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Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

SENATE—*Tuesday, May 25, 1976*

The Senate met at 10 a.m. and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

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

God of all grace and goodness, we seek Thee because Thou hast first sought us. Our hearts are ever restless until they rest in Thee. Thou art the home of our souls when we are most truly ourselves. We would know Thy nearness amid the uncertainties, contentions, and contests of these decisive days. Spare us from despair, defeatism, frustration, or acceptance of less than the best. Work through us Thy purposes for this Nation and the world. Confirm our faith in that spiritual power at the heart of the universe which works for justice and righteousness, however frail our human efforts. May we feel each hour the upward tug of God-inspired hope and the luminous vision of Thy coming kingdom.

We pray in the name of the King of Kings and Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 25, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 24, 1976, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet today until 12 noon, or the end of morning business, whichever comes later.

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

COMMODITY FUTURES TRADING COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 850.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3051) to amend the Commodity Futures Trading Commission Act of 1974, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

SECTION 1. Section 2(a)(5) of the Commodity Exchange Act, as amended (7 U.S.C. 4a), is amended by striking out ", by and with the advice and consent of the Senate,".

SEC. 2. Section 4c of the Commodity Exchange Act, as amended (7 U.S.C. 6c), is amended by striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved".

SEC. 3. Section 4g(3) of the Commodity Exchange Act, as amended (7 U.S.C. 6g), is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

SEC. 4. Section 4n of the Commodity Exchange Act, as amended (7 U.S.C. 6n), is amended by striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively.

SEC. 5. Section 4o(1) of the Commodity Exchange Act, as amended (7 U.S.C. 6o), is amended by striking out "registered under this Act" and inserting in lieu thereof the following: "who is or should be registered under this Act".

SEC. 6. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

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 amend the Commodity Exchange Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-394), explaining the purposes of the measure.

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

BACKGROUND AND NEED FOR LEGISLATION

I

The Commodity Futures Trading Commission Act of 1974 made extensive changes in the Commodity Exchange Act, bringing under Federal regulation all agricultural and other commodities, goods, and services traded on exchanges, and otherwise strengthening the regulation of the Nation's $600 billion commodity futures industry. The Commodity Exchange Act is designed to insure fair practices and honest dealing on the commodity exchanges.

Perhaps the most significant change made by the 1974 Act was the creation of the Commodity Futures Trading Commission, an independent regulatory agency consisting of a Chairman and four other Commissioners.[1] The Act requires that the Commissioners be appointed by the President, by and with the advice and consent of the Senate.

S. 3051 makes certain technical changes in law to facilitate the regulation of futures trading by the Commodity Futures Trading Commission. S. 3051 is legislation requested by the Commission.

II

The 1974 Act provides, among other things, that the Commission is to have "an Executive Director, who shall be appointed by the Commission, by and with the advice and consent of the Senate, and serve at the pleasure of the Commission."

In approving the Commodity Futures Trading Commission Act of 1974 on October 23, 1974, President Ford stated that the Act provided for the appointment of the executive director in a manner not contemplated by the Constitution.

In *Buckley* v. *Valeo*, 96 Sup. Ct. 612 (1976), the Supreme Court held that the Federal Election Commission could not perform Executive Branch functions and at the same time have members of the Commission appointed by Congress. The Court, in holding that the method of appointing the Commis-

[1] The Commission's report of its activities during its first year of operation is contained in Appendix 1 of this report.

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sion violated the separation of powers, considered the Appointments Clause of the Constitution (Article II, Clause 2) and concluded that—

"Unless their selection is elsewhere provided for in the Constitution, all officers of the United States are to be appointed in accordance with the Clause. Principal officers are selected by the President with the advice and consent of the Senate. Inferior officers Congress may allow to be appointed by the President alone, by the heads of departments, or by the judiciary. No class or type of officer is excluded because of its special functions. 96 Sup. Ct. at 688."

The existing law for the appointment of the executive director of the Commodity Futures Trading Commission does not, of course, violate the doctrine of the separation of powers. However, to remove any Constitutional question regarding the appointment of the executive director, S. 3051 deletes the requirement that the appointment be made "by and with the advice and consent of the Senate".

III

S. 3051 also would enable the Commodity Futures Trading Commission to grant "use" immunity to witnesses in proceedings before the Commission. The Commodity Exchange Authority, the agency which regulated futures trading prior to the enactment of the Commodity Futures Trading Commission Act of 1974, was able to grant such immunity since it was a division of the Department of Agriculture, an "executive department" within the context of section 6001 of title 18 of the United States Code.

S. 3051 would simply add the Commission to the list of agencies authorized to grant immunity according to provisions of title 18.

IV

S. 3051 also makes certain technical changes in the Commodity Exchange Act.

Section 4c of the Act is amended to make it conform with other provisions of the Act relating to the affirmative approval of exchange rules by the Commission. Prior to the enactment of the 1974 Act, rules were subject only to disapproval by the Secretary of Agriculture.

Section 4g(3) of the Act is amended to make it clear that floor brokers (not simply "brokers") are the persons required to maintain daily trading records in a special manner and form.

Section 4n of the Act is amended to delete the provisions that the registration of any commodity trading advisor or commodity pool operator is to "become effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine." It has been the experience of the Commission that 30 days is an insufficient period of time for the completion of a thorough fitness check of applicants.

Section 4o of the Act generally makes it unlawful for any commodity trading advisor or commodity pool operator "registered under this Act" to defraud any client or participant. S. 3051 strikes the phrase "registered under this Act" and substitutes therefor the phrase "who is or should be registered under this Act." The intent of section 4o would be thwarted if persons conducting themselves as commodity trading advisors or commodity pool operators could escape the applicability of the prohibitions in the section by not registering. The bill, therefore, makes it clear that the antifraud provisions apply to those persons who are required by the Act to be registered as trading advisors or pool operators but who have in fact not registered.

SECTION-BY-SECTION ANALYSIS

Section 1. Senate confirmation of CFTC Executive Director

Section 1 of the bill amends section 2(a)(5) of the Commodity Exchange Act by repealing the requirement that the appointment of the executive director of the Commodity Futures Trading Commission be subject to confirmation by the Senate.

Section 2. Approval of contract market rules

Section 2 of the bill conforms section 4c(a) of the Commodity Exchange Act with other provisions in the Act requiring the Commission's prior approval of contract market rules.

Section 3. Maintenance of trading records by floor brokers

Section 3 of the bill substitutes the words "Floor brokers" for "Brokers" in section 4g(3) of the Act, which requires the maintenance of daily trading records in a specified manner and form. The term "floor broker" is defined in section 2(a)(1) of the Act, and the word "broker" does not appear in any section of the Act other than section 4g(3).

Section 4. Registration of commodity trading advisors and commodity pool operators

Section 4 of the bill amends section 4n of the Commodity Exchange Act by repealing the provision that the registration of any commodity trading advisor or commodity pool operator is to become effective 30 days after the Commission's receipt of the application. The amendment will allow the Commission the same period of time to make fitness checks as is applicable to other commodity trading professionals under the Act. (The amendment is not in any way intended to delay the registration of applicants. The Commission is to complete fitness checks on all applicants as expeditiously as possible.)

Section 5. Antifraud provisions relating to commodity trading advisors and commodity pool operators

Section 5 of the bill amends section 4o of the Commodity Exchange Act to make it clear that the antifraud provisions in that commodity pool operators also apply to persons who are required by the Act to register as such but who have in fact not so registered.

Section 6. Grant of immunity to witnesses

Section 6 of the bill amends title 18 of the United States Code to enable the Commodity Futures Trading Commission to grant "use" immunity to witnesses appearing before the Commission, consistent with the practice of other independent regulatory agencies.

The ACTING PRESIDENT pro tempore. Does the acting minority leader seek recognition?

THE NOMINATION OF S. JOHN BYINGTON

Mr. GRIFFIN. Mr. President, I am deeply disappointed by the action of the Senate yesterday when, by a vote of 37 to 33, with 30 Senators absent, the nomination of John Byington to be a member of the Consumer Product Safety Commission was rejected. I am disappointed in the Senate for several reasons.

First, I know that Mr. Byington, being from my State and a personal acquaintance, is well qualified. Indeed, I know that he is better qualified than many other nominees who have been routinely approved by the Senate.

I am disappointed and disturbed by the Senate's action yesterday; and I wonder what it means. The President acceded to the desires of some on the Commerce Committee by withdrawing the nomination for a 7-year term and resubmitting it for a 2½-year term, recognizing that Congress would be concerned, perhaps, that the nomination would extend into the future for a considerable period of time. In view of the absence of any solid reason to vote against Mr. Byington other than that some did not feel he was enough of a consumer advocate, which seems to me a very tenuous kind of objection, I am even more concerned about the Senate's action. Are we going to have a crippled Government operating for the rest of this year, with nominees for office rejected on such a basis as this?

I rather suspect that many Senators voted automatically, without considering some of the implications of the outcome or without the opportunity either of looking into the qualifications of and so-called objections to Mr. Byington.

I think it was a sad day for the Senate. I hope that we will have the opportunity to reconsider this nomination, and that a majority of the Senate will see fit to correct the situation as it stands now.

Mr. TAFT. Mr. President, will the Senator from Michigan yield?

Mr. GRIFFIN. I am happy to yield to the Senator from Ohio.

Mr. TAFT. I appreciate the Senator's remarks. I, too, am disturbed by the decision here. I do not know what the implications are.

I do wish to bring up at the same time the fact that there has been pending before the Labor Subcommittee of the Committee on Labor and Public Welfare of the Senate the appointment of an attorney named Roger Uruchuk to the Legal Services Corporation Board. This gentleman has been to visit me; I know him personally; he is highly qualified and an eminent member of the bar. He has visited various members of the committee on both sides of the aisle. I know of no objections to him personally; but rather, there seems to be some feeling that apparently he does not fit some kind of a pattern apparently desired by some Members, so nothing has happened. There have been no hearings in which his name has been brought up, despite requests on my part, and I wonder, too, if this does not represent a pattern the Senate ought to take cognizance of at this time.

If a decision is being made along these lines, let us make it; but to leave these appointments hanging in the wind seems to me to be a very questionable policy as far as this body is concerned.

Mr. GRIFFIN. Mr. President, I appreciate the contribution of the Senator from Ohio. He calls to mind a number of other nominations pending in the Committee on Commerce. I know of one important nomination to the Interstate Commerce Commission, a Commission which needs to be at full strength and has a large amount of work to do. In that particular case, nothing has happened. The nominee was a very effective and able attorney general of the State of New Hampshire; yet no action has been taken.

Mr. President, it would be my hope

that we could have a vote on reconsideration tomorrow or Thursday at the latest, when the Senate would have a larger attendance and, could perhaps, recoup itself.

