not once in that order is law enforcement or prosecution for violating Federal laws mentioned.

In short, the FBI, while fundamentally a law-enforcement agency, is also an intelligence-gathering agency. In its report on Senate Resolution 400, the Rules Committee observed that "the intelligence activity of the FBI is a means by which it detects and investigates violations of Federal criminal laws." In fact, as the President's Executive order, the Bureau's own guidelines and organization chart, and testimony before the Judiciary Committee make clear, this is simply not the case. The Intelligence Division of the Bureau performs activities in the United States similar in nature to what the CIA does abroad. No direct law-enforcement nexus is necessary in the conduct of the Bureau's intelligence and counterintelligence programs.

Finally, it is difficult, and often impossible, to draw clear lines between the law enforcement and the intelligence functions of the FBI. Nor is there any clear line dividing domestic-oriented from foreign-oriented activities.

Mr. President, I would also like to point out for the record that while the Rules Committee report on Senate Resolution 400 contains what are called "recommendations of the Committee on the Judiciary," 7 of the 15 members of that committee dissented from those recommendations. Those 7 members joined in a letter to the Rules Committee, which was not reflected in its report, urging that the new Intelligence Committee retain concurrent legislative jurisdiction over FBI intelligence activities.

It seems plain to me, Mr. President, that if there are two committees in the Senate—one predominately concerned with law enforcement and the protection of constitutional rights, as is the Judiciary Committee, and the other predominately concerned with foreign intelligence, as will be the new Intelligence Committee—then both must have continuing, full, and active oversight and legislative jurisdiction over the intelligence activities of the Federal Bureau of Investigation.

As strong as I believe the case is for providing the Select Intelligence Committee with jurisdiction over FBI intelligence activities, that case is even stronger regarding the Defense Intelligence Agency, the National Security Agency, and other units of the Department of Defense. The Defense Department must be kept in check as to its activities both at home and abroad.

The Subcommittee on Constitutional Rights of the Judiciary Committee has documented the extensive nature of military surveillance of American citizens in the United States. Likewise the Church committee found that the Army Chief of Staff in 1967 approved a recommendation for "continuous counterintelligence investigations" to obtain information on "subversive personalities, groups or organizations." As later revised, the Army extended its intelligence gathering program beyond "subversion" and "dissident groups" to prominent persons who were friendly with or sympathetic to leaders of domestic civil disturbances. And even in the face of a Defense Department directive prohibiting military spying on civilians in the United States—as narrow as that directive is—that is evidence that the military has continued domestic surveillance.

One notable example of the Army's domestic activities was the pervasive Army presence in 1973 at Wounded Knee, S. Dak., where the Directorate of Military Support in the Pentagon coordinated the Army's participation in what was clearly a domestic disturbance. And my own subcommittees turned up widespread military drug testing programs which were geared to intelligence gathering and frankly showed little respect for the human subjects of the tests.

DOD's domestic intelligence-related activities, however, are but the tiniest tip of the iceberg. In fact, it has been estimated that of the total national intelligence budget, the Defense Department controls or is allocated upward of 80 percent. Much of what goes on with that money is still not in the public domain. And if the Stennis amendment is adopted by this body, much of what goes on with it will never be brought under any coordinated, effective, broad-based legislative oversight.

To place the CIA under the jurisdiction of the new intelligence committee, and at the same time to leave the Defense Department outside its purview, is worse than telling a boxer that he cannot hit below his opponent's waist with his left fist only. Because as much as we scrutinize the CIA, we cannot adequately control, chart, guide, or check abuses in Federal intelligence programs if the Select Intelligence Committee is not given authority over Defense Department intelligence activities. We may well wake up one day to find that many CIA activities have in fact been transferred over to Defense to escape congressional control.

We cannot delude ourselves. We know full well that the standing committees have not always performed their oversight tasks with vigilance or vigor. That is why we set up the Church committee to begin with. And that is why we are going to set up a permanent Select Committee on Intelligence Activities.

The Judiciary Committee had not uncovered, much less put a stop to, the wide range of FBI activities which violated the law but which have only recently come to light. Likewise, the Armed Services Committee has hardly done better in keeping an eye on the CIA and other intelligence agencies. We must establish a committee whose full-time job it is to look at Federal intelligence activities. And we must give that committee full authority over each and every Federal agency engaged in such activities.

The new committee must be empowered to obtain all relevant information it needs to do its job.

Further, by vesting in this new committee the shared jurisdiction over authorizing appropriations for all those intelligence activities, we will be giving that committee the clout and the control it will need.

I believe that one of the first tasks of this new committee should be to develop comprehensive charters for the carrying out of intelligence activities by the intelligence agencies. This will surely take an extraordinary investment of time and energy—one which is hardly likely to be undertaken by any of the present standing committees of the Senate. But if we are going to learn any lessons from the disclosures of the past, we cannot afford to lose any time in first making the hard decisions necessary and then installing firm limitations and guidelines to govern intelligence activities in the future.

As I stated earlier in these remarks, Mr. President, the Senate is confronted with a critical choice in this debate. We can elevate the traditions of the Senate—not only the tradition of zealously guarding committee jurisdictions against even slight encroachment, but also the tradition of ignoring what our intelligence agencies are doing—above the real needs of this Nation for legislative leadership in the intelligence field. Or we can dispense with petty institutional jealousies and put in place a committee which embodies our best efforts to fashion the broadest jurisdiction, the most sophisticated safeguards, and the strongest authority.

We cannot fool ourselves, and we should not try to fool the public: Any committee equipped with less jurisdiction or authority than provided in this substitute will not be capable of obtaining information from and exercising checks over those agencies which exercise such extreme power themselves and which have for so long eluded control by either the Congress or the Executive. And any committee without full jurisdiction across the range of all Federal agencies would stand as a monument to this body's willingness to cave in and cop out in the face of real challenge.

That is why I oppose the Stennis amendment and urge my colleagues to adopt the Cannon substitute as it now stands.

The PRESIDING OFFICER (Mr. SCHWEIKER). Under the previous order, the Senate will now proceed to vote on the amendment in the nature of a substitute, as amended, of the Senator from Nevada. (Mr. CANNON). On this question, the yeas and nays have been

ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from North Carolina (Mr. HELMS) would each vote "yea."

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—87

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

NAYS—7

Allen	Hruska	Thurmond
Curtis	McClure	
Fannin	Taft	

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So Mr. CANNON'S amendment (No. 1643), as amended, was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS ON SENATE RESOLUTION 400, AS AMENDED

Mr. HOLLINGS. Mr. President, in the zeal to organize, we sometimes disorganize, and there is clear and present danger that we are heading down that road with these particular intelligence oversight proposals. The fact of the matter is that the measure before us creates confusion where there should be authority, and dilutes the kind of responsibility which could provide for adequate accountability and oversight. Before we know it, we could be right back to the same slipshod oversight, the same diminution of public credibility, and right back 3 or 4 or 5 years from now to another round of spectacular hearings and revelations, simply because we failed to do a better job. The public would not stand for that. The Senate should not have to endure it. And our intelligence agencies will not be able to survive it.

My objection is that here we are creating this large supercommittee, yet it lacks jurisdiction over the majority of intelligence activities and instead focuses on the Central Intelligence Agency. Its jurisdiction over the FBI would not be exclusive, and the same applies to the intelligence operations of the military branches. In these instances, we bring in other standing committees. The limitations here should be obvious: First, there is no focal point of responsibility; and second, by including these other committees, we will not have 15 Senators involved, but closer to 40. And if the House follows our example, it can add another 175 or 200, and we will have one big, happy family to oversee the vital operations of our intelligence community. The inadequate oversight guaranteed to result from that kind of arrangement should be obvious.

Mr. President, I had the opportunity of testifying before the Government Operations Committee during its deliberations on this matter. I made some suggestions at that time. They were not acted upon, and I do not wish to belabor them or to repeat my testimony today. But, briefly put, I proposed the establishment of a watchdog commission small enough to get the job done, tight enough to provide the necessary responsibility and authority, wide enough in diversity of membership to insure public credibility, and efficient enough to do its job without impairing the work of the agencies it is supposed to be helping.

The genesis of my proposal is in the Task Force on Intelligence Activities of the Commission on Organization of the Executive Branch of the Government—the Hoover Commission. It was my privilege to serve on this task force 21 years ago. At that time we looked into every facet of our intelligence operations, and I believe the basic thrust of our report has withstood the test of time.

We recommended a small, permanent, bipartisan commission—not a committee—composed of Members of both Houses of Congress, to make periodic and ongoing surveys of every segment of our intelligence operations. Its findings and recommendations, with adequate security safeguards, would go to both the Congress and the President.

I suggested before the Government Operations Committee that such a commission would have just five leaders from each House, and five prominent citizens not involved in Federal Government, appointed by the President and approved by the Congress. That sum total of 15 must be compared with the 40 some Senators who will be involved under the present proposals, plus whatever number the House establishes, plus the executive branch personnel. The specific five Members from the Senate I would like to see on a commission are the majority and minority leaders, and the chairmen of the Senate Committees on Appropriations, Armed Services, and Foreign Relations. I include the leadership and the chairmen for the main and simple reason that they are the ones who have to know and who, in any event, will know. Let us also face the fact that this is an unglamorous job. I do not look for much enthusiasm to get on such a committee, when other assignments offer so much more visibility and excitement.

This is not to say that we junior Members should be cut off from information. But there is a lot of water over the dam, and we can now get the briefings we need, whether it be Angola, Diego Garcia, Israel, or any other such matter, and we are not ruled out by lack of seniority. That is not the problem here. The problem is the effectiveness and the necessary secrecy of an intelligence agency being maintained while at the same time those responsible for oversight get the facts and the knowledge they need. The leadership and these particular chairmen are the logical choices here.

I would envision such a commission meeting three or four times a year for comprehensive reviews of the entire intelligence community, in order to determine if the various intelligence activities were in the national interest, whether there was duplication of effort and/or cost, whether appropriations were being adequately accounted for, and in general to insure that the various agencies and offices were focusing rather than proliferating their efforts. The commission would have all the authority it needed to acquire the information and to carry out its mandate.

Mr. President, within the context of maintaining some secrecy about our intelligence operations, we must establish confidence—confidence both within the intelligence agencies, and confidence in the public mind. I think the establishment of this kind of ommission would do just that. The kind of proposal being considered today is without the essential focus, responsibility, and authority to get the job done as well as it should be done.

The commission proposal that I presented to the Government Operations Committee received no committee support. Consequently, I am not going to pursue them further today. I will vote for the proposal before us, because obviously we need to put something in place, and this seems to be the solution the Senate is going to agree to. But I want the record to show the objections I have and the proposals I favored.

Mr. BEALL. Mr. President, I support the passage of Senate Resolution 400 which will establish a committee of the Senate on intelligence activities. Creation of this committee is an important step in our efforts to establish a positive congressional oversight role in the operation of our Nation's intelligence agencies. Even though the final reports of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities found the extent and magnitude of CIA abuses to be somewhat less serious than earlier reported, the existence of such abuses simply can not be allowed to continue.

I am the last person who would defend the abuses and illegal conduct of our

overseas intelligence community. Philosophically I deeply believe in the concept of limited government. Our Nation must always be governed within the constraints of our Constitution and our laws. We are a nation of laws, not of men and our freedoms are only safe as long as we adhere to that principle.

Thus, I do not condone the misconduct of the Central Intelligence Agency, nor do I believe that it should be allowed to operate beyond the limits of its legal mandate. Part of the problem stems from the dangerous international environment of the cold war. Part of the problem stems from the failure of the Central Intelligence Agency Oversight Committees in both the House and the Senate to play their watchdog roles in a diligent and consistent manner.

Mr. President, I would note that, even before the Select Intelligence Committee was established to investigate the ramifications of the current controversy, I was actively supporting legislation to correct this situation. I joined with our distinguished colleagues from Connecticut (Mr. WEICKER) and Tennessee (Mr. BAKER) in sponsoring S. 317 which would have established a single joint committee with oversight responsibilities for both domestic and foreign intelligence. During the past 16 months since S. 317 was introduced, I have come to the conclusion that a separate Senate committee is a better approach to meeting this need. Perhaps at some future date a subsequent Congress may consider the possibility of broadening the Senate committee into a joint committee.

Mr. President, as we prepare to vote on Senate Resolution 400, the Senate is taking upon itself greater authority over the conduct of intelligence operations. With this enhanced power comes grave responsibilities. In the conduct of foreign intelligence operations, there is a very great need for confidentiality. Disclosing confidential information about foreign intelligence operations and agents can place in jeopardy the security of our Nation and its 215 million people. The overriding interests of all Americans demand protection under these circumstances. This new committee, which we are about to form, and its staff must be able to conduct its business in a manner consistent with our overall national security needs.

We live in a far too dangerous era for us to dismantle or cripple our foreign intelligence apparatus. We must instead correct its faults as quickly as possible so that it can once again devote all of its attention to gathering the type of information our decisionmakers need to shape our foreign and military policies.

Mr. President, on April 5, 1976, I introduced S. 3242, a bill to provide for the personal safety of our foreign intelligence personnel. This legislation would make it unlawful to disclose classified information that would identify or tend to identify any individual or entity who is or has been associated with U.S. foreign intelligence operations. Violations would carry a maximum penalty of $15,000 or 15 years imprisonment or both. S. 3242 is currently pending before the Senate Judiciary Committee and it has now been cosponsored by the distinguished senior Senator from North Dakota (Mr. YOUNG) and the distinguished senior Senator from Arizona (Mr. FANNIN). I would hope that the Judiciary Committee will bring this vital legislation before the full Senate before the conclusion of the 94th Congress.

Mr. PEARSON. Mr. President, I wish to commend the managers of Senate Resolution 400 and all of my colleagues who have worked so intensively to create the new Intelligence Oversight Committee. Their labor has produced a compromise that I believe represents a responsible combination of increased oversight and legislative restraint that reflects well on this body. I hope that it also represents a reversal of a long history of congressional inactivity in the intelligence field.

It has become, over the past 2 years, painfully clear that some new oversight panel was essential. The Rockefeller Commission and investigations conducted by select committees in both Houses of Congress have disclosed domestic abuses and foreign debacles perpetrated by our intelligence community. During the nearly 30 years in which these abuses were all too frequent, Congress neglected its constitutional responsibility to keep a vigilant watch over its administrative creations. Congress abysmally failed to assure that legislative appropriations were properly expended.

To the extent that this neglect and failure was institutionalized by fragmented committee responsibility this resolution begins to eliminate the inadequacy. Effective oversight of the CIA, NSA, DIA, the national intelligence components of the Department of Defense, and the intelligence activities of the FBI will hopefully become a reality under the new panel.

Congressional overseers have, in the past, tended to identify their interests with those of the agencies under their jurisdictions. This can be predicted as a natural result of years of contact. While familiarity is necessary to understanding, it sometimes blinds those who oversee. Rotation of the members who serve on the new panel should serve to prevent this occurrence in the future. Each member of the new panel should be on guard against inadvertent cooption to avoid succumbing to the friendly "cult of intelligence." John Stewart Mills contended, in his papers on representative government, that legislation control of administration is essential to liberty. Effective legislative oversight is wholly consistent with American legal traditions and precedents. While there is no need for Congress to put its fingers in the day to day operation of administrative agencies, there is a real need to interpose a continuing congressional presence into intelligence activities.

But I hope that no Member of this body considers our actions today anything more than the beginning. Intelligence oversight has been long in coming, but it is merely one step on the road to correcting abuses. The new committee will have to work quickly and will need all of our support to formulate and enact additional legislation: Legislation to prefect the FBI's intelligence charter, legislation to assure that analytical intelligence is legitimately used in policy determinations. New law will be required regarding the conduct of covert and clandestine activities. We have a long way to go before we have comprehensively addressed the various problems and to bring the intelligence function within the bounds of our Constitution and moral commitment.

Mr. JACKSON. Mr. President, in connection with today's passage of intelligence oversight legislation, I would like to make several observations.

I have long felt that effective oversight over the intelligence agencies of our Government is absolutely essential: Essential not only to curb possible abuses but also to provide clear-cut guidance to the intelligence community, so that the absolutely vital and necessary intelligence function could be performed within well-established and workable guidelines.

In 1956 I joined with the distinguished majority leader, Senator MANSFIELD, in cosponsoring the first intelligence oversight legislation presented to the U.S. Senate. Certain features of that legislation I found attractive at the time—and I still do. That proposal provided for the creation of a joint House-Senate committee for intelligence oversight. I believe a joint committee of the Congress is the best and wisest approach to fulfilling the responsibility of Congress for intelligence oversight. It would reduce the hazards of working at cross-purposes, and it would deter the possible development of an unhealthy competitive situation which could result in disclosures damaging to our national security.

I recognize sincere and vigorous efforts have been made by leaders of this body to create such a structure, without success. I sincerely hope in the future this type of arrangement will become possible.

I also believe the Congress is neither constitutionally nor philosophically equipped to duplicate the day-to-day operations of the executive branch of Government. I, therefore, hope the authority provided this committee will be used judiciously and constructively in performing the constitutionally mandated responsibility for oversight. Its members and staff will bear a heavy burden of responsibility because of the broad scope of intelligence information they will obtain.