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

BUDGETARY IMPLICATIONS OF ECONOMIC FORECASTS

Mr. McCLURE. Mr. President, I take this time to discuss for a few minutes the implications of the budget process and some of the economic forecasts that have been made.

Mr. President, the new congressional budget process has, to date, yielded two budgets. In each case, those budgets contained massive deficits. In fiscal year 1976, the anticipated level of the deficit is approximately $76 billion, while in fiscal year 1977, the anticipated level of deficit exceeds $50 billion. The reduction in the deficit from one fiscal year to another is a trend which must be maintained. Federal deficits are basically consumption deficits rather than investment deficits. As such, over time, they reduce the rate of investment growth in the private sector and ultimately restrict job creation, productivity improvement and the potential for noninflationary economic growth.

The relationship between the performance of the economy and the level of the Federal deficit is now becoming widely understood. It is clear that the Federal Government will spend whatever the revenue structure will produce. It is also apparent that Federal expenditures are difficult to reduce in short term. Consequently, when the economy fails to perform at high levels of capacity, a revenue reduction in combination with an inflexible rate of expenditure growth spawns a deficit. This phenomenon is well illustrated by the fact that the Congressional Budget Office has estimated that had the economy been performing at its full potential and the unemployment rate been reduced to 4 percent, the fiscal 1976 deficit would not have been $76 billion, but would have rather been $800 million. There are many observers who hold a different view with respect to the magnitude of the abovementioned figures, but no one will deny that a healthy economy, a growing economy, provides the best and most effective method by which deficit reduction may be achieved.

The need for budgetary balance is clear. In 16 of the last 20 years the Federal budget has been in deficit. As a result of these continued deficits, total Federal debt has doubled over the past 20 years. The national debt rose from $272 billion in fiscal 1956 to $623 in fiscal 1976. The Federal budget, which produced these deficits, developed its own disturbing trends. For example, an examination of the budget would indicate that total spending has grown at a faster rate than the economy as a whole. Therefore, the percentage of GNP devoted to Federal expenditures has increased from 17 percent of GNP in 1956 to 24 percent of GNP in 1976. Within this expanding percentage, certain trends in expenditures and receipts have been established. For example, defense spending has declined as a percentage of total spending, and payments to individuals, State, and local governments have risen. Payroll taxes have become a more important source of Federal revenue, while corporate and excise taxes have declined as a percentage of that revenue.

While deficits have been the rule rather than the exception during the past 20 years, we are not condemned to future deficits except as a matter of choice.

The Congressional Budget Office has constructed a projection of Federal revenues and expenditures from 1977 through 1981. I will submit that analysis of that projection for the RECORD. Those CBO projections indicate that as we move from 1977 through 1981, revenues and expenditures come closer together and budgetary balance is nearly achieved, under either path A or path B economic assumptions, by the year 1981. The figures themselves have been constructed on a current policy base, or on the assumption that existing spending and taxing policies are unchanged, and no new initiatives in a legislative sense or in a tax sense are adopted over the period. To be more specific, the CBO assumes that present tax provisions remain in force. With respect to spending programs, CBO has made three assumptions. First, all programs are extended except those programs which are clearly temporary, such as study commissions. Thus, general revenue sharing and temporary employment assistance programs are assumed to be renewed. Second, the CBO assumes that all programs are adjusted for inflation except in those few cases where present law fixes dollar ceilings. Finally, CBO assumes that interest on the public debt and social security payments respond to assumed economic conditions and demographic changes in the future, as they have done in the past.

The budgetary scenario which is presented by CBO indicates that spending will increase some 50 percent; or at an average annual rate of 8 percent. Therefore, Federal expenditures will rise from $375 billion in fiscal year 1976 to approximately $560 billion in fiscal year 1981. Receipts rise somewhat more rapidly than do expenditures due to the effect of inflation within the context of our progressive tax structure. Thus, the share of Federal revenues accounted for by income tax collections rises from 44 percent in fiscal year 1976 to over 50 percent of Federal revenues in 1981. Likewise, the share of total revenue derived from the corporate profits tax rises slightly by 1981. The relative growth in collections from payroll taxes ceases. The CBO report then concludes:

> Under the economic assumptions of Path B, deficits continue through Fiscal Year 1981 although they would decrease in size.

In short, if we are to achieve near budgetary balance by 1981, we must have a level of growth in the economy which is compatible with the projections of CBO. In addition, we must assume that no net new spending initiatives are generated at the Federal level. It can be seen that the achievement of a balanced budget as far away as 1981 is very dependent on an expanding economy.

Let me turn briefly then to a review of the leading econometric forecasts relating to the levels of economic growth which can be anticipated in 1976 and 1977. Let me note at this point that Path B economic assumptions do not represent a CBO foreuast of the actual behavior of the economy. It simply provides a high growth context within which to view revenue and expenditure developments over the period 1977 through 1931. However, we should note that to the extent that actual economic performance fails to meet the CBO scenario assumed in Path B, Federal revenues and expenditures will be quite different than those depicted by CBO. That is to say revenues may be lower and outlays higher. Path B assumes an average rate of real economic growth throughout the forecast period of about 5 percent. It assumes an unemployment rate of less than 6 percent, and an inflation rate somewhat lower than 7 percent. Thus, it assumes current dollar growth in GNP of approximately 11 percent per year.

Econometric model forecasts are now available which project the performance of these same key elements through the final quarter of 1977. It is interesting to note that while CBO's assumptions tend to be compatible with these forecasts for calendar 1976, the forecasts diverge significantly from CBO's assumptions for calendar year 1977. For example, CBO Path B assumes that real economic growth from the fourth quarter of 1976 to the end of 1977 will range between 5 and 6½ percent. The major models project growth rates between 3.9 and 5.1 percent for the same period.

Mr. President, I ask unanimous consent that table I, entitled "Annual Growth Rates—Real GNP," be printed in the RECORD.

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

Table 1—Annual growth rates—real GNP

	1975:4–1976	*1976:4–1977:4*
Wharton	5.56	3.44
DRI	5.70	5.12
Chase	5.95	3.93
CBO	5.5–7.0	5.0–6.5

Mr. McCLURE. Mr. President, in much the same way, CBO's assumptions with respect to inflation in 1977 are seriously understated. CBO assumes inflation rates of 4.7 to 6.2 percent for the calendar year 1977, while the other major forecasts predict inflation rates from 5.9 to 7.3 percent for the same period.

Mr. President, I ask unanimous consent that table II, relating to "Annual Rate of Change of GNP Deflator," be printed in the RECORD.

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

TABLE II

Annual rate of change of GNP deflator

	1975:4–1976:4	1976:4–1977:4
Wharton	7.42	7.27
DRI	5.03	5.89
Chase	5.34	6.68
CBO	5.0–6.5	4.7–6.2

Mr. McCLURE. Mr. President, it is important to recognize that none of the major models, to include CBO's own forecast, conform to the economic assumptions implicit in path B's approach to budget balance in 1981.

It is my position that a balanced budget must be achieved long before 1981. A balanced Federal budget will provide for a level of private investment which can spark rates of economic growth consistent with full employment and rising real incomes. It is within the power of this Congress to insure a balanced Federal budget no later than fiscal 1979. But, the Congress cannot rely-solely on an improving economy to bail out the budget in the sense of creating a growth in Federal revenues which is consistent with the achievement of budgetary balance. If we are to achieve a balance in the budget, we must know function-by-function what it is that drives expenditures ever upward.

For example, a particular function within the budget may be driven almost totally by legislation as is function 300—natural resources and the environment Another functional total in the budget may be driven totally by economic conditions. For example, the interest function, function 900. In certain instances, the function may be driven by a combination of the legislative base which exists and economic conditions which prevail. Such would be the case for function 600—income maintenance.

Once the Congress understands those factors which determine the level of expenditures within each function of the budget, we may approach the goal of a balanced budget by setting interim targets for growth in particular functions in 1978 and 1979. Those goals or caps will demand in some cases substantive legislative change. To the extent that Congress is unable or unwilling to engage in such a process, a balanced budget becomes highly unlikely.

Mr. President, I ask unanimous consent to have several tables printed in the RECORD.

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

FEDERAL BUDGET OUTLAYS FISCAL YEAR 1975 AND ESTIMATED OUTLAYS FISCAL YEARS 1976–81 UNDER PATH A AND PATH B ECONOMIC ASSUMPTIONS

[Billions of dollars, fiscal years]

Source	1975 actual	1976 estimate	Transition quarter estimate	Projections 1977	1978	1979	1980	1981
Path A economic assumptions								
Path A—6 percent real GNP growth:								
National defense	86.6	91.9	24.8	103.4	115.0	119.6	130.8	141.3
Benefit payments for individuals	141.4	165.5	43.7	180.5	192.9	213.3	235.5	261.0
Grants to State and local governments	34.7	45.7	13.1	49.6	51.6	51.9	51.6	52.6
Net interest	23.3	26.9	7.9	32.1	34.9	35.4	36.5	37.5
Other Federal operations	38.6	44.9	12.2	53.6	54.9	60.2	64.3	68.0
Total budget outlays	324.6	374.9	101.7	419.4	449.2	480.4	518.7	560.4
Path B economic assumptions								
Path B—5 percent real GNP growth:								
National defense	86.6	91.9	24.8	103.4	114.5	118.0	127.2	135.6
Benefit payments for individuals	141.1	165.5	43.7	184.8	203.3	221.5	239.6	258.0
Grants to State and local governments	34.7	45.7	13.1	50.5	52.9	53.4	52.6	52.1
Net interest	23.3	26.9	7.9	33.2	39.4	43.9	48.3	51.6
Other Federal operations	38.6	44.9	12.2	52.6	54.4	58.7	61.7	66.1
Total budget outlays	324.6	374.9	101.7	424.5	464.3	495.5	529.4	563.5

Note: These projections are consistent with budget classifications used in the Presidential budget documents for 1976, and differ slightly from those in the 1977 Presidential budget documents.