The real requirement for successful congressional oversight is full knowledge of what is going on in the intelligence community; not to substitute a different set of daily decisionmakers for those in the Executive already charged with this responsibility.

Experience with the arrangements we are voting on today should provide us the lessons needed for future constructive development in this vital area.

Mr. HUDDLESTON. Mr. President, I am pleased to support Senate Resolution 400 to create a permanent Intelligence Oversight Committee.

The legislation before us represents the time, energy, and efforts of numerous Members of this body and staff. It re-

flects what I believe to be one of the greatest strengths of our democratic system and the legislative process—the ability to mediate among various interests and views and to develop a common understanding as to what will best serve our Nation and each of us as its citizens. Certainly there have been differences among us in this Chamber as to what Senate Resolution 400 should include, but I believe we have proceeded to debate and consider those differences in a most appropriate manner and that we have come to reasonable and realistic conclusions.

It is impossible to name all those who have contributed to this legislation but those who deserve particular commendation would certainly include the able floor managers, Senators RIBICOFF, CANNON, and PERCY, and Senators MANSFIELD, ROBERT C. BYRD, MONDALE, JAVITS, and CRANSTON. Senators BAKER, SCHWEIKER, MORGAN, GARY HART, MATHIAS, and CHURCH—all members of the select committee which investigated the intelligence operations of the Government—played important roles in developing the original proposal that has now gone through the legislative process and is ready for a final vote.

There can be no question as to the need for a strong, effective intelligence community. As we on the Select Committee on Intelligence Activities noted in our final report on foreign and military intelligence:

> We must have an early warning system to monitor potential military threats by counties hostile to United States interests. We need a strong intelligence system to verify that treaties concerning arms limitation are being honored. Information derived from the intelligence agencies is a necessary ingredient in making national defense and foreign policy decisions. Such information is also necessary in countering the efforts of hostile intelligence services, and in halting terrorists, international drug traffickers and other international criminal activities.

But that need can never justify illegal, unprincipled, or unacceptable actions—and it does not have to. We are completely capable of conducting intelligence operations within acceptable bounds, and we should do so. To follow any other practices not only undermines the support which such agencies must have among the American people, but also undermines the morale and effectiveness of the agencies themselves.

There can be no question that there has been too much secrecy in our Government, not just in the intelligence agencies, but throughout. It is well known that the classification system is abused. As former Attorney General Nicholas Katzenbach noted in a 1973 Foreign Affairs article:

> Classifiers have mixed the desire to keep information confidential and "closely held" for whatever reason, good or bad, with information actually affecting the "national defense". Perhaps worse, it is a perversion of the processes of government, because it does not force officials to consider honesty the reasons for confidentiality or the relevant time frame.

But an exaggerated emphasis on secrecy, either past or present, cannot be used to justify the abolition of all secrecy or controls. The nature of intelligence requires that many of its activities be closely held. Detailed discussions of sources and methods not only set the stage for rendering those sources and methods ineffective but in some cases impose dangers upon persons involved with them.

There can be no question that greater direction and oversight is needed in the intelligence sphere. Many of the abuses which our investigating committee discovered, many of the inefficiencies which the select committee's report discussed, might have been avoided with tighter controls both within the executive branch and in the Congress.

But, the need for such controls does not mean that we can either abolish our intelligence activities or overly restrict them.

There can be no question that public emphasis is on the dramatic, the unusual, the cloak and dagger, James Bond-type operations. Perhaps that is how both romantics and opponents of intelligence activities like to view them.

But, we must constantly be aware that there is much more to intelligence than that. Covert operations which receive so much attention—or notoriety as the case may be—are a miniscule portion of U.S. intelligence operations. The Central Intelligence Agency, which perhaps too often bears the brunt of attacks, is only one of a number of entities engaged in intelligence work. The spy, the counterspy, the mercenary is the exception, not the rule. In truth, a large portion of the intelligence community consists of researchers, analysts, and technicians, who work entirely outside the areas of controversy.

Furthermore, as McGeorge Bundy, former special assistant to the President for National Security Affairs noted in testimony before the Senate Government Operations Committee—

> It really is true that in the nature of things, the achievements of the intelligence community are less known than its failures. Its general good discipline is less noticed than its occasional irresponsibility and its usually cool and careful estimates of international reality are less noticed than the wild opinions of its occasional zealots.

These are some of the paradoxes; these are some of the conflicting interests which must be balanced—and they are the aspects which will, I believe, be balanced through the creation of the proposed permanent oversight committee.

As I noted in remarks earlier in this debate, three principal reasons mandate the creation of an oversight committee: the need to prevent any recurrence of illegal and unwise activities which have brought disfavor upon the agencies and ourselves; the fact that a number of activities, including covert operations, must be kept secret and controlled principally through an increased system of accountability; and the fact that the investigating committee's report indicated improvements could be made in the management and administration of the agencies.

For almost 30 years, Congress has allowed the oversight function to be exercised as an adjunct to other more pressing and demanding functions. It has failed to recognize and understand the realities and scope of an intelligence community which, especially in the years after World War II, was forced to operate in clandestine and secret ways or to confront the issue of massive technological developments which offer us greater protection and security but also hold the potential for greater abuse.

I believe the investigation which we in the Senate have conducted over the past 15 months has demonstrated that we cannot again stick our heads in the sand and hope things will all work out. Time, technology, and world events have forced upon us new duties, new responsibilities. The world does not stand still. Changed times, changed conditions, changed factors require that we have changed priorities, changed structures. The creation of a new committee will offer us the opportunity to deal with this.

But, that will not alter the fact that we have a number of committees in the Senate which must rely heavily upon the information which the intelligence community develops. I do not believe anyone would argue that the Armed Services or Foreign Relations Committees, for example, could adequately pursue their responsibilities without easy and constant access to the various intelligence agencies and the information which they possess. I do not believe that any of us in this body would want those committees to make recommendations to us on issues of war and peace, security and survival without fully considering all the pertinent data which our intelligence agencies have gathered and the best analysis which they are capable of making of that data. As I understand Senate Resolution 400, that access and availability is fully protected, and I would not support the legislation if I thought otherwise.

Furthermore, in an effort to insure that there is coordination between the new committee and the committees with jurisdiction over matters demanding intelligence information, Senate Resolution 400 provides that there will be a certain amount of membership overlap between the committees most affected and the new select committee.

I know that there has been concern over the possibility that an authorization process will lead to harmful disclosures regarding our intelligence spending. I understand these fears, but I would point out that Senate Resolution 400 does not require public disclosure of budget figures and I am confident that the new committee can manage the budgetary authority without undermining our intelligence activities.

Finally, I would like to focus briefly on two provisions with which I have been particularly involved. One relates to the reporting requirements. Section 4 of the resolution requires periodic reports to the Congress regarding intelligence activities. As a member of the Select Committee to Study Government Operations With Respect to Intelligence Activities, I proposed this section when our committee was drafting legislation to create a permanent oversight committee.

I testified before the Government Operations and Rules Committees regarding this provision and was pleased that it was included both in Senate Resolution 400 as reported from the Government Operations Committee and in the compromise version which was developed.

I believe this provision is important for three reasons: First, the secrecy surrounding intelligence operations has bred much suspicion. If more information can be made available, perhaps some of the cloud can be driven away. Second, as I have noted before, there is a widespread misunderstanding as to the nature of a large portion of our intelligence activities. If more can be understood about the routine but important functions, perhaps there can be greater understanding and support for such activities. Third, I think Members of the Senate are entitled to have more general knowledge about the activities of the intelligence agencies.

It is, I believe, important to note that the reports required by the section are to be made in a manner consistent with national security and that any report will be subject to the requirements in the resolution regarding disclosure of sensitive information. Finally, as the Government Operations report indicates, a minimum of at least one report per year would be expected from the new committee.

A second matter which I would like to discuss briefly, is the so-called Roth-Huddleston amendment regarding sanctions. Senator ROTH and I presented our proposal to the Government Operations Committee on which he serves; we have discussed this provision with numerous Senators; and we both testified before the Rules Committee regarding it.

Basically, the Roth-Huddleston amendment is designed to provide a practical, workable system of sanctions which could be utilized should we have the unfortunate experience of an unauthorized disclosure of intelligence information which either the new Intelligence Committee or the full Senate has determined should be kept secret pursuant to procedures recognized in Senate Resolution 400. Under our amendment, any sensitive information which the committee or the Senate had determined should be kept secret would have to be kept secret. It could not be publicly disclosed. Should there be an unauthorized disclosure, either by a Member or by a staff aide, that person would be subject to sanctions. The responsibility to investigate alleged unauthorized disclosures and recommend sanctions would be placed in the Senate Select Committee on Standards and Conduct. The Committee on Standards and Conduct would, of course, be free to recommend a range of sanctions—or even no sanctions—depending upon what its investigation indicated was appropriate. In order for sanctions to be imposed, they would have to be approved by the full Senate.

Certainly our jobs as legislators and policymakers in a number of areas would be easier if we had access to the tremendous amount of information which our intelligence agencies collect from a variety of sources about a wide scope of subjects. There is no doubt in my mind that more of the information—more of the material which informs, evaluates and assesses—can be made available to Members of Congress and to the public.

But, it also seems obvious that it is not only counterproductive but irresponsible to release information which could endanger the lives of those who collect and assemble our intelligence information, which could alert unfriendly nations to our methods of collecting information so that they could render those methods ineffective, which could reveal certain technological capabilities which we have, or which could seriously harm our society. To determine when such information would have these results is not an easy task. A cursory reading of material may not reveal the implications which one with expertise in the field could glean. The way material is presented or the perspective can often give hints as to where the information was obtained. The proposed committee will have to deal with this matter. Indeed, along with oversight, the distinguishing between what information should be released and what should be closely held will certainly be one of its prime concerns.

Thus, if we in Congress are to prove that we are capable of handling this information in a responsible manner, if we are to demonstrate that we can release that which should be released and protect that which must be protected, we must have viable and effective processes.

The Roth-Huddleston amendment seeks to provide such a process with regard to sanctions.

Our amendment is based on the constitutional right of each body of Congress to discipline its own Members. It does nothing to infringe upon the speech and debate clause of the Constitution which specifies that Members shall not be held accountable for their speeches, debates or deliberations "in any other place" than the Chamber in which they serve. This provision of the Constitution was designed to protect against intimidation by the executive branch or a hostile judiciary, not to prohibit Congress from disciplining its own membership. It has its precedence in the long-standing rule 36 which provides similar sanctions for the disclosure of "the secret or confidential business of the Senate."

In summary, Mr. President, our responsibility during consideration of this legislation has, at its most basic, been to balance the legitimate and unquestioned need to secure and protect that intelligence information upon which our Nation's well-being depends against the need of legislators for information necessary to perform their tasks and the need of the people in a free and open society to know and understand the policies which their government takes in their name.

Mr. President, I think Senate Resolution 400 does that in such a way as to provide us with an effective oversight committee and a strong intelligence community. I urge its adoption.

Mr. DOLE. Mr. President, I wish to indicate my support for Senate Resolution 400 which will establish a Select Committee on Intelligence. This legislation is responsive to the findings and recommendations of the Select Committee To Study Government Operations With Respect to Intelligence Activities. The new select committee which this legislation will establish will have sufficient authority and power to resolve the multifaceted problems which have plagued our Nation's intelligence operations.

By combining the authority for legislative oversight and budget authorization and placing that authority with the new select committee, the pending resolution gives the committee the capability to review and correct the inappropriate and illegal activities which have recently come to the attention of Congress and the American people. The committee will have full subpena and investigative powers and the authority to disclose abuses where disclosure is in the public interest. Of course, serving the interests of Americans by both preserving privacy and protecting the national interest sometimes creates conflicts and problems. I trust that this legislation will make for improved handling of these important, although sometimes conflicting, interests.

In addition, the select committee will greatly assist Congress in performing its legislative duties in areas where Congress must rely on intelligence information. The select committee is specifically instructed, under the pending resolution, to make every effort to assure that the appropriate departments and agencies of the United States provide the informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of our Nation.

I am also confident that the select committee will effectively strengthen our intelligence position within the international community. The widely publicized leaks and abuses of the last 5 years have shackled and disrupted our intelligence effort to a point where its effectiveness has been greatly diminished.

The activities of the select committee can restore public confidence in our intelligence techniques and programs, halt the publication of confidential information, and restore the strength of our intelligence effort. This is of vital importance and should be a primary concern of the new select committee.

In this regard, I wish to express my strong support for sections 7 and 8 of the resolution and the process it establishes for the disclosure of classified information. By distributing the responsibility for the disclosure of such information between the President and the Senate, I feel we have established safeguards which will permit proper disclosure but also assure the security needed to maintain a top rate intelligence operation. Section 7 of the resolution would require the committee to formulate and carry out rules and procedures to prevent the disclosure of information which unnecessarily infringes upon any individual's privacy. As the ranking member of the Senate Finance Subcommittee on the Administration of the Internal Revenue Code, I intend to work for prompt passage of legislation to provide similar protection for information filed on an individual's tax return.

I look with great hope toward the operation of the new select committee and trust that it will operate as an effective brake on the abuses which prompted the investigation by the Select Committee To Study Government Operations With Respect to Intelligence Activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the next rollcall vote be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes.

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

Under the previous order, the committee substitute, as amended, is considered as having been adopted, and the Senate will now proceed to vote on the question of agreeing to Senate Resolution 400, as amended.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

On this vote, the Senator from Tennessee (Mr. BAKER) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—72

Abourezk	Garn	Morgan
Bayh	Glenn	Moss
Beall	Gravel	Muskie
Bellmon	Griffin	Nelson
Bentsen	Hart, Gary	Nunn
Biden	Haskell	Packwood
Brooke	Hatfield	Pastore
Bumpers	Hathaway	Pearson
Burdick	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Percy
	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Schweiker
Chiles	Kennedy	Scott, Hugh
Church	Leahy	Stafford
Clark	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Culver	Mathias	Stone
Dole	McClellan	Symington
Domenici	McGovern	Tunney
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Fong	Mondale	
Ford	Montoya	

NAYS—22

Allen	Hansen	Sparkman
Bartlett	Hruska	Stennis
Brock	Johnston	Taft
Buckley	Laxalt	Talmadge
Curtis	Long	Thurmond
Eastland	McClure	Tower
Fannin	Scott, William L.	Young
Goldwater		

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So the resolution (S. Res. 400) was agreed to, as follows:

S. RES. 400

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a) (1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.

(d) For the purposes of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects

a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various dpartments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301 (c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpena.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select commtitee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of sub-

section (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closd meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed $275,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

The title was amended so as to read: "A resolution establishing a Select Committee on Intelligence."

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, will the Senator yield for a unanimous-consent agreement?

Mr. RIBICOFF. May I take just 2 minutes to finish?

Mr. SPARKMAN. Surely.

Mr. RIBICOFF. Mr. President, I thank the Senate as a whole for its overwhelming vote. The Senate saw its duty and it did it. But there are some people in this body who should be singled out for special appreciation.

Our majority leader (Mr. MANSFIELD), some 20 years ago, suggested to Congress that there should be an oversight committee on intelligence. As is usual with the majority leader, he was foresighted and farsighted. If we had accepted his

recommendation, the problems that have developed over the years would have been eliminated and the intelligence agency and this body would have been better off for it.

Special appreciation should be given to the distinguished Senator from Idaho. He was given an unwelcome task. It was his obligation to try to straighten out a mess that we had been confronted with. It was a great responsibility to conduct the hearings of the select committee in a way that would not do harm to the intelligence community and, at the same time, lay the foundation to correct the abuses of the past, to assure that the intelligence community would survive and would be able to do its job in the future, while preserving the personal and civil liberties of our people.

Senator CANNON of Nevada, chairman of the Committee on Rules, was faced with the responsibility of reviewing the resolution after the Committee on Government Operations. The Committee on Rules came up with a different proposal, but I want to pay great tribute to Senator Cannon for working out the Cannon substitute, which formed the basis for the resolution adopted today.

Senator PERCY, the ranking minority member of the Committee on Government Operations, has been and is a joy for me to work with. Looking back at my chairmanship of this committee and the role of the ranking minority Member from Illinois, practically every proposal coming out of the Government Operations Committee has been treated on a bipartisan basis. We were able to work out carefully and closely constructive legislation which has the support of the Senate as a whole.

Senator CRANSTON, Senator WEICKER, Senator MONDALE, Senator CLARK, Senator HATFIELD, Senator HUDDLESTON, Senator MORGAN, and Senator JAVITS made significant contributions.

Above all, Mr. President, I pay special tribute to the majority whip (Mr. ROBERT C. BYRD). During the markup in the Committee on Rules, he insisted on, first, perfecting Senate Resolution 400. I felt, and the committee felt, that we had reported out a good resolution, but Senator Byrd, with his sharp eye and his knowledge of the Senate and its rules and procedures, did spot a number of weaknesses. He went to work, carefully and thoughtfully, perfecting Senate Resolution 400.

When the Committee on Rules voted out its own substitute, the Senate was headed for a real battle. There were strong feelings on both sides, and it was my conclusion that if we reached this confrontation, the Senate as a whole would have been the loser. This bill would have taken weeks instead of days. Then Senator BYRD was a strong force behind Senator CANNON and myself and other representatives of the Committee on Government Operations, the Church Committee, and the Committee on Rules getting together with Senator BYRD to work out the compromise known as the Cannon substitute. My personal feeling is that, were it not for Senator BYRD's intervention and his wise counsel in how to perfect the Cannon resolution, we would not have been able to pass this outstanding and intelligent bill that is now the law of the Senate, Senate Resolution 400.

Finally, high praise to Mr. Dick Wegman, Paul Hoff, Paul Rosenthal, John Childers, Claudia Ingram, Jim Davidson, Brian Conboy, Andrew Loewi and other members of our staff who backed us up so ably and completely. Without an able staff such as represented by these ladies and gentlemen, we would not have been able to bring forth the type of legislation that we have today passed.

I take this opportunity to pay tribute to all these gentlemen.

Mr. PERCY. Mr. President, I shall be very brief, and I appreciate the courtesy of my colleague from Utah.

Mr. President, I should like to respond to the chairman of the Government Operations Committee, Senator RIBICOFF, in first expressing to him my very deep appreciation for the very thoughtful comments that he made about the Senator from Illinois.

It is with a great sense of respect and affection that the Senator from Illinois has worked on any number of matters involving the Government Operations Committee with the Senator from Connecticut. He has found him one of the fairest, most competent, determined and dedicated men with whom the Senator from Illinois has ever worked in industry or in Government.

It is a tremendous pleasure to work with him, and I pay great tribute to him for not only this piece of legislation but many, many other landmark pieces of legislation we have been privileged to work on together.

I join with him in expressing our deep appreciation to Senator MANSFIELD, the majority leader, for the inspiration that he provided 20 years ago for the resolution that has just been adopted by the Senate.

I also join in paying great tribute to our assistant majority leader, Senator ROBERT C. BYRD, without whose brilliance in this matter we would not have been able to have moved ahead as rapidly and as effectively. And certainly to Senator CANNON, who has also been a major force in moving us ahead.

I pay great tribute to Senator WEICKER particularly who, on a number of occasions, took over the minority side of floor management of this bill when the Senator from Illinois was unable to be on the floor. I express my deep appreciation not only for that work that he did here but also for the work that he did on the resolution as it was guided through the Government Operations Committee, and for the work that he did previously on the Watergate Committee that prepared him so well for this.

I would like to pay tribute to Senators BROCK, ROTH, JAVITS, MATHIAS and SCHWEIKER; to Senators CHURCH, BAKER, CRANSTON, and MONDALE, and to all members of their staffs and the staff of the Government Operations Committee, and the staff of the Committee on Rules and Administration, with my deep appreciation for the fine work that has resulted in this virtually unanimous vote that we had on a very, very complex matter. Particularly I pay tribute to the staff of the Government Operations Committee—Dick Wegman, Paul Hoff, Paul Rosenthal, Claudia Ingram, Brian Conboy and especially to John Childers minority counsel, and Ted van Gilder whose help was invaluable and without whom passage of Senate Resolution 400 would not have been possible.

Mr. MANSFIELD. Mr. President, this is an historic occasion, and I want to pay tribute to the many Members of the Senate whose tireless and dedicated work has made possible the establishment of the new Select Committee.

The passage of Senate Resolution 400 marks the beginning of a new era of responsibility and accountability in the conduct of intelligence activities by the Federal Government.

Many Members of this body have served responsibly and with distinction to achieve that result. They deserve the gratitude of all of us and the American people.

The adoption of Senate Resolution 400 is the culmination of more than a year's exacting work by the members of the Select Committee on Intelligence Activities. The Senator from Idaho Mr. CHURCH was given a difficult assignment, and he has led his committee in a sensitive and responsible manner. He and the 11 members of that committee have devoted countless hours to the exposure of unlawful and unethical practices by the CIA, the FBI and the military intelligence agencies. They have published exhaustive and detailed findings and recommendations which are a credit to the Congress and the Nation.

Senate Resolution 400 was referred to two Senate committees, the Committee on Government Operations and the Committee on Rules and Administration. Under the able leadership of the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. PERCY), the Senator from Nevada (Mr. CANNON), and the Senator from Oregon (Mr. HATFIELD), those committees handled difficult, sensitive, and controversial questions of committee jurisdiction. While they took different approaches to these questions, under their leadership and under the leadership of the able assistant majority leader the Senator from West Virginia (Mr. BYRD), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. WEICKER), and the Senator from Illinois (Mr. PERCY) the resolution we have just passed is a compromise measure in the best traditions of the Senate.

I want to pay special tribute to these Senators and to all others who have worked so long and responsibly to achieve that compromise.

Mr. KENNEDY. Mr. President, I rise as a Member of the Senate who was neither a member of the Rules Committee nor the Intelligence Committee to commend those Members who have performed such a noble service for the Senate in bringing about the new action we have taken in establishing the Intelligence Committee.

Their names are well known to the

Members of the Senate, but they are not as well known, perhaps, to the American people. But any review of the history of this achievement would have to recognize the very special work that was done by the chairman of the Select Committee, the Senator from Idaho (Mr. CHURCH), the chairman of the Government Operations Committee (Mr. RIBICOFF), the chairman of the Rules Committee (Mr. CANNON), majority whip (Mr. ROBERT C. BYRD), Senator PERCY, and Senator CRANSTON.

I acknowledge the very extraordinary accomplishment they achieved. I want to mention just a special commendation for them. But I also, Mr. President, want to join my colleagues in singling out what I consider to be the most important force in the Senate over the period of recent weeks, months, and, yes, years: the spirit and energy of our majority leader. He has played really the central role in fashioning this particular resolution which has recently been passed overwhelmingly by this body.

Mr. President, if we think back over the period of years, the majority leader was the first Member of Congress to offer to the Senate of the United States the suggestion that a separate intelligence committee be established, we can see his foresightedness in this particular matter.

I think many of us remember the caucuses which took place over a year ago where this issue was debated, and with a great deal of heat and with a great deal of passion, and not without mistakes on many sides. But nonetheless, I think the persistence of the majority leader in forming the Intelligence Committee, the Church committee, and giving that the kind of support without which I do not think that committee could have performed the great public service that it did perform. And finally, in fashioning this compromise, the majority leader was showing us the exercise leadership at its best in the Senate. This will stand as one more monument to his firm and effective guiding hand.

As a Member who observed and watched and supported this particular proposal, I mention what I think has been an additional signal leadership of the leader in this important area, and any evaluation of the history of this proposal has to put the contribution of the leader right at the top.

Mr. CANNON. Mr. President, I would like to offer a few comments concerning the intelligence oversight legislation we have passed today.

During the course of our deliberations I have had foremost in my mind one overriding consideration. That is the absolute necessity of maintaining a viable and effective intelligence service for the protection of our country. In today's uncertain world there is no substitute for accurate, timely intelligence. I have fought hard to resist actions which I felt would damage our capability, to provide our country's leadership with the information they need.

I have also recognized that the Congress has a clear cut responsibility to exercise its constitutional mandate for oversight in this sensitive area, not only to insure that intelligence operations are conducted in accordance with our Constitution, but also to assist our intelligence services by providing clear guidelines for their activities.

The need for improved intelligence oversight has been recognized by virtually every witness who has appeared before the concerned committees. However, a wide range of views have been presented as to how to best accomplish that goal.

Our deliberations on this legislation have clearly shown us it is impossible to develop a perfect mechanism for intelligence oversight without an opportunity to observe it in action. I, therefore, view this legislation as a first step in dealing with this complicated problem. Experience will provide us valuable information for future actions to improve on what we have created.

I have expressed my reservations concerning some aspects of the proposals presented to us. I believe a joint committee of the Congress for intelligence oversight would be a far more workable structure than a separate Senate committee. I am concerned that the organization we have created might involve itself in the operation of our intelligence services beyond the proper constitutional role of the Congress.

I am also concerned about the unauthorized disclosure of classified information. Any reasonable person must recognize that some information must be kept secret for our own protection. I believe great care must be exercised by the committee to insure no unauthorized disclosures emanate from its operations.

I share the view of many that it is virtually impossible to separate military intelligence from the total military picture. Military intelligence is integral to the responsibilities of our Armed Forces as an essential element of military planning and operations. I believe we would be in a far sounder position to leave authorization authority for that function within the committee of the Senate charged with overall responsibility for our Armed Forces.

However, in the interest of taking this vital first step for congressional oversight of intelligence activities we have developed what appears to be the most workable approach. Lessons we learn in the future will help us refine it.

Mr. CRANSTON. Mr. President, now that we have finally established a permanent committee of the Senate to oversee the intelligence agencies, to be fully and currently informed as to their activities, and to authorize budgets for them, I want to pay a special tribute to the decades-long effort by our leader toward this end.

One of the most important goals of Senator MANSFIELD'S public life has been to make these agencies—a dark corner of government to the public and to most Members of the Senate—accountable to Congress for their activities and their expenditures. Most recently, he was intimately involved in establishing the Church committee and supporting its work. Now, in these final days, he has given his energy and good spirit to working out the compromise that enabled the new Intelligence Committee to come into being. So I salute Senator MANSFIELD for leading us the whole mile.

I would also, once again, draw attention to the work of the principal architects of the compromise. In addition to Senator MANSFIELD, they were the Majority Whip, Senator BYRD of West Virginia, the chairman of the Government Operations Committee, Senator RIBICOFF—who floor managed the bill so magnificently, with his infinite concern for detail as well as for the broad policy matters involved—and the chairman of the Rules Committee, Senator CANNON, who also was involved in steering this bill through so effectively. The work of Senator CHURCH was also invaluable and indispensible, as was the work of so many members of his committee. On the other side of the aisle, special mention should be made of the fine work of Senator PERCY and Senator WEICKER.

EFFECTIVE OVERSIGHT OF U.S. INTELLIGENCE: LONG OVERDUE

Mr. BIDEN. Mr. President, our action today in creating a mechanism for effective senatorial oversight of U.S. intelligence is a tribute to Senator MANSFIELD'S vision in having seen the need for such a step, two decades ago, and having campaigned for it since that time. It is only a pity that it has taken us 20 years to accomplish this.

There is no question but that existing congressional oversight procedures have been inadequate. For all these years we have been voting intelligence appropriations pretty much in the dark: unknown sums for unknown services. And in addition to the legitimate services rendered, we now know that there have been numerous transgressions of the law and numerous infringements of our constitutional rights. Republican and Democratic administrations, alike, have been infatuated with covert operations abroad, even though the results of many of them have been self-defeating to America's interest; the Congress has meanwhile acquiesced in these operations even though they undercut Congress constitutional prerogatives concerning the conduct of foreign relations. More than one President has used U.S. intelligence as a political instrument, and has politicized objective intelligence analysis. Year by year, there has been more and more intelligence bureaucracy, more and more intelligence overkill, and more and more bureaucratic feudalism.

We now have the realistic opportunity to help the executive to reform these practices and to give the American taxpayer a better political and economic accounting concerning our vast intelligence community. Our thanks are due to the splendid and responsible job which the Senate Select Committee on Intelligence has done in examining these questions—and in demonstrating in the process that senatorial security can be kept, and leaks discouraged.

We should nonetheless recognize as well that our country's many problems with intelligence have not resulted just from past CIA, FBI, or NSA overenthusiasms, or from the unaccountability—in real terms—of present and past administrations, but from our own, congres-

sional, derelictions. We have collectively been too casual and inattentive, and at times too easily gulled, in not demanding genuine executive accountability. We have too easily settled instead for a buddy system which in practice has often assured the last possible communication of intelligence reality to the Congress.

Thus we should congratulate not only the select committee, but the Government Operations and Rules Committees for the imaginative and responsible way in which they formed a constructive compromise solution for the new Senate Select Committee on Intelligence which I sincerely hope we will vote into being.

Now our real challenge and work begin: to insure that the Senate continues to monitor U.S. intelligence alertly, so that the country's legitimate intelligence processes may be maintained and strengthened, the appropriate offices of the executive branch be kept meaningfully accountable, and the tax moneys of the American people wisely spent. The Senate has done a fine and needed piece of business. Let us hope that it will continue to show the vigilance necessary to help give the country the finest and most responsible intelligence establishment possible, and to help restore the country's confidence in those processes.

Mr. NELSON. Mr. President, by its action today, the Senate can take an important step toward insuring that the abuses committed by the intelligence agencies will not recur. The Senate's willingness to alter its institutional arrangements to create a new committee with legislative jurisdiction would reflect some recognition that the present system of overseeing the intelligence agencies has been a dismal failure; that the extraordinary revelations of the Church committee require an extraordinary response; that "business as usual" cannot be the order of the day when constitutional rights have been imperiled on a large scale.

Action in this area is long overdue. The tip of the iceberg uncovered by Watergate and the Church and Pike committees has been evident for years. In 1971, a year before the Watergate breakin, I introduced legislation to create a commission composed of both public and congressional members charged with the responsibility to "investigate the entire range of domestic surveillance" and recommend oversight legislation. Three times since June 1973, I have introduced legislation calling for a committee to conduct oversight of domestic surveillance. No action was taken on these bills. As the disclosures in the aftermath of Watergate illuminated more clearly the need for such a committee, I introduced Senate Resolution 231 last summer, which the Senate adopted, committing itself to a timetable requiring action on oversight legislation by June 1, 1976.

Although the deliberateness of the Senate's response to the disclosed abuses of the intelligence agencies has been frustrating, it may have served a useful purpose. Perhaps in this area, it was not enough to glimpse the tip of the iceberg. We needed to know that the abuses were not simply the excesses of one man or one administration. We needed to see that the techniques of a police state were employed, not sporadically, but systematically. We needed to realize that the covert actions conceived and implemented in secrecy by a handful of men in the executive branch have become a major thread of our foreign policy, and that the consequences have often been disastrous. Certainly after learning all this the Senate must take action signalling our awareness that intelligence activities can no longer be the sole province of the President; that they must be carried on in conformity with the Constitution—that indeed, in our society, "national security" can ultimately be safeguarded only by deep respect for law and democratic principles.

At least it is my sincere hope that our action today reflects an understanding of these fundamental lessons, for there is no magic to creating a new committee, and without this understanding, this committee can fail in its oversight as surely as its predecessors did.

The debate on this measure has not been altogether reassuring. Obviously, the version of Senate Resolution 400 on which we are voting is very much a compromise between the resolutions reported by the Government Operations Committee and the Rules Committee. In large part, it is a successful compromise which manages to grant the new committee necessary legislative jurisdiction while protecting the legitimate interests of the standing committees by providing for concurrent jurisdiction and sequential referral of legislative proposals.

However, during the compromise, the controversial section governing the procedure for disclosing classified information was changed. In the Government Operations version, if the Intelligence Committee voted to disclose classified information, and the President, after being notified, interposed an objection, the committee's decision would stand unless one-third of the committee voted to bring the matter to the full Senate for a decision. Under the compromise version, once the President objects, the information could be disclosed only by a vote of the full Senate, even if the committee was unanimously in favor of disclosure. When Senator ABOUREZK offered an amendment last week to return to the approach of the Government Operations draft, it was tabled by a vote of 77 to 13.

In reaching this decision, the Senate undercuts its new committee. We set the stage for a possible replay of the controversy in the House over release of the Pike committee report. In that case, the committee decided to publicly release its report containing some classified information. The committee members were fully familiar with the information and made the judgment that its release would not jeopardize national security. The committee was overridden by the full House, responding to public and Presidential pressure, despite the fact that few of the members were in the position to seriously consider whether any of the material would injure national security.

If the Senate had left the responsibility for deciding whether classified information should be released with the committee, it would have provided the maximum guarantee that the decision would be based on whether the release of the material would actually impair national security. By opting for this compromise section, the Senate makes it likely that decisions on classified information will reflect undue deference to the executive's classification system. This system has no basis in law or reason. Senator MUSKIE's Subcommittee on Integovernmental Relations has made it clear that overclassification is routine, and that perhaps as much as 75 percent of material classified should not be.

The classification system has been a major pillar in the edifice which has become known as the "imperial presidency." By accepting the presumptive validity of a classification system which is obviously flawed and which the Congress had no part in creating, we undermine our claim to be a coequal branch of the Government, the premise on which this resolution is based. To the extent that this decision was prompted by the change in public opinion following the "leaking" of the Pike report, it is most unfortunate. Despite what the executive branch would have us believe, the paramount issue before us is how to curb the abuses of the intelligence agencies and the executive branch, and not how to maintain secrecy.

Only time will tell how effective this committee will be. At present, we can safely say that while the creation of this committee is a necessary step, it will not be sufficient. The reform of the intelligence agencies to prevent the continuation and recurrence of abuses can be seen as at least a three-stage process. After the abuses are exposed and the committee is created, significant legislation must be considered and enacted. The Church committee has transmitted a formidable legislative agenda. Its recommendations included the tasks of rewriting the 1947 National Security Act, and setting forth charters for the various intelligence agencies. Without attempting to explore the merits of any specific proposals, the basic need for legislative action seems clear.