FEDERAL BUDGET RECEIPTS FISCAL YEAR 1975 AND ESTIMATED RECEIPTS FISCAL YEARS 1976–81 UNDER PATH A AND PATH B ECONOMIC ASSUMPTIONS

[Billions of dollars fiscal years]

Source	1975 actual	1976 estimate	Transition quarter	1977	1978	1979	1980	1981
Path A economic assumptions								
Individual income taxes	122.4	135.0	38.7	175.5	206	241	282	330
Corporate profits tax	40.6	39.5	11.3	59.0	71	81	88	95
Social insurance taxes and contributions	86.4	92.6	26.5	113.0	130	144	160	178
Excise taxes	16.6	16.9	4.8	17.6	19	20	22	22
Estate and gift taxes	4.6	4.6	1.3	5.5	6	7	8	9
Customs duties	3.7	4.3	1.2	4.7	6	6	7	7
Miscellaneous receipts	6.7	7.9	2.2	8.0	8	9	11	11
Total	281.0	300.8	86.0	383.3	445	509	577	652
Path B economic assumptions								
Individual income taxes	122.4	135.0	38.7	159.8	186	212	242	273
Corporate profits taxes	40.6	39.5	11.3	54.5	59	67	72	78
Social insurance taxes and contributions	86.4	92.6	26.5	110.2	121	133	144	159
Excise taxes	16.6	16.9	4.8	17.5	18	18	18	19
Estate and gift taxes	4.6	4.6	1.3	5.4	6	6	7	7
Customs duties	3.7	4.3	1.2	4.6	5	5	5	5
Miscellaneous receipts	6.7	7.9	2.2	8.0	8	8	9	9
Total	281.0	300.8	86.0	360.0	401	448	497	550

Note: See text for definition of the current-services receipts concept.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio is recognized for not to exceed 15 minutes.

Mr. McCLURE. Mr. President, I wonder whether I may reserve the remainder of my time in order that we may have a quorum call on my time.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. ROBERT C. BYRD. I am afraid that we could not have a quorum call for 1 minute.

Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged against Mr. TAFT.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

DEFENSE AUTHORIZATION

Mr. TAFT. Mr. President, I have reserved this time this morning to discuss the defense authorization bill. As one who participated in the process which produced this bill, I believe that it is a reasonable, prudent, and adequate response to the request of the Defense Department.

The members of the Armed Services Committee have worked long and hard on this piece of legislation, and all have made major contributions to it. I would particularly like to extend my personal thanks and appreciation to the chairman of the Armed Services Committee, the Senator from Mississippi, for the great amount of thought and effort which he has devoted to the committee's work. As the chairman I am sure will agree, we worked under very severe time constraints this year. But thanks to the chairman's able leadership and tireless devotion to the committee's work, we have reported out a solid and well-considered bill.

I would also like to express my appreciation to the ranking minority member of the committee, the distinguished Senator from South Carolina; and to two other members of the committee, who, as chairmen of the subcommittees, did great work for the committee: The Senator from Georgia and the Senator from New Hampshire.

I am particularly familiar with and appreciate the work the Senator from New Hampshire has done in the difficult and critical area of research and development. As the ranking minority member on the Research and Development Subcommittee, I know how much skill and effort Senator MCINTYRE devotes to this subcommittee. Thanks to his work, the section of this bill dealing with research and development is solid and well considered. I support fully the R. & D. section of this bill. R. & D. is one of the most critical areas we deal with, because it determines where we will stand in the future in relation to our adversary, the Soviet Union. It is clear that we cannot be superior to the Soviet Union in terms of manpower in the Armed Forces. Increasingly, we are also outnumbered in terms of numbers of weapons. Therefore, the only area where we can be superior is in quality of our systems and our thinking, and this is largely a function of research and development.

The bill before us provides adequately for our R. & D. effort. It will ensure an efficient and effective increase in our R. & D. program. I believe it is both needed, and adequate to our needs.

With regard to R. & D. in the naval field, the administration, in its supplemental request that came in after the committee really had considered the naval field, asked for an additional $200 million. The committee did not turn that down, but they did not feel that they were in a position to act on it at this time. I believe it may well be justified, and I hope the committee will continue to consider this proposal of the administration.

There are three specific actions by the R. & D. subcommittee that I would particularly like to note. None involve large sums of money, but all three are important in that they are increases by the committee over and above the request of the Department of Defense. The first adds $4 million to the program to develop a multiple rocket launcher, a system we badly need to increase our seriously questionable artillery capability. The Army has not been overly enthusiastic about this concept, despite its success in the Soviet Army. The subcommittee has taken the lead in getting this needed system developed.

The subcommittee also recommended the addition of $10 million for a new program to evaluate foreign weapons systems for possible production in the United States for our own forces. The committee adopted this recommendation. This is an important step toward reducing the waste within the NATO alliance because of duplication of effort—a waste estimated as high as $15 billion. The third item I would mention is an amendment I offered in the subcommittee to add $200,000 for studies of new battlefield concepts for employment of systems, the studies to be done not by the services, but by qualified outside consultants. We badly need to get fresh conceptual thinking underway, not only in terms of equipment design, but also in terms of tactics—how we use our forces and equipment. It appears that all too often the services are wedded to old, perhaps outdated concepts.

In contrast, the Soviets have in recent years developed and employed highly effective systems based on new concepts of employment of systems—their ground-based antiaircraft system is an example. This amendment would provide for bringing outside defense experts, people not imbued with existing doctrine, into our thought process. The amount of money involved is small, but anything that can open the door to new ideas, is, in my view, significant.

I would also like to express my support for the standardization amendments contained in this bill. Standardization of equipment among the NATO allies is both one of our most important objectives and one of our most frustrating problems. As the committee report notes, "The current status of weapon standardization is not good." This produces a major advantage for the Warsaw Pact, where all equipment is fully standardized. While the NATO partners waste billions of dollars in peacetime and risk logistical chaos in war, the Warsaw Pact has fully coordinated R. & D., procurement, and logistical plans.

Senator CULVER took the lead last year in directing the committee's attention more clearly to this problem, and the most useful amendment which he offered at that time, and which was accepted, is again included in this bill. In addition, Senators NUNN and CULVER joined with me to offer a joint amendment, strengthening some additional aspects of the move for standardization. The section of that amendment which I originated urges that the development of any new weapons system by NATO be proceeded by the development of a common NATO definition of the requirement, including a common definition of the threat. We have seen that the root of much of the standardization problem is in separate national requirements and definitions of the threat. Naturally, when you begin with different requirements, you end up with nonstandard weapons systems. I think this amendment could make a real contribution to the drive for better standardization, by beginning the standardization process at the beginning of the whole weapons system development process. I would like to express my sincere appreciation of the Senator from Georgia and the Senator from Iowa for their leadership and assistance on this problem.

I would like now to discuss what I consider to be the single most critical part of this bill, as relating to general purpose forces. That is the shipbuilding program. What the Congress does this year in terms of shipbuilding will materially influence the shape of our Navy for the next 30 years. It will determine whether we begin to move toward the new concepts and new ship designs we must have if we are to meet the Soviet Naval challenge, or whether we retain a fleet structure that was developed 35 years ago to meet the challenge offered by imperial Japan.

Both the Navy and the House of Representatives have, in their proposals and their actions on this year's shipbuilding program, demonstrated their continued adherence to outdated concepts. They have even gone so far as to revive a concept dead since 1942, when Japanese aircraft sank the *Repulse* and the *Prince of Wales*—the independent mission for a ship which is not primarily a platform for aircraft. This "pocket battleship" concept is embodied in the proposed strike cruiser.

The House of Representatives has outdone the Navy in proposing ships reflective of outworn concepts. The Navy is aware that not all major warships require or even benefit substantially from nuclear propulsion. The House, on the other hand, seems willing to authorize anything that can carry a reactor. The epitome of this failure to consider all aspects of a ship's design, as related to the mission requirement and the concept of employment, are our current and building nuclear powered cruisers—formerly called DLGN's. These ships are nuclear powered. But their armament is so minimal that they compare very unfavorably overall to smaller Soviet cruisers. A typical ship of this type is the U.S.S. *California*, commissioned in 1974.

The *California* is armed with: no helicopters, no antiship missiles, two anti-

aircraft missile launchers, two 5" guns, four torpedo tubes, and one 8-tube antisubmarine launcher.

In contrast, the Soviet *Kara*, which was launched in 1973, and which displaces about 2,000 tons less than the *California*, is armed with: one helicopter, eight antiship missiles, eight antiaircraft missile launchers, four 76 millimeter plus four 30 millimeter guns, 10 torpedo tubes, and two 16-tube plus two 6-tube ASW rocket launchers.

The *California* is nuclear powered; the *Kara* is not. But which is the more effective ship? This illustrates clearly what should be the obvious fact that choice of propulsion plant is only one among many factors which must be considered in ship design. To focus our main attention on nuclear power is to miss many more important considerations.

By putting such heavy emphasis on nuclear power, the House commits us to a fleet based on a small number of individually expensive ships. Contrary to some arguments, we cannot call these effective ships, simply because they carry nuclear power; we have just illustrated that point. They are, however, expensive, and they are large; they are large not because of the armament they carry—although some, such as the submarines and the carriers, carry effective armament—but because we do not have a nuclear powerplant suitable for a small ship. Because the ships must be large, they are expensive, and we cannot procure them in large numbers.

What, some may ask, is wrong with a navy based on a small number of expensive ships? The problem is that, with the development of such weapons as antiship missiles, the vulnerability of any individual ship has increased greatly over the last 10 to 15 years. Small ships armed with antiship missiles, and nuclear submarines armed with missiles or torpedos, can cripple or sink large expensive ships. The balance between offense and defense has shifted.

The Soviet Navy has taken full advantage of this shift. They have designed a navy that packs tremendous offensive punch, for use in a preemptive attack. Their whole concept is based on the idea that we will continue to spend our resources on a small number of expensive ships—and they can saturate a small number of ships with enough incoming missiles to do the job.

If we are to meet the Soviet challenge, we cannot do so by continuing with our current concept. We must diversify our striking power into a much larger number of platforms, each capable individually, but each not overly expensive. The shipbuilding program in this bill sets the stage for that kind of a shift, as is clear when we examine exactly what is proposed here.

The first thing this bill does is strike from the law title VIII, which is the requirement that all major warships be nuclear powered. This of course does not mean that some ships should not be nuclear powered. The advantages of nuclear power for submarines is clear, for example. But title VIII is a blanket requirement that tilts our whole thinking in the direction of a fleet small in ship numbers, with individually expensive, nuclear-powered ships. In my view, it also puts too much weight on what is only one factor in warship design—the powerplant. Repeal of title VIII means that nuclear power will have to be justified on the basis of the facts, on the basis of a careful and objective examination of costs and benefits in the case of each proposed type of ship.

The bill then delays long lead funding for an additional *Nimitz* class aircraft carrier, establishing at the same time a joint House-Senate special committee to examine the future of the aircraft carrier task force concept, with emphasis on alternatives to existing carrier designs and escorts. This is by no means a decision against building another large aircraft carrier. Personally, I favor taking whatever action is necessary to keep 12 large carriers in the fleet until VSTOL aircraft achieve approximate performance comparability with catapult-launched aircraft. But at the same time, I believe we need to diversify our aircraft strength into a larger number of platforms, through the rapid construction of a large number of VSTOL support ships. This approach and all other approaches could and would be investigated by the special committee. We would look before we leap—we would study the alternatives before committing ourselves to another *Nimitz* class carrier. Given the intense debate over what our Navy should look like, it seems only prudent that we not foreclose the debate by authorizing another carrier before the issue can be examined. The committee action would assure that all the alternatives were studied before action was recommended to the Congress.