Although the failure of Congress to perform its oversight responsibilities has been discussed at length, the failure to write legislation telling the intelligence community and the public what surveillance techniques are legal and which are not and defining the jurisdictional limits of each agency represents an equally serious abdication of congressional responsibility. If practices like warrantless wiretapping, politically motivated tax audits, or attempted assassinations of foreign leaders abroad are as repugnant to the majority of Americans as they are to me, they should be outlawed as a matter of Federal law. It is dangerous to leave various intelligence practices in a gray area where they are generally disapproved by public opinion but not clearly outlawed.

Judicial decisions in cases brought by victims of Government surveillance may help develop the law concerning what is prohibited by the first and fourth amendments, but final decisions in these

cases can take years, vary from court to court and case to case or ultimately turn on some technical point rather than the merits. In the interest of public confidence and for the benefit of the intelligence agencies themselves, there is no substitute for carefully drawn legislative guidelines and statutory prohibitions on certain practices.

The tasks remaining for the new committee, then, and the Congress as a whole, are formidable. It is my hope that the committee will discharge its responsibilities as effectively as the Church committee did. In its 15-month tenure, the committee conducted the first exhaustive study of our intelligence apparatus since 1947. The committee deliberations were conducted in a bipartisan, thorough, deliberate manner in which the foremost commitment was to obtaining the truth. Despite the delicate nature of the task and the constant possibility of clashes with the Executive over sensitive materials, the committee avoided confrontation on the one hand and "leaks" on the other, while managing to present a comprehensive report, documenting a stunning array of abuses. The committee's efforts were a credit to its members, its staff and the Senate, and its legislative recommendations deserve careful study by the new select committee.

AMENDMENT OF THE FEDERAL TRADE COMMISSION ACT

Mr. MOSS. Mr. President, I ask that the Senate proceed to the consideration of a message from the House of Representatives on H.R. 12527, and I ask that the Chair lay that message before the Senate.

The PRESIDING OFFICER (Mr. LAXALT) laid before the Senate H.R. 12527, an act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal years 1976 and 1977, and for other purposes, which was read twice by its title.

The Senate proceeded to consider the bill.

Mr. MOSS. Mr. President, this matter has been cleared with both sides of the Commerce Committee, with the leadership of the minority side as well as the majority side.

On Monday, the House of Representatives passed H.R. 12527 which contains three provisions. These are:

First. An increase in the fiscal 1976 authorization which the Commission needs in order to make it through until June 30, 1976.

Second. An increase in the existing fiscal 1977 authorization, and

Third. Extension of time for the filing of certain reports required pursuant to the Magnuson-Moss Act.

Earlier this year, the Senate passed an FTC authorization for fiscal 1976, 1977, and 1978, S. 2935. Coupled with the increased authorization were numerous substantive amendments to the FTC Act and other acts which the Commission administers. The House Committee on Interstate and Foreign Commerce has held hearings on these substantive amendments, but by the time of the May 15 deadline was only able to report the authorizations and the extension of time for the required reports. It is my understanding that the House committee will continue with its consideration of the substantive amendments, but at this time, we believe that it is imperative that the Commission be authorized the increased funds which it needs through June 30, 1976, and the extension of time that is needed for submission of the report required under the Magnuson-Moss Act.

Therefore, I send to the desk an amendment which has been cleared on both sides. This amendment would delete the fiscal 1977 authorization from the bill, and amend the title to reflect this deletion. By moving ahead now with the needed fiscal 1976 supplemental authorization, we will not delay the Commission from its important work while we consider the fiscal 1977 authorization and substantive amendments to the FTC Act.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 1, beginning on line 5 strike out "; and by striking out '$50,000,000' and inserting in lieu thereof '$57,233,000' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

So the bill (H.R. 12527) was passed.

The title was amended so as to read: "An Act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes."

EDWARD GORIN AND FAMILY REUNITED IN BALTIMORE

Mr. MATHIAS. Mr. President, all of us in America can rejoice that Edward Gorin and his family, formerly unwilling residents of the Soviet Union, were reunited in Baltimore last week after a separation of almost 4 years.

For Edward Gorin, a violinist with the Baltimore Symphony Orchestra, those 4 years were marked by delays and disappointments, and by discouragement verging often on despair.

For his wife, Sophia Belotserkovskaya left in Moscow with their two little daughters, it was far worse. There were repeated visa applications and repeated refusals. There were threats, harrassments and hostile interrogation. There was isolation. But there was tremendous courage as well. Sophia never gave up.

The Gorins' problems with Soviet authorities began in July 1972 when Mr. Gorin, then first violinist with the Symphony Orchestra of All Union Radio and Television of the U.S.S.R., refused to join in denunciations of fellow musicians who had emigrated to Israel. For this honorable conduct, he was dismissed from the orchestra and barred from further employment in the U.S.S.R.

The Gorins then decided to emigrate themselves, but their effort was frustrated when they received sponsorship for three people to resettle in Israel several weeks after Julia's birth had made them a family of four. Reluctantly, the family decided that Gorin should leave by himself—that his chances for arranging for them to follow him would be better from the outside than from within the Soviet Union. This hope proved bitterly disappointing.

Gorin left Moscow on November 5, 1972. He did not see his wife and children again until last Tuesday night—May 11, 1976—when they arrived at LaGuardia Airport en route to Baltimore. His daughter, Inna, is now 6 years old. Julia, the newborn baby he left in Moscow is 4.

The tireless struggle of the intervening years followed the pattern which has become all too tragically familiar. Soviet authorities refused to issue an emigration visa to Mrs. Gorin, a mathematician, claiming she had had access to state secrets. Her denials and protests were unavailing.

Finally, pushed to desperation, Mrs. Gorin staged a public demonstration in Moscow in June 1975 and went on a hunger strike to dramatize her plight. She was almost immediately picked up and interrogated by the KGB.

Meanwhile, Mr. Gorin, working with Sol Goldstein, Chairman of the Baltimore Committee on Soviet Jewry and with various city and state officials, was exploring every avenue to secure his family's release from the Soviet Union. As part of this effort, I met with Russian "Refusniks" when I was in Moscow last summer and the Senate Delegation of which I was a member also raised the question of her emigration with Secretary Brezhnev when we met with him then.

Last week all those efforts finally paid off. And today I am happy to be welcoming the Gorin family to Washington. I am proud to show them the capital of a country that believes people have a right to freedom. I am proud to show them the capital of their new homeland.

At this time, in addition to paying tribute to the faith and courage of Edward Gorin, his wife and children, I would like to salute the tireless humanitarianism of the Baltimore Committee for Soviet Jewry in the person of Sol Goldstein, and Eileen Yaffee, and Rabbi David Goldstein, all of whom are here today with the Gorins.

Together, we have overcome in what often seemed a hopeless situation. And once again, the Soviet Union has been obliged by the intensity of international protest to do something that in common decency they should have done 4 years ago.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, I hope that the schedule which has been distributed on the Democratic side has also been distributed on the Republican side, and if not, I will request the pages to do so. I understand it has been distributed on the Republican side.

The schedule illustrates what confronts the Senate in the remaining weeks of this session.

It is the intention of the leadership at an appropriate time to ask the Senate to turn to the consideration of the antitrust bill, Calendar No. 781, H.R. 8532, which I understand will be in some difficulty, but I shall not do that at the moment so, I can enunciate to the Senate what the program may well be for the period between now and the Memorial Day recess.

First, it is my intention to ask unanimous consent and then if that is objected to, to move to take up Calendar No. 781, H.R. 8532, an act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The bill from the Judiciary Committee has been on the calendar since May 6 and I am calling it up at this time at the special request of the chairman of the subcommittee, the distinguished Senator from Michigan (Mr. PHILIP A. HART), who is unable to be here today for reasons well understood by his colleagues in this body.

Then I would like to turn to the consideration of Calendar No. 814, S. 3434, the military construction authorization bill, which was reported on the 13th of this month and placed on the calendar that day.

Third, Calendar No. 832, S. 3439, Foreign Military Arms Sales Act, which was reported and placed on the calendar on May 14. This is a somewhat toned-down version of the bill which the President vetoed.

Then, following that, Calendar No. 834, H.R. 12438, the Defense Authorization Act which, likewise, was reported and placed on the calendar on the 14th.

Whether or not we can finish with these measures before we go out, and others in addition to that, such as conference reports and bills which have little in the way of opposition, remains to be seen.

It is hoped that after we return from the Memorial Day recess, which is only, I believe, for 2 days, that the Senate at that time will be able to take up Calendar No. 685, S. 3219, the Clean Air Act, which was reported out of committee and placed on the calendar on March 29 of this year.

CERTAIN ANTITRUST ACTIONS BROUGHT BY STATE ATTORNEYS GENERAL

Mr. MANSFIELD. So with that brief explanation of what confronts us and what my intentions are, I ask unanimous consent, Mr. President, that the Senate at this time turn to the consideration of Calendar No. 781, H.R. 8532. This is the so-called Antitrust Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. HRUSKA. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. May I ask the majority leader is that the House-approved bill, what we know as the parens patriae bill?

Mr. MANSFIELD. That is correct, H.R. 8532, which was placed on the calendar on the 13th of this month, but which I have been asked to take up in place of S. 1284, which was reported out of the Judiciary Committee, on which the distinguished Senator from Nebraska is a member, on May 6, 1976.

Mr. HRUSKA. Further reserving the right to object, Mr. President, may I ask the majortiy leader if he is aware, as I am sure he is, that the substance and content of that bill have been considered for an extended period of time in the Judiciary Committee of the Senate; that there is in process now the preparation, printing, delivery, and laying before the Senate of a report on one part of that bill, which is the bill for which there is a unanimous-consent request to be taken up? Is the Senator aware of that?

Mr. MANSFIELD. Yes. If the Senator would allow me, I would like to read a brief statement in connection therewith.

Mr. HRUSKA. Very well, without my losing the right to the floor.

Mr. MANSFIELD. Mr. President, let me recount the facts as to the processing of S. 1284 so my colleagues can reach their own conclusion.

On March 21, 1975—March 21, 1975—Antitrust and Monopoly Subcommittee Chairman PHILIP A. HART and Minority Leader HUGH SCOTT introduced S. 1284. The legislation was referred to the Committee on the Judiciary. The Antitrust and Monopoly Subcommittee held hearings on May 7 and 8, and June 3, 4, and 12, 1975, at which more than 30 witnesses testified. All persons suggested as witnesses by opponents of the bill and every person requesting to testify were granted that right, with two exceptions. The two who did not testify requested to testify after the witness list for the last day of hearings was released. Senator HRUSKA requested and agreed to chair an additional day of hearings for those witnesses, which was scheduled. At Senator HRUSKA'S request, that hearing was twice postponed. Thereafter, at Senator HRUSKA'S request and with the concurrence of the two witnesses, the hearing record was closed and their statements were received for the record.

On July 28, 1975—July 28, 1975—the Antitrust and Monopoly Subcommittee met in open executive session at which time the bill was reported without recommendation to the full Committee on the Judiciary with amendments.

At the direction of the Committee on the Judiciary, additional hearings on S. 1284, as reported by the Antitrust and Monopoly Subcommittee, were held on February 3 and March 2 and 3, 1976, for the purpose of taking additional testimony from persons opposing the bill. Of the nine witnesses heard, all were designated by Senators ROMAN HRUSKA and STROM THURMOND.

In sum, more than 40 witnesses were heard during 8 days of hearings; and scores of additional statements were accepted for the record.

At the insistence of the minority, full committee markup of the bill was conditioned on additional hearings, and 16 hours of markup was ordered to extend over a 30-day period. The Judiciary Committee markup commenced 7 months after the bill was reported by the Antitrust Subcommittee.

On March 4, 9, 10, 17, 18, 23, and 24, and April 6, 1976, the Committee on the Judiciary met in open executive session and marked up the bill; and on April 6, 1976, S. 1284 was ordered favorably reported to the full Senate with amendments.

On a motion to report the bill to the full Senate:

Yeas: PHILIP A. HART, KENNEDY, BAYH, BURDICK, ROBERT C. BYRD, TUNNEY, ABOUREZK, FONG, HUGH SCOTT, MATHIAS.

Nays: EASTLAND, MCCLELLAN, HRUSKA, THURMOND, WILLIAM L. SCOTT.

The majority report was circulated to the minority on April 23—April 23—and an agreement was reached that the majority and minortiy reports would be filed April 30. What is today? May 19. Upon request of the minority, the filing was delayed until May 6—a full month after the bill was ordered reported. On May 6, the minority advised that they still were not ready and authorized majority to file the report without their views although a typed draft of minority views was circulated to the majority on May 4. The committee reviewed the galleys of the minority report on May 11. It was not until May 18 that the minority authorized the return of corrected galleys to the Printing Office for final copy. That was just yesterday.

In candor, I ask the Senators to judge for themselves whether we are taking hasty and precipitous action. I ask Senators to judge whether the facts bear out those assertions or the assertions of our consumer friends that we have been too charitable and accommodating to the distinguished minority.

I submit that S. 1284 has been subject to the most painstaking scrutiny over a protracted period of time. In fact, I cannot recall another piece of legislation that has been put through such an exhaustive review process.

I thank the distinguished Senator from Nebraska for allowing me to make this statement at this time.

Mr. HRUSKA. Mr. President, I thank the majority leader for his narrative on the timetable on the legislative doing on this bill. I think the very fact of the lengthy description of it testifies to one of the principal propositions I will in due time make. That is that this is such a

complex, difficult, massive, and fundamental bill consisting of five titles, Mr. President, any one of which would warrant full debate and discussion and consideration in the Chamber, and justly so, pursuant to the rules, Mr. President, that ample time would be given for the filing of a report, and that under the rules at least 3 days would intervene between the filing of a report and the measure being taken up by the Senate.

The greater part of the activity with reference to the timing of the filing of the reports, the printing of the reports, and so on, was on the basis and under the outline of a Senate Judiciary Committee agreement, unanimously agreed to, Mr. President. If there is magnanimity that is claimed for the majority on this bill as opposed to any other bill, let me suggest that the minority was very magnanimous with the majority in waiving some of the dates that had been decided upon by the entire committee, extending the date of the filing of the majority report and without any relative difference on the filing of the minority report on the bill.

The chronology of this is quite simple. It is said only yesterday did the minority report go to the printer, and that is true. But let me call attention, Mr. President, to this fact: It is not the minority that is in charge of the submission of the material to the Government Printing Office; it is not the diligence of the minority that is called upon in that regard. It is the diligence, the assignment, and the duty of the majority staff to see that the material that is submitted to the Government Printing Office and then reported back in the form of proofs, galley proofs, page proofs, or whatever, should be done in due time. The chronology on that is quite simple.

The original date for the filing of the majority report was April 13. Out of the goodness of our hearts, we on our side extended that to April 23. That is a big concession, Mr. President, in view of the type of schedule that has been related to us by the majority leader.

It was filed on April 23, and in due time there was a submission of the tentative majority report, and later the final report came to us from the Government Printing Office, before the filing of the minority report and submission of the proof thereof to the Government Printing Office.

Mr. President, we have some rules of courtesy and some rules of ordinary procedure. The normal procedure is there will be a printing simultaneously of the majority report, which document will include the minority report. I will not make a point of that, but I certainly do not want the filing of the printed majority report to determine the time of consideration here, when it was due to the courtesy and to the extensions granted and agreed upon by the majority and the minority that this delayed schedule be abided by.

The matter of fact is that on May 13 the minority report copy in galley form was returned to the minority. It was returned on Friday. It just happened that this Senator and other Senators of our committee representing some of the minority views were not on duty on Saturday and Sunday. Some of us returned during the day on Monday.

I know of no rule of the Senate that requires our staff or Members of the Senate to stay on duty 25 hours a day in order to facilitate something which, notwithstanding all of it, was filled in due time and processed in good fashion.

Now, then, on May 6 the tentative report of the minority was served upon the majority staff and on the majority, subject to final editing, footnotes, page references, and so on. On May 6 it was filed with the Printing Office, and on May 13 it was returned by the Printing Office. Yesterday, on May 18, it was sent back there again—again, Mr. President, with further notations and reconciliation of footnotes, of page references, the arrangement of excerpts and appendixes, and things of that kind.

Here we have a situation, with all of that complexity of chronology, where the minority has tried its best to execute and to perform the terms of the agreement which was made unanimously in the Senate Judiciary Committee. I think it would be mighty difficult to fault the minority, notwithstanding the long and apparently tortuous procedure by which the present state of this legislation has been reached. Five titles, Mr. President, each one of them dealing with fundamental, long-established precedents, decades ago established in statute form, with years and years of judicial adjudication, interpretation, and application, and they are torn asunder and some of them destroyed altogether, and there is sought to be replaced and put in their place new texts, new concepts, some of them strange and alien to our ideas of jurisprudence, of court procedure, and of some consideration for the calendaring and the priorities, including, of course, the rulemaking power.