One of the aspects of the bill I support most strongly is the deletion of the proposed strike cruiser. As I noted earlier, this ship is a return to the battleship concept. Because it is not primarily an aircraft platform, it would be highly vulnerable, in the independent role, to hostile aircraft. Like all ships of the cruiser type, it would at all times be an attractive and very vulnerable target to a submarine. In the carrier escort role, this ship is justified as a platform for the Aegis antiaircraft antimissile system. Yet serious questions can be raised as to the effectiveness of this system against projected, and possibly even current, Soviet antiship missile systems.

Viewing the ship again in the independent role, the Aegis was never designed as a self-defense system for a ship; it is an area defense system. In sum, the strike cruiser is an ill-conceived departure from fundamental principles of war at sea. It is at best a misguided attempt to copy the Soviet cruisers—ignoring the differing missions of the United States and Soviet Navies. The lead ship in this class would cost $1.4 billion, and subsequent ships would cost close to $1 billion each. It is not clear that this enormous expenditure would purchase any real capability. The bill before us deletes all funding for this pocket battleship, and I strongly support the committee's recommendation for the deletion.

The remainder of the shipbuilding program reflects the problems we face in backlogs of ships already ordered and of needing adequate justification for sudden proposed increases in the construction of certain classes.

The important point is that the program as a whole opens the door to new concepts and new ship designs. There are two ways of insuring Soviet naval supremacy: Doing nothing, and doing the wrong thing. This bill proposes a program that says "no" to some wrong things, and that gives encouragement to a new look at the structure of our Navy. It is a progressive program, and I urge the Senate to support it. I particularly urge my colleagues to support it during and, if necessary, after the conference with the House.

As I noted at the beginning of these remarks, the bill is a reasonable, prudent, and adequate response to the request of the Department of Defense. I would like to make it clear, however, that I feel there were many questionable aspects to that request. The request was probably about adequate in purely dollar terms, in my view. But in terms of the qualitative issues—the questions of where we spend our money, and for what—I am not at all satisfied that the current structure of our defense establishment is either as efficient or as effective as it could be or as it needs to be.

I recently outlined my views on how our Defense establishment should be structured in a white paper, copies of which the Members of this body have received. As that white paper states, the fundamental fact from which we should begin when talking about general purpose forces is that the United States is, by nature, a seapower, not a land power. We face no land enemies on our borders. Our economy is dependent on overseas exports and imports. Our culture is oriented primarily trans-Atlantically. We cannot even bring land forces to bear on an opponent unless we first control the seas. By all criteria, sea power is our primary requirement.

However, we now find ourselves with a Defense establishment where land power and sea power receive approximately equal resources: In this budget before us now, the land forces—the Army plus Marine Corps—cost about $31 billion, the Navy minus the Marine Corps costs about $34 billion. Despite the fact that we face no direct land threat, our total land forces are the third largest in the world.

If this division of resources gave us sufficient Naval power, and if the land forces we purchased with this funding were all of an effective type, then perhaps this situation could be tolerated. In fact, we do not have adequate Naval power, and almost half of our land forces are of a type that are largely useless in the theaters where we would most probably face a conflict.

Thanks in part to the Soviets' willingness to develop new concepts of naval warfare and ship design where we have not, and thanks in part to a low level of investment in shipbuilding over the past 10 years, it is my belief that the Soviet Navy is now more capable of performing its mission—cutting our vital sea

lines of communication—than we are capable of performing our mission of keeping those sea lanes open. The Soviet Navy today equals or outnumbers the U.S. Navy in every ship category except aircraft carriers. Most critically, the Soviets have by far the largest submarine fleet in the world, and the submarine is the ideal weapon for attacking naval units and commercial shipping. The Soviets today have a fleet of about 335 submarines; all the rest of the countries in the world, including the United States, have 444. As I noted in my additional views to this committee report, our antisubmarine warfare efforts have serious deficiencies, both quantitatively and qualitatively.

To meet the Soviet naval challenge, we need a massive new technology, new concept building program for naval ships. That does not mean just building any type of ship; as I have already noted, I opposed a number of the ships proposed by the Navy in this year's programs, because they would not be effective in dealing with the Soviet challenge. We need new concepts and new ship designs to support the new concepts. That involves the painful task of admitting that many of our existing ships, including some very new ones such as the nuclear cruisers, are of marginal value at best. It also involves a major increase in the shipbuilding budget.

If we look at the structure of our land forces, we see how to pay for the increase we need in shipbuilding. We are first a sea power, then a land power, so that even if we had to reduce effective land forces to pay for shipbuilding, that would be the logical action. However, of the 19 divisions in our active land forces, 9 are foot infantry, a type of force suitably only for Vietnam-type conflicts. We are not likely to fight another Vietnam war, and to devote the vast manpower expense that these divisions require to preparing for another infantry war in some jungle makes little sense. Modern high-intensity conflict requires armored and mechanized forces. The Soviet Army, by the way, has no foot infantry. Except for a few airborne divisions, all Soviet divisions are armored or mechanized.

As I proposed in my white paper, we should convert three of the existing foot infantry divisions—two Marine Corps and one Army—to mechanized or armored divisions, which would significantly increase our genuinely usable land forces. One marine foot infantry division should be retained to deal with minor incidents, such as the *Mayaguez*. The remaining foot divisions should be phased out. While this would not diminish our useful land power—indeed, it would increase it—it would provide savings enough to pay for the naval program we need. The savings would also pay for the mechanization of the three foot divisions to be converted, and for a major program to upgrade the equipment, maintenance, and training of our valuable National Guard and Reserve Forces.

Neither the budget proposed by the Department of Defense nor this bill addresses these fundamental issues of strategy and force structure. Yet, we are going to have to address them. We cannot continue funding a force structure which reflects intra-institutional interests far more than the objective needs of this Nation. During this coming year, I am going to continue to work to get people, here and elsewhere, to become aware of these basic issues. While this bill does a very solid job of addressing the request submitted by the Department of Defense, ultimately either the Department of Defense or, that failing, the Congress itself must take the lead in restructuring our general purpose forces. We cannot delude ourselves into believing that we can build modern equivalents of the maginot line and, just because we spend money, we are buying adequate defense. The qualitative issues must be addressed.

I thank the chairman again for his invaluable leadership and tireless work on this bill.

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

I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

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

COMMITTEE MEETINGS DURING SENATE SESSION THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow and Thursday and Friday, all committees may be authorized to meet until the hour of 12 o'clock noon or until the close of the morning business, whichever is later.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

CHANGE OF REFERENCE—H.R. 1762

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1762, which has been referred incorrectly to the Committee on Veterans' Affairs, be rereferred to the Committee on the Judiciary.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I notice this is the second time in many days that bills have been rereferred on the basis that they were originally referred to the wrong committee.

I am curious as to who makes the judgment that they were not correctly referred in the first instance. Is it the Parliamentarian who discovers the mistake or is someone else deciding that they were incorrectly referred? I do not have any knowledge at all of this particular bill, but just as a matter of interest and orderly procedure, I am wondering about it.

Mr. ROBERT C. BYRD. In this instance, this is a bill which I introduced for the relief of an individual. It was improperly referred to the Veterans' Affairs Committee, and some days ago I received unanimous consent to rerefer it to the Judiciary Committee.

Now the House companion bill has come over, and it would be necessary for me to take the same action. I cannot explain how——

Mr. GRIFFIN. This is a private bill?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I have no particular concern in this instance.

Mr. ROBERT C. BYRD. I can appreciate the distinguished Senator's concern. I do not know how it came to be wrongly referred in the first instance.

Mr. GRIFFIN. I thank the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. Without objection, the bill is rereferred.

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET AT 3:30 P.M.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet at 3:30 this afternoon until the conclusion of their business, which is to make a determination on a Federal Energy Agency ruling, and that should be made today.

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

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker pro tempore has signed the following enrolled bills:

S. 2679. An act to establish a Commission on Security and Cooperation in Europe.

H.R. 12132. An act to extend as an emergency measure for 1 year the District of Columbia Medical and Dental Manpower Act of 1970.

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

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

At 2:10 p.m., a message from the House of Representatives by Mr. Hackney an-

nounced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia; and

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplment V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

The message also announced that the House has agreed to the concurrent resolution (H. Con. Res. 640) authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the United States House of Representatives," in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 5:05 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker pro tempore has signed the following enrolled bills:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority.

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

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

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were each read twice by their titles and referred to the Committee on the District of Columbia:

H.R. 11009. An act to provide for an independent audit of the financial condition of the government of the District of Columbia; and

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

The concurrent resolution (H. Con. Res. 640) authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the United States House of Representatives" was referred to the Committee on Rules and Administration.

PETITIONS

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

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance:

"CONCURRENT RESOLUTION

Memorializing Congress to Enact H.R. 8318 in Order that Certain Citizens Will not be Deprived of Medicaid and Other Benefits

"Whereas, effective July 1, 1976, many citizens of this State, as well as many other states, will become ineligible to receive Medicaid and certain other benefits because of cost of living increases in benefits from Social Security or other federally funded programs; and

"Whereas, a Bill, H.R. 8318, is now pending in the United States Congress which would remedy this problem. Its title reads "A Bill to amend the Social Security Act to make certain that recipients of supplemental security income benefits, recipients of aid to families with dependent children, and recipients of payments under the veterans' benefit programs and certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or payments reduced because of increases in monthly social security benefits." Now, therefore,

"Be it resolved by the Senate, the House of Representatives concurring:

"That Congress is hereby memorialized to enact H.R. 8318 in order that many deserving citizens throughout the United States will not be deprived of Medicaid and certain other benefits because of cost of living increases in Social Security benefits and other federally funded programs.

"Be it further resolved that copies of this resolution be forwarded to the Clerk of the United States Senate, the Clerk of the United States House of Representatives and to each member of Congress from South Carolina."

Senate Joint Resolution No. 9 adopted by the Legislature of the State of Connecticut; to the Committee on Banking, Housing and Urban Affairs:

"SENATE JOINT RESOLUTION NO. 9

"Resolution memorializing the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the United States Congress to equalize deposit rate ceilings in the State of Connecticut

Resolved by this Assembly:

"Whereas, legislation has been passed in the 1973, 1974 and 1975 sessions of the Connecticut Legislature granting to thrift institutions in the State of Connecticut many of the rights and responsibilities formerly granted only to commercial banks, including the right to offer personal checking accounts, the right to offer credit cards and revolving lines of credit and the right to perform limited trust functions including the establishment of individual retirement accounts and Keogh plan trusts; and

"Whereas, federal law and regulations now permit thrift institutions to pay their depositors a higher maximum rate of interest than the amount which commercial banks can now pay on savings and time deposits, including individual retirement accounts; and

"Whereas, in view of the passage of said state legislation it is deemed appropriate that federal law and regulations should be reviewed; and

"Whereas, the citizens of the State of Connecticut would greatly benefit by the elimination of the present inequitable law and regulations which, as they apply to Connecticut, penalize those depositors who choose to deposit their funds in a commercial bank by denying them equal interest rates.

"Now, therefore, be it resolved, that we, the members of this assembly unite in registering our concern and dissatisfaction with the existing federal law and regulations and urge and petition the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Comptroller of the Currency and the Congress of the United States to expedite their consideration of various plans of restructuring and reordering the banking system, especially as it applies to interest rate authorization in the State of Connecticut, to assure that the federal law and regulations provide a fair, competitive banking system for all financial institutions in Connecticut, including ceilings set on the rates paid on deposits.

"Be it further resolved, that the clerks of the House and Senate cause copies of this resolution to be sent to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Federal Reserve Board, to the Federal Deposit Insurance Corporation, to the Federal Home Loan Bank Board, to the Comptroller of the Currency, to the Coordinating Committee of Financial Institutions and to each member of the Connecticut congressional delegation."

A resolution adopted by the County Board of Washington County, Ill., relating to protective flashing signals at railroad crossings; to the Committee on Commerce.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

APPROVAL OF LOAN BY THE RURAL ELECTRIFICATION ADMINISTRATION

A letter from the Acting Administrator of the Rural Electrification Administration transmitting a report, pursuant to law, on the approval of a loan by the REA to South Texas Electric Cooperative, Inc., of Victoria, Tex. (with accompanying papers); to the Committee on Agriculture and Forestry.

FINAL DETERMINATION OF THE INDIAN CLAIMS COMMISSION

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report on the final determination by the Commission in the case of the Lipan Apache Tribe, et al., in Docket No. 22–C (with an accompanying report); to the Committee on Appropriations.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period May 15, 1976 to August 15, 1976 (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Deputy Administrator of General Services transmitting, pursuant to law, the semiannual stockpile report to the Congress on the Strategic and critical materials stockpiling program for the period July 1 to December 31, 1975 (with an accompanying report); to the Committee on Armed Services.

PUBLICATION OF THE FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission transmitting a publication entitled "Statistics of Privately Owned Electric Utilities in the United States, 1974" (with an accompanying publication); to the Committee on Commerce.

PROPOSED LEGISLATION BY THE FEDERAL TRADE COMMISSION

A letter from the Chairman of the Federal Trade Commission transmitting, pursuant to law, a proposed amendment to the authorization of appropriation legislation for the Federal Trade Commission for the fiscal year 1978 (with accompanying papers); to the Committee on Commerce.

DISTRIBUTION OF INDIAN JUDGMENT FUNDS

A letter from the Under Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use of the funds

awarded to the Confederated Salish and Kootenai Tribes by the Court of Claims (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED RESEARCH CONTRACTS OF THE DEPARTMENT OF THE INTERIOR

Two letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, two proposed contracts for research projects (with accompanying papers); to the Committee on Interior and Insular Affairs.

REFUND FOR ANNUAL RENTALS BY THE DEPARTMENT OF THE INTERIOR

A letter from the Secretary of the Interior reporting, pursuant to law, on a determination that Standard Oil Co. of California is entitled to a refund for annual rentals; to the Committee on Interior and Insular Affairs.

REPORTS OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on changes in market shares for petroleum products (with an accompanying report); and a letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on the reevaluation of mandatory petroleum allocation and price regulations (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 3084. A bill to extend the Export Administration Act of 1969, as amended (together with additional views) (Rept. No. 94–917).

By Mr. MAGNUSON (for Mr. PASTORE), from the Committee on Commerce, with amendments:

S. 2054. A bill to amend sections 203 and 204 of the Communications Act of 1934 (Rept. No. 94–918).

By Mr. MAGNUSON (for Mr. PASTORE), from the Committee on Commerce, without amendment:

S. 2847. A bill to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations (Rept. No. 94–919).

By Mr. MAGNUSON (for Mr. PASTORE), from the Committee on Commerce, with an amendment:

S. 2343. A bill to amend the Communication Act of 1934, as amended, with respect to penalties and forfeitures (Rept. No. 94–920).

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:

John H. Reed, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Maldives.

(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, John H. Reed.

Post, Sri Lanka.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, See Exhibit A.

2. Spouse, Cora D. Reed, None.

3. Children and Spouses: Cheryl D. Reed, None; Ruth Reed Duford and Gerald P. Duford, None.

4. Parents: Mrs. Eva S. Reed, None. Mr. Walter M. Reed, Sr. (Deceased).

5. Grandparents: Mr. and Mrs. Linwood R. Seeley (Deceased); Mr. and Mrs. Philo H. Reed (Deceased).

6. Brothers and Spouses: See Exhibit B.

7. Sisters and Spouses: See Exhibit B.

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.

JOHN H. REED.

EXHIBIT A

1. John H. Reed—Contributions:

1972

Amount, date, and donee

$100, January 15, 1972, Maine Republican Finance Committee.

$50, January 30, 1972, Republican National Finance Committee.

$100, April 3, 1972, Finance Committee for the Reelection of the President.

$100, June 26, 1972, Chafee for '72 Committee.

$100, October 2, 1972, Cohen for Congress Committee.

$100, October 17, 1972, Maine Finance Committee to reelect the President.

1973

$25, January 6, 1973, Republican National Finance Committee.

$100, February 19, 1973, Maine Republican Finance Committee.

$100, October 5, 1973, Victory 72–74 Committee.

$100, December 10, 1973, Victory 72–74 Committee.

$15, December 30, 1973, Republican National Finance Committee.

1974

$50, January 1, 1974, Victory 72–74 Dinner Committee.

$100, April 20, 1974, Maine Republican Finance Committee.

$15, July 7, 1974, Republican National Finance Committee.

$100, July 22, 1974, Victory 74 Committee.

$100, September 14, 1974, Maine Republican State Committee.

1975

$15, January 4, 1975, Republican National Finance Committee.

$100, February 5, 1975, Victory 74 Committee.

$100, March 1, 1975, David Emery Committee.

$100, April 21, 1975, Maine Republican Finance Committee.

$50, May 31, 1975, Maine Republican Finance Committee.

$15, December 29, 1975, Republican National Finance Committee.

1976

$100, January 27, 1976, Maine Republican Finance Committee.

EXHIBIT B

6. Brother and Spouse:

Walter M. Reed, Jr., and Dolly L. Reed—none.

Amount, date, and donee

$50, September 16, 1972, William D. Hathaway.

$55, September 16, 1972 William S. Cohen.

$100, April 20, 1974 William S. Cohen.

7. Sister and Spouse: Ruth R. Mraz and Arthur J. Mraz—joint contribution.

Amount, date, and donee

$5, September 18, 1972, William S. Cohen.

$30, April 20, 1974, William S. Cohen.

$25, September 15, 1975, William S. Cohen.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 25, 1976, he presented to the President of the United States the enrolled bill (S. 2679) to establish a Commission on Security and Cooperation in Europe.

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. CASE (for himself and Mr. WILLIAMS):

S. 3482. A bill to amend section 4942(g)(2) of the Internal Revenue Code. Referred to the Committee on Finance.

By Mr. LAXALT:

S. 3483. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications or services. Referred to the Committee on Commerce.

By Mr. MONDALE:

S. 3484. A bill for the relief of Peter Poon on Wong; and

S. 3485. A bill for the relief of Orlando Garzon. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CASE (for himself and Mr. WILLIAMS):

S. 3482. A bill to amend section 4942 (g)(2) of the Internal Revenue Code. Referred to the Committee on Finance.

Mr. CASE. Mr. President, Senator WILLIAMS and I are introducing a bill to amend section 4942(g)(2) of the Internal Revenue Code, the so-called set-aside provision under which amounts set aside by private foundations for future payment may be treated as qualifying distributions under the Tax Reform Act of 1969.

The Robert Wood Johnson Foundation, one of the Nation's largest foundations, has encountered a severe problem owing to the Internal Revenue Service's administration of section 4942 and specifically 4942(g) of the code. These sections were added by the Tax Reform Act of 1969.

Section 4942 requires that a foundation pay out either all of its investment income or a statutorily determined percentage—6 percent in 1975—of its asset value, or be subject to a penalty tax. At issue is the ability of the foundations to use the set-aside method of grantmaking described in section 4942 (g) to meet the payout requirement of section 4942.

When a foundation makes a grant, one method of funding, of course, is by awarding the entire amount of the grant at the beginning of the project. In many cases, however, this is not the most desirable approach; some projects, by their very complexity, require regular monitoring and frequent evaluation. In these cases, foundations often prefer the set-aside approach, that is, setting funds aside for annual payments over the term of the grant, that is, 5 years, rather than by actual total payout at the inception of the grant period.

Under section 4942(g), in order for funds granted but set aside for future payout to be treated as qualifying distributions in the year of the award, the Internal Revenue Service must affirm that the purpose of the grant can be better accomplished by the set-aside method rather than by immediate payment of the full amount. This involves a separate determination by the Service, for each grant, that is not only a programatic, judgmental decision, rather than a factual test, but is also a cumbersome and time-consuming process.

The problem that this poses for the Robert Wood Johnson Foundation is unique, because of the foundation's substantial increase in assets on the death of Robert Wood Johnson in 1968. While other major foundations had numerous major funding commitments made in previous years, the Robert Wood Johnson Foundation had no similar commitments, no backlog of prior approved grants. This meant that in order to meet the payout requirements of section 4942, the foundation had to secure affirmative IRS approval of its set-aside grants every year.

The bill we are introducing permits foundations to set aside for subsequent grants sums that might otherwise be required to be paid out immediately in order to avoid the penalty tax; further, our bill will not mean any revenue loss to the Treasury. The bill will merely relieve the Treasury of the responsibility of passing on the merits of each set-aside.

Our bill is consistent with legislative intent as expressed in the 1969 act, since Congress at that time both imposed the payment requirement and provided for the set-aside method of meeting it. What was unforeseen in 1969 was that a new foundation, or one whose assets were suddenly multiplied many times over—such as the Robert Wood Johnson Foundation—would find it impossible to meet the requirement initially while using the set-aside methods, unless each set-aside grant was specifically approved by the Treasury. Our bill, then, will make possible the orderly growth and management of philanthropy by new and greatly enlarged foundations.