That is how serious, how complex, how far reaching this present legislation is. It is regrettable that it is found in one omnibus bill, because the fact is that it will be most difficult to follow the debate and the discussion on five titles, when there will be one title discussed one day, perhaps for a series of days, with amendments, and then the next day or in the afternoon of the same day a discussion of a different title, with different amendments. It will be most difficult for the Members of the Senate, even if there were a complete understanding of the bill, to follow.

With due deference to justifying the rules of the Senate—the rule, for example, that a report should be filed at least 3 days before the measure will be taken up by the Senate; and I do not understand that that rule has been waived by the majority and the minority leadership—rules of that kind have a purpose. The situation is compounded in this case, Mr. President, by these five titles. Five of them. And we have the situation of being asked to take up the consideration of one of those titles in an independence bill, which has been in the course of consideration all of these months.

Mr. President, it was only 2 days ago, or was it 3, that the final volume of hearings was presented. And let me suggest that those hearings were held in January and in February. Again I say, Mr. President, it is not the minority that is in charge of printing; it is the majority staff that, by rule, is in charge of printing.

The material was made available. In due time it was sent over to the Printing Office. The staffs of the several Senators here did not have a chance even to get the volumes until the beginning of this week. It was either Thursday or Friday that they were delivered to the committee room.

With that state of affairs, Mr. President, I think it would come with poor grace for the Senate to take up the consideration of this bill today, for all of these reasons.

The Senate should have been given a chance to familiarize itself with the texts and the substance of these bills. I would have no objection to the taking up of S. 1284 in due time, after we have had a chance to read the report on it, the minority part of the report on S. 1284, and have the staffs of the several Senators read, consider, analyze, summarize, and be able to make recommendations one way or the other, including the consideration of several amendments which will be proposed as we go along. But that opportunity will be denied us, Mr. President, and I do not think that is fair. I do think it is the kind of procedure in which we are able to engage. It is not fair to the minority, it is not fair to the Members of the Senate, and it certainly is not fair to the general public, that will be deeply and radically affected by the enactment of any one of these titles.

It would seem that it would be undue and unseemly haste. Is it because there is no other material upon which to work? Not at all, Mr. President. There are 18 bills that were reported to the calendar before S. 1284 got on the calendar. I do not recall when H.R. 8352 was reported, but there are some 60 or 70 bills, maybe 80, on the calendar right now, and many of them in a much more advantageous position and place for consideration than the bill at hand.

But beyond that, Mr. President, May 15 is a magic date under the Budget Control Act, and we must enact the authorization bills before that time, unless we want to pay a heavy penalty by way of procedures of waiver and reinstatement of those authorization bills if we do not act by May 15. The list was enumerated here by the majority leader.

So I say again, it is not for want of other material upon which the Senate would be called upon to act if it were so disposed.

The bill is of such a nature, Mr. President, that it would be my idea, and I think it would be agreed by anyone who wants to go into the history of this bill, that if S. 1284 would be called up there should be at least a week—2 weeks would be preferable—for the study of the five titles embraced in the majority and minority reports and some reference made to the hearings and to the exhibits that

are very vital in the consideration of this bill.

If we have only one of these segments with which to deal certainly the minimum should be the 3 days for which rule 341.6 calls after the filing of the report and its being made available to the Members of this body.

It would indeed be strange and unusual procedure in the light of all this reasoning and the condition of this bill that we would be considered to acquiesce in a unanimous-consent agreement that it be taken up. I do not know——

Mr. MANSFIELD. What did the Senator say just then?

Mr. HRUSKA. Pardon me?

Mr. MANSFIELD. What did the Senator say about a consent agreement just then?

Mr. HRUSKA. I say it would be strange indeed that we would be expected on our side to acquiesce in a unanimous-consent agreement to take up this bill now under the condition of the record or the House-passed bill, because it is a bill that was considered. The very text of it, the substance of it, Mr. President, is to be found in title IV of S. 1284 upon which all this legislative history is being made.

The other body chose to take this bill we have before us, S. 1284, in five-title fashion. They chose to take it up in the more sensible way. They have passed parens patriae. That is the bill H.R. 8352. They have passed that and sent it over to this body. Their Judiciary Committee has reported out of its committee the Civil Process Act, the Civil Investigative Demand Act which composes title 2 of S. 1284. In due time, there will be separate action taken on title 5 of S. 1284, which is the premerger notification bill, and that is a more reasonable, logical, and rational basis upon which to proceed.

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

Mr. HRUSKA. I yield.

Mr. MANSFIELD. Mr. President, it is my belief that what the distinguished Senator from Nebraska intends to do is to object to the unanimous-consent request, but I referred in passing to the 18 bills on the calendar prior to the placing of S. 1284. He is correct, but let me read why some of these bills are not being considered.

As to Calendar No. 72, the Senators want to be notified; Calendar No. 431, no time limit, three Senators have amendments; Calendar No. 445, a Senator has a hold; Calendar No. 470, OK on your side but not on ours; Calendar No. 472, no time limit, notify two Senators; Calendar No. 497, no time limit, two Senators have amendments, notify another Senator; Calendar No. 511, hold, notify a Senator; Calendar No. 514, hold, two Senators; Calendar No. 526, two Senators have amendments; Calendar No. 550, notify a Senator, a Senator has an amendment; Calendar No. 662, a Senator has a hold; Calendar No. 685, June 2, five Senators have holds, that is the Clean Air Act; Calendar No. 707, notify three Senators; Calendar No. 722, well, let us see, notify a Senator; Calendar No. 728, pending business, passed; Calendar No. 737, OK; Calendar No. 738, notify a Senator; Calendar No. 751, hold, two Senators; Calendar No. 759 is held by a Senator. And then we come to S. 1284, Calendar No. 763.

So I think the Senator from Nebraska understands why it is almost an impossibility for the leadership to call up these 16 measures which precede Calendar No. 763 on the calendar.

But I make a proposition to the Senator which will take care of the minority report being returned in plenty of time which will serve notice on the Senate as to what the intention of the leadership is, and the proposal is as follows:

TIME LIMITATION REQUEST

I ask unanimous consent that, when H.R. 8532 is brought before the Senate, debate be limited as follows: 8 hours on the bill, 2 hours on any amendment, 1 hour on any amendment to the amendment or covering motions, appeals, and the like; that this will be offered under the regular procedure, and that H.R. 8532 will not be called before the Senate prior to June 3, 1976. Will the Senator and the Senate give that consideration?

Mr. HRUSKA. Mr. President, reserving the right to object, this is a new proposal for the first time that is being made.

Mr. MANSFIELD. That is right.

Mr. HRUSKA. I think it might be considered seemly if we had a little chance to consider it and after maybe some of my colleagues have had a chance to express themselves on the major question which is before us. After that has been done, may we have a quorum call and have a little discussion of the matter, an informal session, to determine what, if anything, might be the attitude toward such a request and what modification might be made by way of a counterproposal.

Mr. MANSFIELD. I am glad to.

Mr. KENNEDY. Mr. President, will the Senator withhold the quorum call?

Mr. MANSFIELD. Yes, it is being withheld.

Mr. HRUSKA. Mr. President, I yield to the Senator without losing the right to the floor.

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

Mr. KENNEDY. Mr. President, I think the majority leader has stated very well the circumstances under which a full range of hearings were held on this important piece of legislation and the fullest deliberations were given it within the Committee on the Judiciary.

I could not let this exchange go by without making just some rather brief comments about how the various different views were considered during the course of both the hearings and the markup, and about the time that was necessary for the filing of separate views.

There is no question in anyone's mind of the very serious reservations and general opposition to this legislation by the Senator from Nebraska. No one should be under any illusion: he is opposed to this legislation and, as stated both during the course of the hearings and the markup, that he is going to try and see that this legislation is effectively emasculated or defeated. So we should understand that at the very beginning.

But I point out, Mr. President, that the chairman of that antitrust subcommittee, the distinguished Senator from Michigan, I think, bent over backwards during the development of the hearings themselves in consideration of those with differing views and differing attitudes about the legislation. The fact is that the hearings were completed 7 months prior to the time that the full committee actually went into a markup session. We are hearing statements or comments in the Chamber that the hearings have not been printed up. The first series of hearings was printed up 7 months ago—with the exception of the last few days of hearings that were called at a special request by Senator HRUSKA and some Members of the minority. Those are the hearings that have not been printed up.

The fact of the matter is Mr. President, we never would have gotten a markup on the legislation unless there was further agreement by the majority to be able to call additional witnesses.

I found very little reluctance on the part of the Senator from Michigan to schedule those hearings, because he is a fair man and was prepared to insure that any differing views were going to be considered.

But the fact remains, Mr. President, that at some time the American people and the Senate of the United States are entitled to the roll being called on this issue.

As one who sat through every one of those markup sessions in the full committee and who is cognizant of the various delays that have taken place in the approval of the minority views by the minority, I believe that we have to draw attention to the fact that these delays in procedures are resulting in delay on the consideration of the merits of the proposed legislation. They should not be tolerated.

Mr. President, I simply indicate, as a member of that committee, that I believe deeply that those with opposing views have been treated extremely fair and have been able to have their views heard during the course of the hearings and in the markup.

There is no attempt by those of us who support this measure to take any unfair advantage of others or to violate any of the existing rules of this body. But there comes a time, on an issue which is of such basic and fundamental importance to the country, that those who support this legislation—and an overwhelming majority of the members of that committee do—have some right as well. The majority has a right to have these issues debated and discussed. The majority has some right, also, to expect that the roll will be called on these issues.

So I express my appreciation to the leadership—I know that I speak for a number of members of the committee—for calling up this matter before the Senate. I will not object to the proposal that has been made by the majority leader with respect to a time agreement, although I daresay that the leader really

has been bending over backward to take into consideration the position of the five members of the committee who voted "nay." Ten members of the Committee on the Judiciary voted in the affirmative; five in the negative. Obviously, those who voted in the minority are entitled to the protection of their rights, but we in the majority are entitled to protection as well, and for full Senate consideration of this bill.

Mr. President, I thank the Senator from Nebraska for yielding, and I appreciate the opportunity to make these brief comments.

Mr. HRUSKA. Mr. President, I find the remarks of the Senator from Massachusetts very enlightening and very interesting. He recites some history upon the matter in extenso, as it were, on the general opposition indicated by this Senator as well as others in the hearings, in the markup, and even now. I find some points of difference with him, and I shall make some observations on that.

That is all very good by way of history, but it does not go back far enough. This measure, S. 1284, upon which we still do not have the complete report printed and delivered and available to the Members of the Senate, consists of a compilation of rejects at the hands of Congress for several times in the last 20 years.

One of the first measures I recall working on when I became a member of the Committee on the Judiciary was the premerger legislation of 1957. Another was the civil investigative demand, which finally ripened into law in 1962, after a 3-year fight in the House and in the Senate because the objectionable part of the bill consisted of the very things which are found in S. 1284. The civil investigative demand finally was enacted, and it is a good bill. It was one which we favored because it was limited to corporations, demands upon companies and business entities, and so forth, not to natural persons. It had to do with the production of documentary, written, printed, and chart form materials and exhibits.

That was considered about as far as Congress wanted to go at that time. When one goes into the field, as S. 1284 does, of extending civil investigative demand from corporations and business entities to natural persons, extending it from production of documents to oral testimony under oath and in secret session, and answers to written interrogatories, and having the extended procedure and the material for it become possessed of the powers of a grand jury, without any of the safeguards, without any of the background and the environment that is found in grand jury proceedings, then we reach a horse of another color.

We resisted that, and we were successful not only one time but several times as well. We have it here again.

So I say that whenever we consider this bill, let us consider its full history. In each of those instances, the bill was taken up in due time, with the reports before us, with the hearings, and ample opportunity to study, and one at a time.

In addition, here we have the restriction in the 1962 act on civil investigative demand. Only target companies were embraced in it—those companies against which there were charges or there would be charges, and they were specific in nature. That is not true in the bill we eventually will have before us here.

So I say that we should consider the longer history of this matter and the real nature of the proposed legislation. Certainly, even with that long history, it does not warrant the present generation of membership in this body being faced with the situation in which they do not even have a report on this type of matter, which is far-reaching and which reaches into the other branch of Government, the judicial branch, with heavy and deadly hand, uprooting and throwing away the court rules developed upon the class actions which are the thrust of title IV, which is the parens patriae doctrine.

So I say that we should take it in full context and consider this in orderly fashion, not in a fashion which is summary and highly undesirable as a legislative process. I do not believe we should be that unfair to the staffs, to our colleagues, or to the people they represent.

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

Mr. HRUSKA. I yield, without losing my right to the floor.

Mr. THURMOND. Mr. President, I support Senator HRUSKA's objection to the piecemeal consideration of S. 1284 the Antitrust Improvements Act of 1976. The proponents of this bill advocate the most sweeping changes in the antitrust field in well over half a century. Those who oppose this bill, as I do, should be permitted the opportunity to have our views before the Members of the Senate. This should be done before they are asked to vote on this most complex legislation. The report of the Judiciary Committee was filed on May 6, 1976. I should add that the majority report was filed after some delay because of the failure of the majority to meet the agreed upon date. Now, the minority views of five Senators together with my additional views are being printed. Our report will be in excess of 70 pages and it, of course, covers the opposite side of the issue. Basic fairness, as well as prudence and courtesy, require that the minority be given an opportunity to have our point of view considered. I think that the Members of the Senate would certainly want to examine both sides of this issue prior to casting their votes. In fact, being a Member of this body for over 20 years, I am certain that that is the case. It is not difficult to make a case that the minority position in opposition to S. 1284 should be studied carefully. I would like at this time, by way of illustration of that case, to read editorials from some of the large papers in the State of South Carolina. All oppose S. 1284, I should like, for instance, to read several editorials from South Carolina papers. We have them from all over the country, but these editorials are from my home State. I want to illustrate how the people in my State are opposed to this bill. From the editorials we have from other States, the same thing seems to be true.

For instance, here is an editorial from the Spartanburg Herald. It is dated March 17, 1976. It is entitled "A 'Consumer' Bill That's Dangerous":

A "CONSUMER" BILL THAT IS DANGEROUS

There is no shortage of self-anointed protectors of the American consumer—but hardly ever is there any consultation with that almost mythical clientele.

Among the chief practitioners of the political art of consumer "advocacy" are U.S. Senators and Representatives. Often what they propose, and sometimes what they enact, is to the disservice of the people generally.

A particularly pernicious example is a piece of legislation now before both houses of Congress.

It is a bill called the "Hart-Scott Antitrust Improvements Act." The measure was sponsored by Sens. Philip Hart of Michigan and Hugh Scott of Pennsylvania.

Especially dangerous is a section which in effect authorizes state attorney generals to launch "witch-hunt" attacks against business in the name of consumers.

Suits may be filed against nationwide distributors within any state—for triple whatever damages may be awarded by the courts.

The court may award the state, in addition, the costs of litigation and "reasonable" attorney fees.

State attorney generals even would be authorized to appoint private lawyers to pursue cases on a "contingency fee" basis.

Fees for lawyers could be astronomical.

If damages were awarded, which could be in the millions, "consumers" presumably would be entitled to refunds. Even if there were a mechanism to accomplish that, individuals would receive pittances while lawyers would receive large fees.

Consumers, in the final analysis, would be paying the whole cost through higher prices for products.

Ample protection and legal redress already exist. This is a potential boondoggle of massive proportions which contains little of benefit to the public.

Mr. President, the Spartanburg Herald is published in Spartanburg, S.C., in the Piedmont section, a very populous section of the State, in which there is a great deal of industry and a lot of working people. That clearly shows the thinking of the people in that part of the State.

Now we shall go down to Charleston, S.C., to see how the people feel there. Here is an editorial from the Charleston Evening Post. This article is dated March 16, 1976. It is called "Boon to Lawyers":

BOON TO LAWYERS

Under the guise of "consumer protection" legislation, the Congress apparently is preparing to enact what might more accurately be described as a welfare program for trial lawyers.

The "parens patriae" (father of the country) features of bills now pending in the House and Senate would empower the attorney general in all 50 states to bring class action, treble damage suits in the federal courts on behalf of state residents who claim from violation of antitrust laws. Further, state attorneys general would be permitted to delegate their authority in this area to trial lawyers willing to undertake the suits on a contingency fee basis.

This amounts to issuing lawyers a hunting license. When one considers the effect a contingency fee system has had on the costs of medical malpractice insurance, the predictable effects of such a system on the costs of doing business, and on prices ultimately paid by the consumer, are frightening.

The proposed legislation would eliminate the need to establish in court that any individual injury had occurred. Lawyers handling parens patriae suits would be allowed to prove damages by statistical samplings and estimated losses. Such suits would have the potential for bringing in damages of $100 million or more. Lucky lawyers could command astronomical contingency fees.

Where violations of antitrust laws occur, offending parties should be prosecuted and punished. The machinery to do this already exists. The obvious avenues for abuse the proposed legislation would open are not matched by any perceivable benefits to the American consumer. We hope that Congress has the good sense to reject it.

Now, another editorial from the largest paper in South Carolina, the name of which is "The State." It is published in Columbia, S.C. It carried this editorial on the subject on March 22, 1976. It is entitled, "Consumer Bill Disguises Bonanza for Attorneys":

CONSUMER BILL DISGUISES BONANZA FOR ATTORNEYS

Imbedded in pending proposals in Congress to overhaul the Sherman (anti-trust) Act for the first time in 86 years is a lawyers bonanza and financial nightmare for American business.