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

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

S. 3482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 4942 (g)(2) of the Internal Revenue Code of 1954 (relating to definition of qualifying distributions) is amended to read as follows:

(2) CERTAIN SET-ASIDES.—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary or his delegate, an amount or amounts set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution, but only if,

(A) the amount will be paid for the specific project within five years, and

(B) either

(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary or his delegate that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

(ii)(a) the project will not be completed before the end of the taxable year of the foundation in which the grant is made,

(b) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later) shall disburse amounts, in cash or its equivalent, equal to the distributable amount under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c)(2)(B) (including but not limited to payments with respect to set asides which were treated as qualifying distributions in a prior year or years),

(c) the private foundation shall have distributed during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, equal to the sum of the following (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in a prior year or years): 80% of the first preceding taxable year's distributable amount; 60% of the second preceding taxable year's distributable amount; 40% of the third preceding taxable year's distributable amount; 20% of the fourth preceding taxable year's distributable amount, and

(d) the foundation notifies the Secretary or his delegate in writing of the amount or amounts set aside and terms and conditions of the grant within 90 days after the award of the grant.

(e) If, for any taxable year to which paragraph (b) applies, the private foundation fails to disburse in cash or its equivalent amounts equal to those required by paragraph (b) and (1) the failure to disburse said amounts was not willful and was due to reasonable cause and (2) the foundation distributes an amount in cash or its equivalent equal to the difference between the amounts required to be distributed under paragraph (b) and the amounts actually disbursed in cash or its equivalent during that taxable year within the initial correction period provided in subsection (j)(2) hereof, such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during said year.

(f)(1) If, for the taxable years in the adjustment period for which the organization is a private foundation, the foundation disburses amounts in cash or its equivalent which exceed the amount required to be distributed under subparagraph (d) (including but not limited to payments with respect to set asides which were treated as qualifying distributions in prior years), then for the purposes of this subsection the disbursement required under subparagraph (b) for the taxable year shall be reduced by an amount equal to such excess.

(2) For the purposes of paragraph (1) with respect to any taxable year of a private foundation the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1975, and immediately preceding the taxable year.

By Mr. LAXALT:

S. 3483. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications, or services. Referred to the Committee on Commerce.

Mr. LAXALT. Mr. President, in the past several months, I have received from the southern part of my State, literally hundreds of letters expressing outrage at the skewed distribution of electric power rates caused by the slowness and inequity of Federal Power Commission procedures. Those procedures which particularly outraged my constituents were: the automatic passthrough of wholesale rate requests albeit on a temporary basis; the passthrough of additional requests before the final determination of initial ones had been made; and the undue delay which has frequently stretched into many years.

To be sure, in southern Nevada, there are additional complications involving very intricate relations between two utility companies, one of which does not generate power but instead must purchase it from the other. But even so, all parties concerned are agreed that a good deal of the skewed rate problem can be attributed to the above listed FPC procedures. That problem has now gotten so bad that retail customers in Henderson, Nev., pay power rates 39 percent higher than residents of nearby Las Vegas for power coming from the same source.

Section 205(e) of the Federal Power Act allows the FPC to suspend the operation of any newly proposed schedule of rates for up to 5 months. After that, however, the rates go into effect temporarily pending the outcome of a full hearing to determine the lawfulness of proposed changes. Thus, the present system allows the FPC by simple inaction to grant rate increases which violate at least the spirit of the Administrative Procedures Act and the requirements of due process in that they are passed through on an interim basis prior to any judgment as to their lawfulness.

As if this were not bad enough, the Commission's hearing and review process has become increasingly cumbersome and complicated with the result that consideration of many rate proposals frequently drags on for years—the Nevada case in point began over a year ago and there is still no end in sight. The FPC argues that wholesale purchasers forced to pay pending temporary rates have a right to refunds as do consumers should the proposed rate ultimately be determined to be unrea-

sonable. But, in practice, refunding has frequently proven to be of little use to the consumer because, under present law, the refund provisions are optional at the discretion of the FPC and utilities frequently pancake additional requests one on top the other in such a way that final refunds are even further delayed, if they are granted at all. Of course, refunds, which may or may not come through at some future time, also do little to comfort the small business or residential consumer faced with mounting present bills.

To assist in dealing with some of those problems, I am today introducing legislation to expedite and render more equitable FPC procedures for handling rate increases. My bill would amend section 205(e) of the Federal Power Act in the following way:

First. It would provide for an interim hearing process to assess the lawfulness of any proposed rate increase prior to commencement of the initial hearing. This interim hearing would be between the FPC and the relevant utility for an assessment of reasonableness and would take place within the first 30 days after the filing of the rate increase schedule;

Second. It would require that full hearings be commenced within 90 days of the filing of the rate increase schedule;

Third. It would require, as opposed to leaving optional, the maintenance of accurate records and the granting of refunds in the event a proposed increase proved to be unlawful; and

Fourth. It would prohibit what has come to be known as pancaking; that is the procedure by which utilities seek further increases before the FPC has disposed of previous ones.

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

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

S. 3483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(e) of the Federal Power Act (16 U.S.C. 824d(e)) is amended to read as follows:

"(e)(1) Whenever any such new schedule is filed the Commission shall at once, but upon reasonable notice, enter upon a preliminary hearing solely with the public utility or utilities filing such schedule concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility or utilities affected thereby a statement in writing of its reasons for such suspension, shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, until the effective date of such decision which shall not be later than sixty days after the date on which such schedule would otherwise go into effect. Following the completion of such preliminary hearing the Commission shall issue such temporary orders with respect to such schedule as it deems appropriate and within thirty days thereafter shall initiate full hearings upon such schedule and such temporary orders. Upon the completion of such hearings the Commission shall issue such final orders with respect to such schedule as are proper in a proceeding initiated after it has become effective. After any suspension pursuant to this subsection the proposed change of rate, charge, classification, or service may be placed into effect in accordance with such temporary orders as provided above, but in case of a proposed increased rate or charge, the Commission shall by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the full hearing and final decision shall by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

"(2) A public utility may not file a schedule which seeks to increase a rate or charge so long as the Commission has pending before it for final determination any schedule previously filed providing for such an increase by such public utility.".

ADDITIONAL COSPONSORS

S. 495

At his own request, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 495, a bill to establish certain Federal agencies.

S. 3069

At the request of Mr. BUCKLEY, the Senator from Arizona (Mr. FANNIN), the Senator from Utah (Mr. GARN), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3069, the Antidiscrimination Act of 1976.

S. 3084

At the request of Mr. STEVENSON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 3084, to extend the Export Administration Act of 1969.

S. 3144

At the request of Mr. BUCKLEY, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3144, a bill to amend title 39, United States Code, to increase, to the fullest degree possible, competition in the delivery of mail, and for other purposes.

S. 3280

At the request of Mr. MATHIAS, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3280, to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service.

S. 3402

At the request of Mr. ABOUREZK, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3402, the Special Lebanon Relief Act.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN MILITARY SALES ACT—S. 3439

AMENDMENT NO. 1700

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK. Mr. President, I am today submitting an amendment to the International Security Assistance and Arms Export Control Act of 1976–77. The purpose of the amendment is to add a new section to the legislation that would provide authorization for humanitarian assistance to Lebanon. The amendment is identical to legislation which I have introduced (S. 3402), and which Chairman SPARKMAN has subsequently introduced (S. 3450).

Mr. President, I am hopeful that the floor manager of the bill will be able to accept this amendment, so that assistance to Lebanon can begin as quickly as possible.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

AMENDMENT NO. 1700

On page 78, after line 2, insert the following new section, and renumber succeeding section accordingly:

"Special Lebanon Relief Act

"Sec. 422. (a) This may be cited as the 'Special Lebanon Relief Act.'"

(b) 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.

"(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

"(e) Not later than 60 days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section."

ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENT NO. 1702

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

TRUTH IN OCTANE—S. 1508

AMENDMENT NO. 1703

(Ordered to be printed and referred to the Committee on Commerce.)

THE PUBLIC NEEDS THE TRUTH ABOUT OCTANE

Mr. HATHAWAY. Mr. President, on April 23, 1975, Senator McINTYRE introduced S. 1508, the truth in octane bill. A number of my respected colleagues joined in cosponsorship of this bill.

The purpose of this bill is to assist the public in its purchases of gasoline, so that people neither waste money or energy by purchasing gasoline that is of too high an octane, nor damage their automobile engines by consistently using gasoline that is of too low an octane.

The bill has been through hearings before the Commerce Committee's Subcommittee on Consumers. My respected colleague, the Senator from Indiana, Mr. HARTKE, made a number of valuable suggestions for improving the bill; I wish to thank him for dedicating his time and effort, and that of committee staff members, for the work they did to help make this a better bill.

Using the suggestions and information developed in the hearings chaired by Mr. HARTKE, Senator McINTYRE and I have worked together in recent months to revise certain sections of the bill.

We are submitting an amendment to S. 1508 today. We believe that it is a vast improvement over the original S. 1508. We have taken into account the views of several officials of the Federal Energy Administration and the Environmental Protection Agency, as well as the testimony and comments of citizens' groups and individuals. This bill does not require any additional layer of bureaucracy, nor the hiring of any inspectors, nor paperwork to individuals and small business people. Today I join Senator McINTYRE in asking that the Subcommittee on Consumers and the full Committee on Commerce act speedily to report this needed bill, and we hope our colleagues will pass it without delay.

Mr. President, at this time I ask unanimous consent to have the amended version of the bill printed in the RECORD.

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

AMENDMENT NO. 1703

On page 1, between lines 4 and 5, insert:

"PURPOSES".

On page 1, between lines 10 and 11, insert:

"DEFINITIONS".

On page 2, line 1, strike out all through page 6, line 22, and insert in lieu thereof the following:

(1) "person" means an individual or corporation;

(2) "Gasoline" means gasoline as defined by the American Society for Testing Materials Standards D 439-75, used in automobile engines, but does not include fuel dispensed for use in airplane engines, marine engines, or other engines used in nonautomotive forms of transportation;

(3) "automobile" means any vehicle, propelled by an internal combustion engine fueled with gasoline, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails;

(4) "consumer" means any person who purchases gasoline for an automobile for purposes other than resale;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Panama Canal Zone, American Samoa, and the Trust Territories of the Pacific;

(6) "interstate commerce" means commerce between any place in a State and any place in another State, and between places in the same State through another State;

(7) "octane rating" means the measurement of the antiknock characteristics of gasoline for use as an automobile fuel, measured as half of the sum of the research octane number plus the motor octane number as described in the American Society for Testing Materials Standards Specifications for Gasoline, D 439-75 rounded off to the nearest whole number;

(8) "Commission" means the Federal Trade Commission;

(9) "gasoline fuel grade" means gasoline in the following octane ratings and the following corresponding names, or such other names and ranges as the Federal Trade Commission after public hearings, shall deem appropriate:

(A) leaded gasoline of octane rating 87 through 89 shall be labeled "economy";

(B) leaded gasoline of octane rating 90 through 92 shall be labeled "regular";

(C) leaded gasoline of octane rating 93 through 94 shall be labeled "middle premium";

(D) leaded gasoline of octane rating 95 and above shall be labeled "premium";

(E) unleaded gasoline of octane rating 87 through 89 shall be labeled "unleaded economy";

(F) unleaded gasoline of octane rating 90 through 92 shall be labeled "unleaded-regular";

(G) unleaded gasoline of octane rating 93 through 94 shall be labeled "unleaded middle premium";

(H) unleaded gasoline of octane rating 95 and above shall be labeled "unleaded premium";

(10) "retail distributor of gasoline" means a person who sells gasoline to a consumer; and

(11) "spot test" means such test methods as defined by the American Society for Testing Materials Test Methods D 2699-70 and D 2700-70.

PROVISION OF FUEL INFORMATION

SEC. 4 (a) Any person who offers for sale, to any person other than a consumer, for resale or distribution, gasoline which has been shipped in interstate commerce, and who fails to certify in writing to the purchaser of any such gasoline the fuel grade of any such gasoline at or prior to the time of delivery of such gasoline to such purchaser shall be subject to a civil penalty not in excess of $5,000 for each day in which any delivery of such gasoline is made by such person.

(b) Any person who offers gasoline for sale to any consumer and who fails to affix to the unit from which such gasoline is dispensed to the consumer a label clearly stating the gasoline fuel grade and the corresponding octane rating of all gasolines dispensed through such unit shall be subject to a civil penalty not in excess of $100 for each day on which any sale of such gasoline was made without display of the appropriate gasoline fuel grade information by such person.

(c) Any person who offers to sell to a purchaser any automobile manufactured after the effective date of this section which has been manufactured, shipped, or transported in interstate commerce and who fails to state to the purchaser the gasoline fuel grade appropriate for the use in the engine of such automobile shall be subject to a civil penalty not in excess of $300 for any such sale and not in excess of $100 for the sale of an automobile by a person other than the manufacturer, except that this subsection shall not apply to the sale or an offer to sell by an individual who is not regularly engaged in the business of buying or selling automobiles.

(d) The information required to be disclosed under subsections (a) and (b) shall need such requirements as to form and content, and any label required to be displayed shall be affixed in such location on the unit from which gasoline is dispensed, as the Commission shall by regulation prescribe.

(e) The information required to be disclosed under subsection (c) shall be posted in or on the automobile and included in literature furnished by the manufacturer of the automobile to the first retail purchaser of the automobile, or both, as the Commission shall by regulation prescribe.

(f) All such civil penalties under this section shall be covered into the Treasury of the United States, and shall be recoverable in a civil suit brought by the Commission in the name of the United States in any district court of the United States which would otherwise have jurisdiction thereof.

STANDARDS AND ENFORCEMENT

SEC. 5. (a) The Federal Trade Commission—

(1) shall establish standard methods to measure octane and establish other methodologies and testing procedures to insure the purity and content of gasoline, or delegate such authority to another authority of the Federal Government by memorandum of understanding; and

(2) may perform spot tests of the quality of gasoline moving in interstate commerce or in commerce affecting interstate commerce, and maintain public records on the results disclosed by such tests, or delegate such authority to another authority of the Federal government, by memorandum of understanding, or by contract permit an authority of any State to make such tests within any such State.

(b) The Environmental Protection Agency shall inspect retail gasoline outlets and shall enforce section 4(b) of this Act.

(c) Gasoline fuel grades shall be utilized uniformly throughout the United States.

(d) Violation of any provision of this Act or any regulation promulgated under this Act is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act.

TIME FOR ISSUANCE OF REGULATIONS

SEC. 6. The Commission shall issue regulations prescribing the form, content, and location of the information required under section 4 not later than 6 months after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 8. Sections 4(a) and 4(b) of this Act shall take effect one year after the date of enactment of this Act.

NOTICE OF HEARINGS AND MEETINGS

Mr. METCALF. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

June 3, full committee: 10 a.m., room 3110, business meeting, pending calendar business.

June 7, full committee: 10 a.m., room 3110, hearing, oversight hearing on coal reserve figures from the Bureau of Mines.

June 8, minerals, Materials and Fuels Subcommittee: 10 a.m., room 3110, hearing, status report on U.N. Law of the Sea Conference.

June 10, full committee: 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 11, Indian Affairs Subcommittee: 10 a.m., room 3110, hearing, oversight hearing on Quechan Tribe land issue.

ADDITIONAL STATEMENTS

CLEAN AIR ACT AMENDMENTS

Mr. MOSS. Mr. President, economic growth is essential to this Nation. Nothing will get this country moving better than some certainty in our building industry. The builders can boost the economy if they can be turned loose to build. I believe Senator MUSKIE's Clean Air Act Amendments of 1976 are a detriment to economic growth. My amendments should be adopted to give us more information. The National Home Builders agree with me. I ask unanimous consent that their resolution of support for the Moss amendments be printed in the RECORD.

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

SPECIAL COMMITTEE ON FEDERAL GOVERNMENTAL AFFAIRS, NATIONAL COMMISSION ON AIR QUALITY STUDY

Whereas, the Senate is considering legislation (S. 3219) which would, among other things, enact provisions designed to prevent the significant deterioration of air quality in those areas of the country whose air quality is cleaner than any existing ambient air standard, and

Whereas, no reliable information exists on the impact the proposed significant deterioration provisions will have on the economic growth of the nation;

Whereas, Senator Moss has proposed amendments to S. 3219 which will strike the section dealing with significant deterioration and will direct the National Commission on Air Quality to conduct a one-year study on the economic, technological and environmental effects of preventing significant deterioration of air quality; Now, therefore, be it

Resolved, that the National Association of Home Builders urges the Senate to adopt the Moss amendments to S. 3219.

BEHOLD—THE AMERICAN FARMER

Mr. CURTIS. Mr. President, when consumers complain about high prices at the supermarkets and when grain embargoes are used as political tools, too little concern is shown for the real victim in these cases, the American farmer.

And the real victim is, in fact, the real hero. He works hours most of us would shudder at, and for no set annual wage. Indeed he, more than anyone else in our private enterprise economy, is dependent on so many outside forces that affect what his earning power will be—weather, fuel prices, interest rates, transportation, insects, soil conditions. He learns to live with the lean years and appreciate the good ones.

And he feeds us all.

I was happy to see the article that appears in this week's U.S. News & World Report, "The Nation's Greatest Success Story," because it points out the significance of rural America to this Nation's economy.

As the article states, this year the American farmer will:

provide food to American families for about 17 percent of their take-home pay—the smallest by this measure of any country in the world; export more than any other U.S. industry; spend more money than any other business; and—each farmer will feed himself and 48 other Americans.

I urge my colleagues to read this article carefully because it has impact on all our constituents, those who produce and those they feed.

And we have a responsibility to be aware of these facts whenever we consider legislation that affects, even indirectly, the rural sector of our economy.

Mr. President, I ask unanimous consent that the article appearing in the May 31 issue of U.S. News & World Report be printed in the RECORD.

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

FROM MID-AMERICA: THE NATION'S GREATEST SUCCESS STORY

DES MOINES, IA.—What you are told out here is that the wonder of America is not its space spectaculars, its 100 million autos or its skyscrapers—it is the American farmer.

Furthermore, you learn that the "hick" of yesterday is today the most potent force in the entire U.S. economy—producing more, buying more, exporting more goods by far than any other business in the country.

Here in the heart of the rich corn belt, at the start of another crop year, farmers are again setting in motion the world's most efficient food-production system.

Spirits are high. Planting conditions have rarely been better. A dry spring enabled field work to jump off to a head start of two to three weeks. Then came the rains, just in time to dispel worry that a widespread drought was taking hold.

For some wheat farmers in the Southwest, the rains were too late to revive land scoured by wind and blowing dust. But for most, the moisture should produce a wheat crop approaching last year's record.

CROP PROJECTIONS

Over all, prospects are good for a harvest that will equal the 1975 outpouring of 202 million tons of corn and other livestock feed grains, 71 million tons of wheat and rice, 253 million tons of hay and silage 8 million bales of cotton, 16 million tons of potatoes, and vast quantities of fruit, vegetables, meat and dairy products.

That is good news for the world, much of which is fed from the U.S. breadbasket. American farms now supply fully half of all the grain moving in world trade.

Projected grain exports in the year that ends June 30 are 79 million metric tons, a whopping increase over the 64 million of the previous year.

American grain pouring into ships destined for foreign ports keeps the nation's trade balance from sinking deep into the red, and thus underpins the U.S. dollar.

Total sales of agricultural products abroad this year will bring in an estimated 22 billion dollars—far and away the largest single source of U.S. sales abroad. Chemical exports last year were a distant second at 9 billion.

Without this 22 billion dollars from export farm sales, Washington would be hard put to pay for the foreign oil that must be had to keep the U.S. economy humming. The oil-import bill in 1975 was 25 billion and will approach 30 billion in 1976.

Farmers have got off the taxpayers' backs. They no longer are paid billions from the U.S. Treasury for not growing crops.

Such payments climbed steadily from 2.5 billion dollars a year in 1965 to a peak of $5 billion in 1972, and dropped to $2.6 billion in 1973.

In the current year, Government checks to farmers are expected to total less than half a billion dollars. Most of that will be paid out under disaster-relief programs to those hit by drought, floods, other catastrophes.

Government no longer stores a glut of grain at taxpayers' expense. At one time, this cost approached 1 million dollars a day. Farmers now hold their own grain until they are ready to sell on the open market.

MOST PRODUCTIVE INDUSTRY

Productivity on family farms outstrips that of every other industry in the country. Output per man-hour has increased 65.2 per cent since 1965. By comparison, output per man-hour in U.S. factories is up by 14.6 per cent in that time.

Each farmer produces the food and fiber to supply 49 Americans. On top of that, he turns out the products that move into export markets. Ten years ago, each farmer provided for the needs of 35 people in this country.

To put it another way—there now are 10 per cent more Americans, and they are fed by 22 per cent fewer farmers.

Thanks to this high productivity, American families eat for less of their take-home pay than the people of any other country in the world.

In 1975, the average U.S. family spent 17.1 per cent of its income after taxes on food—up from a low of 16.3 per cent in 1972 and 1973 because of a two-year run-up in food prices.

That still is a bargain when compared with other nations. Latest available figures, 1972, show that the French spend 23.4 per cent of take-home pay on food. In West Germany, the figure is 24.2 per cent, in Japan, 26 per cent, Britain 29.8 per cent, and Italy 33.6 per cent. In Russia, food takes 35 per cent of consumer expenditure.