While the Anti-Trust Improvements Act of 1975, authorized by Sens. Philip Hart and Hugh Scott, ostensibly would promote consumer relief against business price-fixing, one section of the bill opens up an entirely new range of costly litigation.

The bill would give state attorneys general power to sue on behalf of individual residents—or in behalf of the "general economy" of the state—for treble damages. Furthermore, the attorneys general would be permitted to assign the litigation to private attorneys on a contingent fee basis.

A procedural monstrosity, the bill would eliminate the requirement for proof of any actual injury to plaintiffs and would allow "damages" to be determined by computers, statistical sampling, and estimations.

The amendments travel under the term *parens patriae*, which literally translates into "father of the country," and are approaching debate in the House of Representatives and the U.S. Senate.

In the forefront of opposition is the Grocery Manufacturers of America, Inc., who rightly warns that if the bill is enacted it will be the consumer who gets nicked in the long run rather than being protected. Any business which loses or settles a $300 million law suit, is going to seek to recoup the loss in upping the price of its product. So who wins?

The lawyers win. U.S. Rep. Charles E. Wiggins, a California Republican, put it this way:

"Any corporate defendant faced with a $300 million exposure filed by an official of the state in which that corporation is doing business is going to talk settlement as a matter of survival. . . . And who has the interest in that law suit? Is it the consumer who suffered a $4 loss, or is it the attorney, which may get, if we do not prohibit contingent fee arrangements . . . 10 percent of the $300 million, that is, the attorney's interest is $30 million and his client is $4. . . .?"

Under present law, attorneys general may now bring *parens patriae* actions for injunctive relief. There is no demonstrated need for the proposed new procedures, which have been opposed by the American Bar Association.

South Carolina businessmen, large and small, would be well advised to look into the impact of S. 1284 and H.R. 8532.

Now, Mr. President, we will go to the next largest newspaper in South Carolina. This is the Greensville Piedmont which is published by the same company as the Greenville News. This is the afternoon paper, the Greenville Piedmont, and this is dated March 17, 1976.

Mr. President, the distinguished Senator from Arkansas (Mr. MCCLELLAN) wants to call up a conference report, and I am willing to yield to him without losing my right to the floor, if there is no objection, and I ask unanimous consent for that purpose.

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

SUPPLEMENTAL APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. MCCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 13172 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13172) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

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

(The conference report is printed in the RECORD of May 13, 1976, beginning at page 13805.)

Mr. MCCLELLAN. Mr. President, the conference agreement on the second supplemental appropriation bill provides for total new budget obligational authority for fiscal year 1976 and for the transition period of $12,040,849,150, of which $9.4 billion is for fiscal year 1976 and $2.6 billion is for the transition period. The conference compromise for fiscal year 1976 is $526.9 million below the budget estimates, $1.3 billion over the House and $322.7 million below the Senate. For the transition period, the agreement is $254.6 million over the budget estimates, $314.3 million over the House and $298.7 million below the Senate. In this connection, it should be remembered that the Senate considered budget requests of the administration in the amount of $1.9 billion for fiscal year 1976 and $67.5 million for the transition period that were not considered by the House.

Mr. President, the House of Representatives adopted this conference report yesterday by a vote of 286 to 100 and cleared the amendments in disagreement as reported by the conferees. As Members recall, the supplemental bill passed the Senate last Wednesday, May 12. The conference was held the following day and the conference report appeared in the CONGRESSIONAL RECORD of Thursday, May 13. With the fiscal year rapidly coming to an end, it is necessary to take expeditious action in clearing the conference report in order that these needed funds can be made available as quickly as possible. I want to take this opportunity to thank all of the members of the conference in achieving a resolution of the differences between the two Houses.

Mr. President, this is a massive supplemental appropriation bill carrying funds for almost every Federal department and agency. It is the last major appropriation bill for fiscal year 1976 to come before this body this year. The bulk of the funds provided in the bill are for mandatory items over which we have little control under present law. These include increased pay and retirement cost, public assistance payments, veterans' benefits, fire fighting costs and payment to the postal service fund. A summary of the conference action on this bill was printed in the CONGRESSIONAL RECORD of May 18 on page H4511, and I would refer Members to that summary rather than asking consent to include a summary tabulation which would be a duplication of the summary already printed in the RECORD of yesterday.

Mr. President, the subcommittee chairmen and the ranking minority members and others on the committee are knowledgeable about the various items and details of the conference agreement and will be able to respond to any questions which may be propounded. At this time I yield to the distinguished ranking minority member, the Senator from North Dakota.

Mr. YOUNG. Mr. President, I would like to add just a few brief comments concerning this second supplemental appropriations bill for fiscal year 1976 to those of the distinguished chairman of the Appropriations Committee, Mr. MCCLELLAN.

The conferees have agreed to a total funding of $12.0 billion for fiscal year 1976 and the transition period. This is $272 million below the budget estimate for this supplemental appropriations bill. This reduction below the budget estimate was accomplished by the conferees agreeing to a reduction of $526.8 million in fiscal year 1976 and an increase of $254.6 million in the transition period.

Mr. President, this is a large supplemental appropriations bill. However, as I have just indicated, it is below the budget estimate and should be within the target ceiling established by the Budget Committee. As I indicated when we passed the bill on the Senate floor, this bill is concerned with cost-of-living pay increases; public assistance payments; compensation, pensions, readjustment benefits, and medical care for veterans; liquidation of obligations of the Federal highway program; child nutrition; housing loans for the elderly and handicapped; basic educational grants; and older Americans.

Mr. President, I support the adoption of the conference report. I do not think there are any questions about the conference report, at least I have not heard any.

Mr. BROOKE. Mr. President, I am pleased to recommend adoption of the conference report on chapter VI, the Labor-HEW chapter, of the second supplemental appropriations bill.

Our chapter includes funding for a variety of important programs for the balance of fiscal year 1976 and for the transition quarter. Among the programs for which we provide funding are health services, alcoholism and drug treatment, health planning, bilingual education, reading improvement, emergency school aid, education for the handicapped, grants for college students and assistance for older Americans.

In all for chapter VI the conferees appropriate $3,586,367,000. This is $849,519,000 more than the budget estimates and $326,558,000 more than the House bill, but $78,515,000 less than the amount provided in the Senate's bill. For the transition quarter, the conferees provide $577,788,000. This is $66,547,000 more than the budget requests, but $2,336,000 less than the House allowance and $11 million less than the amount in the Senate bill.

Let me cite two particularly important conference actions:

First. The conferees provided $30 million for emergency school aid, a program essential to the effort to desegregate public schools in Boston and other areas of the Nation. The House originally had nothing in its bill for this purpose in fiscal year 1976 while the Senate approved the $50 million I had recommended in an amendment. The conference allowance gives the Senate 60 percent of its request. We really need the $50 million, but I believe we have done well under the circumstances.

Also, I point out that the Senate report recommends that the funds for ESA "be targeted on areas—such as Boston, Louisville, and Detroit—which encounter special problems." And in the conference report on this supplemental, the conferees state they "expect that the entire amount will be distributed to emergency impact areas." I think the language of both documents makes it unmistakably clear to HEW the cities to which Congress is giving priority for ESA funding. Boston certainly is one such city.

Second. The conferees provided $12.5 million for health systems agencies—HSA's—under an amendment Chairman MAGNUSON and I sponsored. Here again the House had no funds for HSA's—but the Senate put in $20 million at our request. We did not get all we requested, but emerged with slightly more than 60 percent. I think we did well in such a situation. The additional funds certainly will be of help to the HSA's as they begin operation and undertake preliminary planning duties in the health field.

One other matter: I am glad both the House and Senate agreed to provide $750,000 to continue the so-called CLEO program which provides assistance for members of disadvantaged minorities to earn law degrees. Our Labor-HEW Subcommittee thoroughly examined this program and concluded that it fills a vital need and deserves to be continued.

I believe the Labor-HEW chapter of the supplemental provides adequately for the needs of many programs. I hope the President will sign the bill containing these funds.

Mr. McCLELLAN. Mr. President, I want to especially thank Senator Magnuson, the distinguished senior Senator from Washington, and other subcommittee chairmen for their special work and cooperation in connection with this bill and also the conference report. Personally, I was unable because of illness to attend the conference, but I commend the Members of the Senate who were the conferees for the splendid job they did in getting this conference report agreement.

At this point, Mr. President, I ask unanimous consent that a comparative statement be printed in the record that explains the Labor-HEW chapter of the second supplemental as agreed to by the conferees.

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

COMPARATIVE STATEMENT OF ITEMS CONTAINED IN CHAPTER VI OF THE SECOND SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 13172)

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES

Department and activity	Budget estimates	House bill	Senate bill	Conference agreement	Conference agreement compared with— Budget estimates	House bill	Senate bill
DEPARTMENT OF LABOR							
Employment Standards Administration							
Salaries and expenses	$435,000	$100,000	$260,000	$260,000	−$175,000	+$160,000	
Transition period	321,000	281,000	445,000	445,000	+124,000	+164,000	
Departmental Management							
Salaries and expenses	174,000	60,000	10,060,000	5,060,000	+4,886,000	+5,000,000	−$5,000,000
Transition period	589,000	589,000	589,000	589,000			
Total, Department of Labor	609,000	160,000	10,320,000	5,320,000	+4,711,000	+5,160,000	−5,000,000
Transition period	910,000	870,000	1,034,000	1,034,000	+124,000	+164,000	
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Health services, transition period		18,300,000	18,300,000	18,300,000	+18,300,000		
Center for Disease Control							
Preventive health services			25,900,000				−25,900,000
National Institutes of Health							
National Institute of Environmental Health Sciences, transition period		1,000,000	1,000,000	1,000,000	+1,000,000		
Alcohol, Drug Abuse, and Mental Health Administration							
Alcohol, drug abuse, and mental health:							
1. Project grants and contracts	126,126,000	126,126,000	126,126,000	126,126,000			
2. Grants to States	35,000,000	35,000,000	35,000,000	35,000,000			
Total	161,126,000	161,126,000	161,126,000	161,126,000			
Transition period	12,090,000	29,190,000	32,690,000	32,690,000	+20,600,000	+3,500,000	
Saint Elizabeths Hospital	375,000	125,000	125,000	125,000	−250,000		
Transition period	375,000	1,007,000	1,007,000	1,007,000	+632,000		
Buildings and facilities	5,200,000	5,200,000	5,200,000	5,200,000			
Health Resources Administration							
Health resources			8,000,000	4,000,000	+4,000,000	+4,000,000	−4,000,000
Office of Education							
Elementary and secondary education:							
1. Bilingual education			3,650,000	1,200,000	+1,200,000	+1,200,000	−2,450,000
2. Right to read:							
(a) State administration			5,300,000	4,800,000	+4,800,000	+4,800,000	−500,000
(b) Inexpensive book distribution			4,000,000	2,000,000	+2,000,000	+2,000,000	−2,000,000
Total			12,950,000	8,000,000	+8,000,000	+8,000,000	−4,950,000
Transition period		3,000,000	3,000,000	3,000,000	+3,000,000		

COMPARATIVE STATEMENT OF ITEMS CONTAINED IN CHAPTER VI OF THE SECOND SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 13172)—Continued

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES

Department and activity	Budget estimates	House bill	Senate bill	Conference agreement	Conference agreement compared with— Budget estimates	House bill	Senate bill
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
School assistance in federally affected areas			$40,000,000	$24,000,000	+$24,000,000	+$24,000,000	—$16,000,000
Emergency school aid			50,000,000	30,000,000	+30,000,000	+30,000,000	—20,000,000
Transition period		$3,000,000	3,000,000	3,000,000	+3,000,000		
Education for the handicapped		90,000,000	90,000,000	90,000,000	+90,000,000		
Higher education:							
1. Basic educational opportunity grants	$404,200,000	791,000,000	791,000,000	791,000,000	+386,800,000		
2. Fellowships for the disadvantaged		750,000	750,000	750,000	+750,000		
Total	404,200,000	791,750,000	791,750,000	791,750,000	+387,550,000		
Transition period		1,000,000	1,000,000	1,000,000	+1,000,000		
Library resources, transition period	12,937,000	12,937,000	12,937,000	12,937,000			
Salaries and expenses		1,575,000	1,575,000	1,575,000	+1,575,000		
Transition period		635,000	635,000	635,000	+635,000		
Social and Rehabilitation Service							
Public assistance:							
1. Maintenance assistance	731,104,000	731,104,000	731,104,000	731,104,000			
2. Medical assistance	495,993,000	495,993,000	744,026,000	744,026,000	+248,033,000	+248,033,000	
3. Social services	750,898,000	750,898,000	750,898,000	750,898,000			
4. State and local training	10,972,000	10,972,000	10,972,000	10,972,000			
Total	1,988,967,000	1,988,967,000	2,237,000,000	2,237,000,000	+248,033,000	+248,033,000	
Transition period	440,500,000	440,500,000	440,500,000	440,500,000			
Special Institutions							
Gallaudet College	396,000	396,000	396,000	396,000			
Transition period	135,000	135,000	135,000	135,000			
Howard University	2,400,000	2,400,000	2,400,000	2,400,000			
Transition period	900,000	900,000	900,000	900,000			
Assistant Secretary for Human Development							
Human development:							
1. Rehabilitation service projects			4,465,000	3,565,000	+3,565,000	+3,565,000	—900,000
2. Programs for the aging:							
(a) Community services	97,235,000	120,035,000	125,600,000	123,835,000	+26,600,000	+3,800,000	—1,765,000
(b) Research, demonstrations, and manpower	5,765,000	19,000,000	19,000,000	19,000,000	+13,235,000		
(c) Federal Council on Aging	575,000	575,000	575,000	575,000			
Total	103,575,000	139,610,000	149,640,000	146,975,000	+43,400,000	+7,365,000	—2,665,000
Transition period	25,894,000	50,150,000	55,150,000	50,150,000	+24,256,000		—5,000,000
Total, HEW	2,666,239,000	3,181,149,000	3,576,062,000	3,502,547,000	+836,308,000	+321,398,000	—73,515,000
Transition period	492,831,000	561,754,000	570,254,000	559,254,000	+66,423,000	—2,500,000	—11,000,000
RELATED AGENCIES							
Public broadcasting fund	70,000,000	78,500,000	78,500,000	78,500,000	+8,500,000		
Transition period	17,500,000	17,500,000	17,500,000	17,500,000			
Total, Chapter VI	2,736,848,000	3,259,809,000	3,664,882,000	3,586,367,000	+849,519,000	+326,558,000	—78,515,000
Transition period	511,241,000	580,124,000	588,788,000	577,788,000	+66,547,000	—2,336,000	—11,000,000

Mr. MAGNUSON. Mr. President, the conference agreement reached last week retained most of the recommendations of the Senate on the Labor-HEW chapter of the fiscal year 1976 second supplemental. The chapter VI Labor-HEW total of $3.5 billion is much closer to the $3.6 billion Senate-passed version than the $3.2 billion House-passed version of the bill. These funds are urgently needed to cover the unmet needs in vital Federal health and education programs.

The final bill retains the Senate recommendation of $248 million to meet rising hospital costs under the medicaid program. The House has agreed that now is a better time to provide this.

We have also provided $161 million for the newly authorized drug abuse community programs; $12.5 million for the new health systems agencies; and $10 million for regional medical programs.

I just want to take a moment here to clarify and reinforce the conference report language relating to regional medical projects. That language is as follows:

The conferees agree that the additional $10,000,000 which has been allowed for Regional Medical projects is for the transition of these programs into the new Health System Agencies. It is the understanding of the conferees that these funds will be sufficient to continue exemplary Regional Medical projects which are to be assimilated into the Health System Agencies.

What the Congress very clearly and simply is doing here is providing $10 million for outstanding RMP projects which must be funded or else they will not survive. Many of these are health service programs and are vitally needed in the communities they serve.

This amount of money will keep the projects going. To allow them to just stop would be a disaster to many citizens and a wasteful approach to better health care as we move toward newly authorized programs.

In the area of education, we have added $791 million to prevent cuts in aid to more than 1.5 million students attending colleges and trade schools. This money will prevent many students from having to drop out of school, since it goes to students whose families just cannot afford a 50-percent cut in Federal aid. The $90 million provided for education of the handicapped will improve schooling for 752,000 of our handicapped children who are presently getting a poor education or no education at all.

The conference bill includes $147 million for programs for the elderly, including vocational rehabilitation and manpower training services.

The conferees agreed that a statewide aging demonstration project in Washington State is funded with $3,800,000, and $1,100,000 is included for vocational training services projects such as the Seattle Handicapped Center. Construction of a recreational complex for the handicapped in West Virginia is funded with $2,465,000.

The bill also includes $78.5 million for the Corporation for Public Broadcasting to help finance public television and radio stations.

Finally, I am pleased we were able to provide $5,000,000 to continue the mountain-plains family education and employment program located near Glasgow, Mont. This has been one of the most highly successful training programs in the Nation for the unemployed; it should serve as a model for the rest of the country.

In summary, Mr. President, this bill will provide valuable assistance to people who are now in need of improved health services and education and training programs.

I urge the Senate to adopt this conference report.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 13172

Mr. EAGLETON. Mr. President, as a member of the Committee on Appropriations, I rise in support of the conference report to accompany H.R. 13172, the second supplemental appropriations bill. I would like to draw your attention to the fact that the conference committee has decided against using this bill as the vehicle for funding the transition quarter needs of the nutrition supplement program for pregnant and lactating women and their young children, WIC. In so doing, the conferees have decided to treat WIC in the same manner as we did in the Appropriations Committee. Thus, it has refused to accept the Senate's floor amendment which provided $62.5 million for the WIC program out of regular appropriations.

I would like to clarify my position with regard to this important antihunger effort. I support WIC. I think that, probably more than any other child nutrition program, it attacks the root—not only the symptom—of the problem. It provides nutrition assistance at that stage of life when it can do the most good.

Therefore, I want to see the Agriculture Department spend the moneys that we have mandated. For that reason, I have supported legislation that requires that the Agriculture Secretary make available and spend $250,000,000 in both fiscal years 1976 and 1977, and one-quarter of that amount for the 3-month transition quarter, in addition to any and all carryover funds which the Department has not expended.

The Appropriations Committee decision not to use regular appropriations to fund WIC during the transition quarter does not contradict that intent. Indeed, it simply requires that the $62,500,000 for the program come from moneys authorized for transition quarter expenditure in the Child Nutrition Act, and not from this supplemental. That act specifically mandates that if regular appropriations are insufficient to reach the authorization levels for either fiscal years 1976, 1977, or the transition quarter, then an additional amount of money must be made available, and spent, out of section 32 funds.

Therefore, this supplemental appropriations bill does not affect WIC program expenditure in the transition quarter, much less in fiscal year 1977. This summer's $62,500,000 will come from section 32 funds and be available until expended in addition to any fiscal years 1975 or 1976 carryover moneys.

Mr. FONG. Mr. President, I want to assure my colleagues that the conferees on the part of the Senate made a determined effort to sustain the Senate position on the WIC provisions in the supplemental bill. The Senator from Wyoming, (Mr. McGEE) who is the chairman of the subcommittee that handles this matter, was present throughout the conference and did his best to defend the Senate position.

He was met, however, with data which showed clearly that the funds included in the Senate bill were not needed by the Department to carry out this program through the transition period and, in fact, would not be spent in that period. It was on that basis that the Senate provision did not prevail. The House conferees were most adamant that they would approve funds in a supplemental appropriations bill that were in excess of current program needs and that would not be utilized until the next fiscal year.

The principal proponents of the Senate amendment have contended that the Department has failed to properly and fully administer this program and that this failure is the reason that existing funds are sufficient to meet program needs through the transition period. This might be the case. But, even if it is, it does not alter the situation as far as funding program through September 30, 1976.

Mr. President, there can be no disagreement or misunderstanding as to the position of the Congress in reference to the Department's administering this program as provided by law. The Senate Appropriations Committee, and the Senate itself, made this clear by their respective actions. The House conferees also expressed strong support for the program and expressed their opinion that the law must be carried out.

I would point out too, Mr. President, that of the five members of the Senate Appropriations Committee who prepared and signed the "Additional Views" to the Senate Committee report on this bill, four of them served on the conference committee. As I pointed out earlier, Senator McGEE—who did not sign the additional views—carried the burden in attempting to sustain the Senate's position. But neither he nor the other Senate conferees could sustain that position in view of the funding situation of the program at the present time.

FOOD AND DRUG ADMINISTRATION

Mr. President, the appropriation for the Food and Drug Administration is another item on which the Senate conferees were compelled to yield in conference, following a lengthy and detailed discussion.

The House conferees, of course, had the same information and data as the Senate conferees. The Food and Drug Administration submitted an amendment to the budget estimates for fiscal year 1977 in the amount of $16,388,000 for the clinical and pre-clinical testing programs so eagerly sought by the proponents of this amendment. During Senate action on the bill, this amount was increased to $19,953,000 and that is the amount that was taken to conference.

The Food and Drug Administration, the Department, and the administration have all agreed that this is a badly needed program, one which should be undertaken as soon as possible. They are gearing up now to implement this program.

We were advised, however, that with only a few weeks remaining in fiscal year 1976, they could not obligate any funds during the remainder of the current fiscal year. They further advised that they could only obligate a maximum of $1,200,000 during the transition quarter. This is the amount included in the second supplemental of 1976, as reported by the conference committee. In other words, by the action of the conference committee, the Agency has been given all of the money it can obligate through September 30, 1976.

The regular, or annual, appropriations bill for fiscal year 1977 will be considered within the next few weeks, well before the beginning of the new fiscal year on October 1. The amended budget estimate and all other aspects of this matter will be considered fully in connection with that bill. The House conferees were not agreeable to including in this 1976 supplemental appropriations bill funds that would not be required, and could not be obligated, prior to fiscal year 1977.

Mr. HOLLINGS. Mr. President, I rise during today's consideration of the conference report to accompany H.R. 13172 to reemphasize a point about the WIC program's funding needs. I initially made this point, along with many of my colleagues, in the Appropriation Committee report on this bill.

The issue of WIC funding is again relevant, Mr. President, since in conference we decided against accepting a Senate amendment which would have appropriated $62.5 million from regular appropriations for WIC during the transition quarter.

In making this decision, we were aware that Public Law 94–105 provided for a separate $62.5 million in the transition quarter. As we indicated in the conference report, $62.5 million is authorized for the transition quarter and since authorized funding levels through fiscal year 1977 must be taken out of section 32 if not appropriated through the regular appropriations process, there was no need to provide money in the bill. In order to guarantee a separate amount of funds for WIC this summer, to supplement the carryover funds available from fiscal years 1975 and 1976, funds will be taken from section 32.

In other words, an additional $62.5 million—or a prorata share of the $250 million which Congress has mandated be spent in fiscal years 1976 and 1977, and which is authorized for fiscal year 1978—must be made available from section 32 and expended by the Agriculture Secretary during the transition quarter, or carried over to fiscal year 1977. Similarly, if there are no regular appropriations for WIC program operation in the fiscal year 1977 appropriations bill, section 32 funds must be expended to reach the $250 million mandate in the enabling legislation, in addition to any funds unspent in the transition quarter. Thus, this provision assures the funding for the smooth operation of the program, when we are dealing with food assistance so essential to nutritionally disadvantaged mothers and infants.

Mr. MATHIAS. Mr. President, I would

like to take this opportunity to express my appreciation to the distinguished chairman of the Transportation Appropriations Subcommittee, Senator BAYH, for his continued strong support of the Washington Metro system. The opening of the first segment of Metro this March has signaled the beginning of a new era in efficient public transportation in the National Capital region. Provisions for $287 million of interstate substitutions for the Metro system in this second supplemental appropriations bill help to reaffirm the committee's commitment to completion of the entire Metro system.

Mr. BAYH. Although the long-range financing of the Washington Metro still faces some problems, I am hopeful that we will be able to see the entire system completed as originally envisioned by Congress.

Mr. MATHIAS. The explanatory statement of the committee of conference includes some references to the analysis of alternatives for selected unbuilt segments of the Metro system. I assume that the intent of this language was not in any way to delay Metro's current construction schedule.

Mr. BAYH. That is correct. We do not intend to disrupt the current construction program with unnecessary studies. The primary concern of the managers on the part of the Senate is to assure that the Metro construction program continues in an orderly, logical, and efficient sequence.

Mr. MATHIAS. Then it would be reasonable to assume that any analysis of alternatives would be limited primarily to those segments that are not already in the final design phase.

Mr. BAYH. That is correct. I would anticipate that unnecessary study of segments already in the final design phase could only serve to delay progress and increase costs. Our hope is that UMTA and Metro will work together to identify those segments, if any, which should be subjected to further analysis.

Mr. MATHIAS. As you recall, the Washington Metro system was carefully planned, and approved by Congress, after a very thorough review of alternative methods of meeting the transportation needs of the Nation's Capital. Local jurisdictions have made their contributions to WMATA based on the plans for a complete rapid transit system.

Mr. BAYH. I certainly agree that the planning for the Metro system has been based on a careful analysis of alternatives. In attempting to resolve differences in House and Senate report language on the second supplemental, we have attempted to indicate an expectation that UMTA and WMATA should consider if any further analyses are appropriate at this time.

Mr. MATHIAS. I appreciate the Senator from Indiana's indulgence in providing this explanation, and the interest of the other members of the Transportation Appropriations Subcommittee, especially Senator CASE, the ranking minority member, in the future of the Metro system.

Mr. DOLE. Mr. President, today, I am confident this body will enact another appropriations bill. Money will be appropriated and programs will continue. The funding for so many of these programs seems to flow so smoothly, sometimes too smoothly. But there is one worthwhile program whose funding does not flow. In fact, it barely trickles. Indeed, it seems to have nearly dried up.

It is the WIC program, by far one of the most productive and effective programs the Senate Agriculture Committee has ever written into law. As the ranking minority member of that committee, I am proud to have supported this effort which saves lives and improves the quality of life for many needy Americans at nutritional risk. The WIC program is there to guarantee that no pregnant woman should ever have to risk her life and the life she carries, because of inadequate nutrition. It is there to make sure the life of a newly born infant is not irreparably damaged because he or she suffered from poor nutrition in those most important early months and years of life. It is a couple of dollars' worth of food which can safeguard the future health of an otherwise lost generation of our citizens.

Simply stated. WIC works.

But clearly, the benefits provided through WIC do absolutely no good to a woman or child who doesn't happen to live in an area served by a WIC clinic. Our compassion—and good commonsense, I may add—in enacting this program only goes as far as the geographical borders of a particular WIC project area.

Right now, the Department of Agriculture, which runs the WIC program, is sitting on 235 local health agency applications which would provide virtually life-giving nutrition assistance to over 500,000 women and children. Half a million highly vulnerable, poor, and likely undernourished people are separated from that all-important food assistance because USDA has not seen fit to fund these programs.

In my own State of Kansas, only 3,092 persons are receiving WIC benefits. Yet the USDA has delayed meaningful action of applications to increase the Kansas caseload to 9,069. In Wyandotte County, the project area designated by the State bureau of maternal and child health as having the highest nutritional risk, a meager 593 caseload has been funded even though the county health department has justified its application for a 2,921 caseload. What possible justification can there be for this inaction? What reason? It is a sobering thought to consider that lives may have been lost or relegated to future ill-health because some administrative decision got between statutorily provided WIC funds and local applicant agencies.

Is it that we have failed to provide authorization for the use of WIC moneys? Have we failed to appropriate the funds for WIC expansion? It is a small comfort to this Senator that we have done all in our power to help WIC work.

Sadly, it is a problem of USDA not doing its job. They have the money; indeed, they will have $125 million left over out of the funds we have provided this fiscal year. What can the Senator from Kansas tell the health agencies in his State who are waiting for the money to feed over 6,500 people in need of WIC assistance?

In the Agriculture Committee we have labored to make our intent clear. In 1972, we enacted legislation which started the WIC program, but it took 2 years and numerous court decisions for it to be of any assistance to a mother or child who needed it. And last year we worked hard to report to this body a bill that expanded WIC to $250,000,000 a year so that more people could be served. In fact, in order to make our intention absolutely clear, we provided a means of guaranteeing smooth sailing for WIC by requiring section 32 funds to be used for this year, the transition quarter, and next year if regular appropriations were late or not available. And we made sure that any unspent moneys were to be available for use in WIC until they were expended.

Our legislation has funded a program that only reaches a small percentage of the people who can benefit from its high-protein food. That the Agriculture Department should arbitrarily erode even the limited potential of our legislation is intolerable.

So I say to the administrators hiding behind the piles of unanswered applications: "Enough delay. Stop the stalling. Process those applications and fund those needed clinics. We don't pass laws here just so that our friends in the Press Gallery can tell the folks at home how compassionate we are. It is no longer a question of compassion. The laws are there. It is just a matter of following them."

Mr. McCLELLAN. Mr. President, if there are no further questions and there is no other discussion, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

International Development Assistance

Multilateral assistance

Payment to International Fund for Agricultural Development

For payment to the International Fund for Agricultural Development, as authorized by section 103(e) of the Foreign Assistance Act of 1961, as amended, $200,000,000, to remain available until expended: Provided, That the funds made available in this paragraph shall not be obligated or expended until proper justification of the obligation or expenditure of such funds is provided to the Committees on Appropriations of the Senate and the House of Representatives.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$7,000,000*

Resolved, That the House recede from its

disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Provided, That $5,000,000 shall remain available until September 30, 1977 to carry out activities of the Mountain-Plains Family Education and Employment Program authorized by title III of the Comprehensive Employment and Training Act of 1973:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

For an additional amount for "Health resources" $4,000,000 to remain available until expended for the construction of a medical facility under section 305(b)(3) of the Public Health Service Act without regard to the requirements of section 308.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

For carrying out titles IX and XV of the Public Health Service Act, $22,500,000, to be derived by transfer from funds appropriated under this head in Public Law 94–206 for carrying out title XVI of the Public Health Service Act: Provided, That $10,000,000 for carrying out title IX shall remain available until expended, notwithstanding the limitations of section 5(a)(2) of Public Law 93–641: Provided further, That the appropriation under this head in Public Law 94–206 for fiscal year 1976 is hereby amended by repealing the second proviso and by striking out "$100,000,000 for Title XVI" and inserting in lieu thereof "$51,760,000 for Title XVI."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

For an additional amount for "School assistance in Federally affected areas", $24,000,000, to remain available until expended only for payments under subparagraphs (A), (B), (C), and (D) of section 305 of the Education Amendments of 1974.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

and the Rehabilitation Act of 1973, $146,975,000 of which $2,465,000 under section 304(b)(3) of the Rehabilitation Act shall remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 126 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

For an additional amount for "Capitol Guide Service", $37,100, to be disbursed by the Secretary of the Senate: Provided, That notwithstanding the provisions of Public Law 94–59, the Sergeant at Arms and Doorkeeper of the Senate and the Sergeant at Arms of the House each, subject to approval of the Capitol Guide Board, may appoint not to exceed ten additional temporary guides at an annual rate of compensation not to exceed $11,130 during the period May 1, 1976, through September 30, 1976.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

For an additional amount for "Capitol Guide Service" for the period July 1, 1976, through September 30, 1976, $55,650, to be disbursed by the Secretary of the Senate.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Operations, Research, and Facilities

For an additional amount for "Operations, research, and facilities", for the period July 1, 1976 through September 30, 1976, $2,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 178 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$10,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 184 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

; together with $13,800,000 for rail service assistance programs authorized by section 803 of Public Law 94–210 and section 402 of Public Law 93–236, as amended, and for necessary administrative expenses in connection with Federal assistance not otherwise provided for; together with $1,250,000 for the necessary expenses of the minority resource center as authorized by section 906 of Public Law 94–210.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 187 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Projects Substituted for Interstate System Projects for necessary expenses to carry out the provisions of title 23, U.S.C. 103(e)(4), $188,000,000, to remain available until expended: Provided, That such amounts as are necessary to carry out highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 196 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$9,600,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 197 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$3,800,000.*

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate as stated by the legislative clerk.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

Mr. McCLELLAN. I thank the Chair.

CERTAIN ANTITRUST ACTIONS BROUGHT BY STATE ATTORNEYS GENERAL

The PRESIDING OFFICER. The question now recurs on the unanimous-consent request to proceed to consider H.R. 8532, which is not debatable.

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

Mr. MANSFIELD. Will the Senator withhold that request?

Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the unanimous-consent request on H.R. 8532, to proceed to its consideration.

Mr. HRUSKA. We believe it was the Senator from South Carolina who had the floor when the two intervening items of business, consisting of the conference report, were called up.

Mr. MANSFIELD. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. If that is true, I have not been pressing the matter too closely, but, as the Chair indicated, I did make a unanimous-consent request, which is the pending business, and there has been a reservation of the right to protest. The distinguished Senator from Nebraska has been farming out time, which is all right with me, but I hope that we could, within a reasonable time, see if it is possible to find a solution. So, with that statement, I will ask the Chair to recognize the Senator from South Carolina.

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

Mr. THURMOND. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Alaska (Mr. STEVENS) on a matter he wishes to take up.

Mr. STEVENS. Mr. President, I ask unanimous consent that staff member Steven Perles be admitted to the floor for the remainder of this day.

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

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Sneeden, of my staff, be allowed the privilege of the floor during the consideration of S. 1284 and H.R. 8532.

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

Mr. THURMOND addressed the Chair.

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

Mr. MANSFIELD. Mr. President, will the Senator yield? May I express the hope that the distinguished Senator or any other Senator will not spend the rest of the afternoon just reading editorials or news stories because we are trying in good faith to see if it is possible to arrive at a solution, and if we are going to have a filibuster, I would like to know about it so that the Senate can be informed accordingly, and those who might be involved will be allowed to go home, have dinner with their wives, visit with their children, and listen to the news on TV this evening. [Laughter.]

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

Mr. MANSFIELD. Mr. President, I

suggest the absence of a quorum without the Senator from South Carolina losing his right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I have just read three editorials from different parts of South Carolina on this particular subject.

I now wish to present to the Senate an editorial from the Greenville-Piedmont on this subject, published in Greenville, S.C., and dated March 17, 1976:

Just for the record, the threat is known as "parens patriae" in House bill 8532 and Senate bill 1284.

The House measure is scheduled to come up before this week's recess, and the Senate's action is scheduled in early April.

In simple lay terms which might better be understood than "parens patriae," the bills would empower all state attorneys general to sue for treble damages in cases of real or imagined consumer grievances against any firm doing business in whatever state the suit is initiated.

So much and so highly complicated legislation is coming before Congress these days that it is virtually impossible for the news media to keep the public informed sufficiently about the various bills' good and/or bad points.

Fortunately, we have run across truly frightening aspects of a seemingly harmless measure which on the surface would appear to benefit consumers.

This could translate into a 50-state nightmare for larger companies heavily involved in interstate business, and could hurt even worse the many smaller firms not equipped financially or otherwise to combat every potential suit coming from 50 states or, for that matter, even one state.

Worse, the suits can be begun either on consumer complaints (with help of very costly lawyers) or can be started by the state attorney general's office itself.

Fullest ramifications of the latter are staggering from the standpoint of politically motivated state officials trying to make themselves appear to be champions of consumers by sticking Big Business with a hot poker at every opportunity. Also a boondoggle, the official can hire outside lawyers to handle the suits.

The bills are so bad, are such a threat to the whole system of justice, that even the American Bar Association's contentions include so many violations of established court principles that they cannot possibly be listed in this short space, but take our word that the bills contain a horrifying——

I wish the Senate would catch that adjective, horrifying.

. . . number of abridgements of long-established Constitutional and other rights both criminal and civil.

One strange feature of the bills is that Big Labor is included under the anti-trust provisions for the first time.

Unions can be expected to slip out of the noose, of course, but it is interesting that labor is included in this sneaky piece of legislation whereas it was not in the so-called Consumer Agency bills that have failed several times in Congress, in large measure due to this glaring omission.

This type legislation is a wide open license for state and nationwide political chicanery, ridiculous lawyer enrichment, blackmail of business and industry, and so on down an untold line of rotten undermining of virtually every human right.

We do not believe that if the bills passed, South Carolina's present and similar attorneys general would take advantage of the situation.

Neither can we readily see present South Carolina lawyers leaping in to bring too many cases.

But it is possible the future would present considerable temptations for wealth and political glory, particularly if those of other states began the march to disaster.

One really frightening aspect for South Carolinians to consider is that any of the other 49 States where Palmetto-based commerce and industries do business could literally put them into bankruptcy and closings.

Similarly, commerce severely treated in South Carolina would have no choice except to quit trying to do business in this state, and would withdraw completely into more "friendly" states.

In any event, consumers will as usual pay the final bills, and many of these costs could be caused by other states though South Carolinians have no interest or complaints.

They can use plenty of encouragement from their constituencies, and time is indeed short to register opinions concerning this tragedy being pushed through in the guise of consumer protection.

Mr. President, I now wish to present to the Senate an editorial from my home county paper, the name om which is the Aiken Standard, Aiken, S.C. This editorial is dated March 25, 1974. It is entitled " 'Sleeper' Needs Watching":

Within a matter of days, Congress will be making vital decisions concerning two bills that are "sleepers" in the worst sense of the word.

The two bills are H.R. 8532 and S. 1284 (the House and Senate versions respectively). South Carolinians who are interested in government and its effect upon everyone would do well to take a close look at the fine print in these two bills.

Ironically the two bills seem to us to have a close resemblance to the wolf in sheep's clothing. They are costumed as "consumer redress" measures, which instead of protecting the interest of consumers, would in fact serve the special interest of lawyers at vast cost to the economy, the consuming public and the sprawling judicial system which taxpayers are supporting.

In some quarters the two bills have been heralded as consumer panacea against business "price-fixing." The bills are known as Parens Patriae (which, literally translated means "father of the country"), but Congressman James Delaney, New York Democrat, says that it would instead be "a Roman holiday for lawyers."

All 50 state attorneys general would be authorized to use federal courts to bring treble-damage "class action" suits against any and all firms for alleged "price-fixing" under the Sherman Anti-Trust Act. States' attorneys general further would be empowered to farm out litigation to lawyer friends. The procedure suggests that the potential for making business political scapegoats under such circumstances is virtually unlimited. And while state attorneys general reap huge rewards for their role as anti-corporate "fathers of the country," plaintiffs' lawyers would be permitted under the proposed law to handle class actions on a contingency fee basis.

The proposed legislation as now written will eliminate any need to establish that any individual even had been injured.

Congressman Delaney added this comment: "I can see that this is the worst tub of worms that I've ever heard of . . ."

Other remarks thus far on record:

Rep. John Seiberling, Ohio Democrat: "They have a bill with some real chambers of horrors in it, with all kinds of problems . . ."

Rep. John B. Anderson, Illinois Republican: ". . . there would be very few, if any corporate enterprises in the country that could every really afford to let one of these suits even go to trial because they would be totally unable to pay damages in that amount . . ."

Rep. B. F. Sisk, California Democrat: "I think this contingent-based business is what is literally destroying us in connection with malpractice insurance and a lot of other things . . ."

Rep. Charles E. Wiggins, California Republican: "Any corporate defendent faced with a $30,000,000 exposure filed by an official of the state in which that corporation is doing business is going to talk settlement as a matter of survival . . .

"This becomes an enormous, indeed almost unconscionable, economic political club to extract settlements out of corporations in cases which may never go to trial."

Protecting consumer interests is one thing. Enacting laws which legalize an enormous rip-off throughout the country is quite another.

Mr. President, those are just five editorials that appeared in my State, from the upper part of the State, the middle part of the State, and the lower part of the State.

I think they illustrate clearly the dangers of this bill that is desired now to be brought up.

Mr. President, the American Bar Association has gone on record. We have the resolution here. They testified on the bill and they feel very strongly about this bill. They are very bitterly opposed to it, but I will not go into that at this time.

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

The PRESIDING OFFICER (Mr. BROCK). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER TO HOLD H.R. 8471 AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 8471, an act to authorize the President to prescribe regulations relating to the purchase, possession, consumption, use, and transportation of alcoholic beverages in the Canal Zone, be held at the desk until further disposition.

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. Reserving the right to object, what is that measure, if I may be permitted to inquire?

Mr. MANSFIELD. Did the Chair agree to my request?

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. I withdraw my objection.

Mr. GRIFFIN. Reserving the right to object, I want to say most respectfully to the distinguished majority leader, although I do not know that I have any objection in terms of having it cleared

on this side, I cannot find anyone it has been cleared with.

Mr. MANSFIELD. Will the Chair rule?

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I am advised that the minority on the Commerce Committee has cleared it. I will state that for the RECORD.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CERTAIN ANTITRUST ACTIONS BROUGHT BY STATE ATTORNEYS GENERAL

Mr. ABOUREZK. Mr. President, I ask unanimous consent for the privilege of the floor during consideration of the pending legislation for the following staff members of the Committee on the Judiciary:

The PRESIDING OFFICER. There is no pending legislation.

Mr. ABOUREZK. There is not?

All right. For the legislation, S. 1284 and H.R. 8532, if and when these measures are considered. Tom Susman, Bernie Nash, Buck O'Leary, Pat Springer, Chuck Ludlum, Philip Shipman, Harrison Welfad, Peter F. Gold, and Mike Klipper.

Mr. HRUSKA. Peter N. Chumbris and J. C. Argetsinger.

Mr. ALLEN. Mr. President, reserving the right to object, how many staff members?

Mr. HRUSKA. Two on our side.

Mr. ABOUREZK. There are 12, unless that last name is 2 names.

Mr. HRUSKA. Two initials and one name.

That is two on our side.

Mr. ALLEN. That seems to be an adequate number if other Senators make similar requests.

I have no objection.

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

Mr. MANSFIELD. Mr. President, may I ask interested Senators what has been the result of the conference in the smoke-filled backroom?

Mr. HRUSKA. Mr. President, in reply to that, the Senator from Nebraska states that the bulk of the conference occurred in the sacred precincts of the Senate Chamber, and there was no tobacco smoke there.

We have discussed the matter, and there are some facets of it that we would like to pursue further with the majority leader by way of informal discussion.

Mr. MANSFIELD. Fine.

Mr. HRUSKA. With that thought in mind, may I renew a quorum call?

Mr. MANSFIELD. Surely.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

ADDITIONAL STATEMENT SUBMITTED ON H.R. 8532

Mr. TUNNEY. Mr. President, I speak today in support of the Hart-Scott Antitrust Improvements Act of 1976, one of the most significant procedural reforms in the history of Federal antitrust laws.

Its five major titles have been the subject of extensive investigation over the past 17 years.

In our most recent consideration of these provisions, we have heard from over 40 witnesses, including numerous opponent, and have spent over 16 hours of markup time in committee.

The intense effort that has gone into formulating this measure is reflected by its extensive bipartisan support: From the AFL/CIO to the National Farmers Union to the FTC, and across major party lines as well.

What most people have come to recognize is that the Judiciary Committee has carefully forged an act to improve and modernize antitrust investigative and enforcement mechanisms, to stimulate competitive forces in our society, and to undercut monopoly and oligopoly power in our economy in general. In general, its provisions dramatically improve the effectiveness of antitrust enforcement.

For example, title IV seeks to represent adequately the consumer interest in antitrust enforcement by providing for parens patriae suits by State attorneys general. It does not change substantive law, but simply offers an effective mechanism whereby thousands of particularized consumer complaints can be represented in a single suit.

This measure is a reasoned response to the virtual foreclosure of the rule 23 class action option by the Supreme Court. For in requiring actual notice to all members of a class, the Court has eliminated an effective tool for vindicating the consumer interests.

By allowing State attorneys general to sue on behalf of many private individuals, we assure that consumers' interests will be represented. Size of one's injury will no longer be a barrier to the protection of the antitrust laws.

Furthermore, coalescing these consumer interests into one parens patriae suit helps our judicial processes. For instead of flooding our courts with thousands of individual complaints stemming from antitrust violations, now there would be a single suit by the Attorney General.

Thus, in addition to representing consumers' interests adequately, this measure serves to reduce the congestion that currently plagues our courts.

Title IV's treble damage remedy also is a beneficial provision, and is consistent with antitrust remedies dating back to 1890. In fact, section 4 of the Clayton Act—under which the parens patriae suits would be brought, requires that the remedy in private antitrust suits be treble damages.

For those who may think that this remedy is too harsh, I ask you to look at the damage to our free enterprise system that is caused by an antitrust violation. The free interplay of market forces is hurt. Consumers are hurt. Indeed, all of us suffer.

That is why the trebled damages are appropriate. And that is why this remedy must apply regardless of actual intent. As the Supreme Court has said:

> We reject the notion that naked restraints of trade are to be tolerated because they are well-intended or because they are allegedly developed to increase competition.

Another title, title V, pumps new vitality into the enforcement of section 7 of the Clayton Act. Section 7, of course, was intended to arrest the anticompetitive effects of a merger in its incipiency. Justice Douglas has said that "the section can deal only with probabilities not certainties" and, therefore, "there is certainly no requirement that the anticompetitive power manifests itself in anticompetitive action before section 7 can be called into play." Thus, the very purpose of blocking an incipient merger is to prevent harmful anticompetitive effects from ever materializing.

Yet, under present law, companies do not have to notify authorities prior to merger and it is almost impossible for authorities to stay a merger in its incipiency. As a result, all of us must suffer from the effects of an illegal merger pending the completion of a lengthy antitrust suit.

By requiring 30 days' notice to authorities prior to merger, and offering the option of a 60-day temporary stay of the merger, we are providing antitrust officials with a precious 90 days in which to investigate and gather information. After that period, if a merger still is thought to be anticompetitive, authorities must demonstrate this to a reasonable probability in order to procure a preliminary injunction. Such a reasonable probability is perfectly consistent with the premise of section 7, which, as we have seen, is based on probabilities, not certainties.

This carefully tailored provision, then, permits authorities to establish the probability of a violation—to suspend the merger if necessary—within a limited time period. As a result, consumers in America do not have to suffer for years from the lessening of competition caused by an illegal merger.

I am convinced that the Antitrust Improvements Act gives us a major opportunity to modernize our antitrust laws, to instill them with new vigor, and to increase their effectiveness.

We should not take this task lightly, for in the end, no less than our economic freedom is at stake. As the Supreme Court said in 1972:

> (The) antitrust laws . . . are the Magna Carta of free enterprise. They are as important to the preservation of economic freedom and our free enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms. (For) the freedom guaranteed each and every business, no matter how small, is the freedom to compete—to assert with vigor, imagination, devotion, and ingenuity whatever economic muscle it can muster.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in adjournment until the hour of 11 o'clock tomorrow morning.

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

AUTHORIZATION FOR COMMITTEES TO MEET DURING THE SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may meet until 12 o'clock tomorrow.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR THE CONSIDERATION OF H.R. 8532 ON TUESDAY, MAY 25, 1976

Mr. MANSFIELD. Mr. President, it is evident that we cannot get very far tonight in the consideration of the unanimous-consent request which I made some hours ago. Therefore, Mr. President, I ask unanimous consent that on Tuesday next the joint leadership have the authority to proceed to the consideration of Calendar No. 781, H.R. 8532, at their discretion.

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

Mr. MANSFIELD. And that it is to be decided without debate when the leadership calls it up, and it will be laid down and made the pending business.

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

Mr. MANSFIELD. And the discretion will be up to the joint leadership to make that request on Tuesday next, which will be done.

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

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–77

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 832, S. 3439.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, there will be no further consideration of the pending business tonight. But for the information of the Senate it is hoped that we will be able to dispose of this legislation, which will be under the managership of the Senator from Minnesota (Mr. HUMPHREY) and the Senator from New Jersey (Mr. CASE), I believe.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. On the disposition of S. 3439, it would then be the intention of the leadership to turn to Calendar No. 814, S. 3434, a bill to authorize certain construction at military installations, and for other purposes, which would be under the control of Senator SYMINGTON and Senator TOWER, and on which I would hope there would not be too much time spent.

Then in view of the agreement reached, it would be the leadership's intention to turn to the consideration of Calendar No. 834, H.R. 12438, an act to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, and so forth, and so on. This would be the defense production bill.

Then we will see what happens when we go through this schedule.

Mr. GOLDWATER. When did the leader say we would reach H.R. 12438, the authorization bill?

Mr. MANSFIELD. Depending on how long it takes on the military construction authorization bill and the foreign military arms sales, both of which would be taken up tomorrow. It could be possible, if we do not spend too much time on those two bills, to get started on the defense procurement bill tomorrow. Certainly, we ought to be able to start on Friday and, hopefully, finish it by Monday with some luck—I would not bet on it—and then be in a position Tuesday to take up the antitrust bill which we have been discussing this afternoon.

ORDER FOR MORNING BUSINESS TO BE CONCLUDED AT 12 NOON TOMORROW

Mr. MANSFIELD. Mr. President, in view of the change in the schedule for tomorrow, I ask unanimous consent that morning business be concluded at 12 noon. Otherwise, under the usual procedure, it would last until 1 o'clock.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

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

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

TIME-LIMITATION AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 775, S. 1776, is called up, that there be 1 hour on the bill and 1 hour on the McClure amendment, the time to be equally divided in the first instance between Senator JOHNSTON and HANSEN as far as the bill is concerned and, in the second instance, between Senator JOHNSTON, the manager of the bill, and Sentor MCCLURE, the sponsor of the amendment.

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

Mr. MANSFIELD. And to carry it through, I ask unanimous consent that there be a 10-minute limitation on amendments to amendments, motions and appeals, and that the unanimous-consent request be considered in the regular order.

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

Mr. MANSFIELD. Hopefully, it will be possible to take this up some time this week, at least we will do our best.

Mr. TOWER. Will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

Mr. TOWER. Was there any discussion of the military construction bill?

Mr. MANSFIELD. Yes, we hope to take that up tomorrow, but it will be preceded by the foreign military arms sales legislation.

Mr. TOWER. I might say to the distinguished majority leader, we would be prepared to agree to a time limitation on that bill, as soon as we know what amendments are going to be offered to it.

Mr. MANSFIELD. I am delighted to hear that statement. We will discuss that tomorrow after we make some inquiries.

Mr. TOWER. Fine.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock tomorrow.

The motion was agreed to; and at 5:30 p.m., the Senate adjourned until tomorrow, Thursday, May 20, 1976, at 11 a.m.

NOMINATION

Executive nominations confirmed by Senate May 19, 1976:

NATIONAL CREDIT UNION BOARD

Wade Choate, of Texas, to be a member of the National Credit Union Board for a term expiring December 31, 1981, vice James W. Dodd, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 19, 1976:

DEPARTMENT OF JUSTICE

John A. Field III, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

James C. Hill, of Georgia, to be U.S. circuit judge for the fifth circuit.