Farmers are the nation's biggest private spenders, laying out billions for tractors, combines, trucks, fertilizer, fuel, barbed wire and countless other supplies.

In 1975, U.S. farmers had a gross income of 99.2 billion dollars, of which they spent 75.5 billion on production expenses, winding up with net realized income of 23.7 billion.

That was considerably under their best year ever, 1973, when net income hit 30 billion dollars.

Average net income per farm in 1975 was $8,440, down from $10,549 in 1973. Such averages are far exceeded by many of the family farms here in mid-America.

PROFIT PICTURE

The story of one highly capitalized and efficient farm of more than 1,000 acres in Illinois is reported on page 55.

Not all farmers operate on such a large scale. Vernon and Helen Johnson say that only after 30 years of grinding work are they beginning to make a comfortable living on their place near Boone, La. They own 226 acres and rent another 300 acres, feeding a

few cattle and raising corn and soybeans that are sold for cash.

In 1974, the Johnson farm grossed $48,902. By the time expenses and taxes were paid, they were left with a net income of $12,353.

In 1975, the Johnsons' gross income jumped by more than $14,000 to $63,637. But expenses and taxes increased so much that net income was trimmed to $16,192. Mr. Johnson figures that gave him a return of about 5 per cent on his total investment.

Vernon Johnson has talked about expanding the size of his farm, but decided against it. He says:

"If I rented more acreage, I'd have to hire more help and I wouldn't be able to get the same percentages return on my investment. I would also have to buy more equipment. It seems to me that when you farm too big, you end up working for the farm-equipment companies and not yourself.

"The stakes in this business are getting too high for comfort. It used to be when spring came around I was content if I had a couple thousand dollars in the bank. But today, with the high cost of chemicals fuel and fertilizer, I can't plant my farm unless I have at least $15,000 on hand. As a matter of fact, I just spent $1,500 today so I'll be able to sleep better this summer—I bought hail insurance."

Mr. Johnson, like most farmers, is angry over what he sees as undue influence by Government, big grain dealers and meat-packers on the prices he gets. His attitude helps explain why President Ford appears to be in trouble across the farm belt.

Farmers are still bitter over the President's moratorium on grain sales to Russia last autumn. At that time prices plunged and have not yet recovered to earlier levels.

"It was a sellout to labor, who thought it would mean lower food prices," says Mr. Johnson, "and I probably won't vote for Ford, even if he is nominated."

Recurrent fears that corporation farming will take over in the U.S. are brushed aside by those who till the land and by economists who know the business from first-hand experience. Says Don Paarlberg, No. 1 economist in the U.S. Department of Agriculture:

"The family farm has great resilience. In hard times, the family farmer can tighten his belt, work for nothing. He will hold onto his land for a return of as little as 3 to 4 per cent—less if need be.

"The corporation farm can't do that. Its workers punch a time clock. They won't stay up all night to plant a corr crop or tend a sow through farrowing a litter of pigs. If they don't get paid, they quit. The trend to corporation farming in this country will be gradual, selective, but never total. In some types, where costs can be rigidly controlled, corporations will do well. They have almost totally taken over production of broiler chickens. They do well in California where irrigation takes the weather risk out of farming. But in many places, the corporations have fallen flat on their faces."

PASSING IT ON

There are growing numbers of incorporated farms in the U.S., Mr. Paarlberg notes, but 9 out of 10 of them are farm families that have incorporated to facilitate passing on the business to heirs.

More young people are entering or staying in agriculture. Not long ago, the average age of farm operators was 52 years. Now that is dropping. Almost 20 per cent of farm operators now are under 35 years of age, compared with 15 per cent in 1970.

The future appears bright for farmers—and for their customers at home and abroad. The Agriculture Department projects that U.S. farmers—with present technology—can by 1985 increase production of wheat and feed grains by 50 per cent, soybeans by one third and beef output by 40 per cent.

And the American farmers will do better than that if agricultural scientists come up with promised new varieties of hybrid seed, new livestock-management practices and improved cropping techniques.

Above all, the ever-growing strength of agriculture is based on a renewable resource. This spring you can see that renewal here in mid-America where new crops of wheat, corn, feed, grains, soybeans, calves, pigs and chicks are again creating new wealth for America.

American farmers in 1976 will:

Provide food to American families for about 17 per cent of their take-home pay—the smallest by this measure of any country in the world;

Export more than any other U.S. industry—$22 billion in sales abroad equaled 20 per cent of total exports last year;

Top others in growth of productivity—output Per Man-Hour 1965–75—on farms, up 65.2%, in factories, up 14.6%;

Take in more money than any other business—gross income of All Farmers (including value of housing and home-grown food) in 1975, $99.2 billion;

Spent more money than any other business—outlays for Machinery, Feed, Fertilizer and Other Production Expenses Last Year, $75.5 billion;

Earn a net income comparable to 1975 level, of $23.7 billion;

And—each farmer will feed himself and 48 other Americans.

CAPUCHINS AND MOBIL

Mr. ABOUREZK. Mr. President, in our debate over how to insure that the actions of major oil and gas companies serve the public interest, we go over and over the same ground. I recently read a newsletter on "Catholic Church Investments for Corporate Social Responsibility" which puts together some old facts in new ways. For one thing, the newsletter describes the efforts of religious congregations to find out who controls three of the major oil corporations. The oil companies tell us that they are owned by millions of "average Americans," and that their modest profits are nothing less than income supplements for widows and orphans. But the same companies that print this appealing information in magazines, can and do refuse to let their own shareholders know just who the top corporate owners are.

Not many people have the time or the knowledge to look behind the statements in oil company ads. Even Senators with staffs at their disposal cannot spend the time it would take to uncover the particulars hidden in the generalities and parables that make the oil companies sound good in their corporate propaganda. I think that the particulars show a lot more about how the oil companies operate. And they might also show that the corporate interest is a great deal more limited and private than the ads lead us to believe.

Mr. President, the article in vol. III, No. 4 of the Justice and Peace Center's newsletter shows some of the particulars behind certain Mobil Oil Co. ads. I ask unanimous consent that it be printed in the RECORD, both for the facts it reveals and so others can see that concern about corporate behavior extends outside the Halls of Congress.

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

CAPUCHINS AND MOBIL

The precipitating reason that brought the Detroit Capuchins into dialog with Mobil Oil Corporation was a June 17, 1975 "Op-Ed" advertisement by Mobil entitled, "Big Oil, Little People." This quarter-page article was part of the $5 million Mobil spent on print ads in 1975 for "idea advertising." These print ads have appeared in up to one hundred newspapers on a weekly basis. They are part of a broader, $10 million effort of Mobil to influence public opinion on items of interest to the company. This advertising campaign, which has been recognized by many as the best in the whole industry, won for Mobil's chairperson and chief executive officer Advertising Age's "Adman of the Year" award for 1975.

To run the ad in the *Wall Street Journal's* national edition for one time costs $10,489.50. To run the same ad in a large metropolitan paper like the *Milwaukee Journal* as part of a series of ads costs around $850.00. Since Mobil runs its "op-ed" thoughts in 25–100 metropolitan papers regularly, an average of 60 papers at $850.00 would be $51,000. With the *Wall Street Journal edition*, Mobil spent $61,000 to explain to the average American its side of the story. The company is willing to expend such amounts because it finds such ads have a "high readership" among the target group.

A person reading such an ad could conclude, with Mobil, that its stock is distributed quite evenly among millions of people. Furthermore, one could conclude the company had gone overboard in trying to be objective. "And nobody was counted twice." However, Senators Muskie and Metcalf report Mobil's top thirty shareholders own 29% of the corporation (almost all in the name of nominees). With 5% ownership constituting control of a company and 1% indicating "undue influence" (according to the Government) Mobil's protestations (to the point of $50,000+) of objectivity might be called into question.

Why would this company, the fifth largest corporation in the United States and the sixth largest in the world spend $10 million in the name of objectivity and yet not share objective truth with American readers? Perhaps an article describing Mobil's "Advocacy Ads" in *The Wall Street Journal* (May 14, 1975), with a subtitle "Is It Brainwashing Public?", gives further information as to Mobil's motivation. According to Rawleigh Warner, the purpose of Mobil's public-affairs program is to "defend the oil industry against 'slander.'" The Vice President for Public Affairs states the purpose for the ads in another way: "We want others to see Mobil as we do."

A recent survey by Opinion Research Corporation, found that 67% of the public has a "low approval" of big companies compared with 47% ten years ago. About 33% of the public feel that oil companies "fall down the most" in their ethical practices, up from 6% only three years ago. And 72% think oil companies make too much profit. Given such public opinion, it is little wonder that Mobil would want others to see it "as we do."

A recent example of the difference of perspectives between some of the public and Mobil and how it came to a head is evidenced in the scenario that developed between Mobil and WNBC's series on the oil industry that ran during the week of February 23–27 in New York. Even though it had refused the station's invitation to respond to the series "in fairness to ourselves" (because it felt its response would be edited out or watered down) Mobil took out a full-page ad in the New York Times on March 5 to give its side of the story. "Like a lot of folks in the Channel 4 viewing area," Mobil began, "we tuned in the local news show last week to catch Liz Trotta's highly promoted five-part

series on the price of gasoline. The show—it was hardly news—left us dismayed, concerned, and angry." "What we say," the ad declared, "really shook our confidence that objectivity is of paramount concern to some journalists. We saw a parade of warmed-over distortions, half-truths and downright untruths . . ." The company then proceeded to take each of the five days' presentations and point out the "Hatchet Job" done by the commentator, with an accompanying "Fact" presenting Mobil's point of view.

This Newsletter does not want to give the impression that Mobil had not justification to be angry at distortions, half-truths and downright lies that may have been included in the report. Yet an understanding of some of the issues that brought Mobil's hostility indicates that it might be also said that this Mobil ad was "inaccurate, unfair and a disservice to the people."

In the WNBC show, one of Ms. Trotta's guests stated that the crisis was a "rip-off" and that the oil companies "taught the Organization of Petroleum Exporting Countries how to raise their prices." Calling such a statement the "Hatchet Job," Mobil responded. "Aside from the fact that no oil company spokesman on the show was asked to rebut this particularly nasty attack" (although it later refused an invitation to do so), "the fact remains that a few years ago, when Mideast oil sold for about $2.00 a barrel, the oil companies earned about 35 cents on each barrel produced. Today, with Middle East Oil selling for over $11.50 a barrel, industry profits on this oil are averaging just under 20 cents a barrel."

WHAT MOBIL DIDN'T SAY

This response about the pricing of Mideast Oil finds us wondering about Mobil's claim to objectivity. On March 5, when the Mobil ad appeared, the company owned 7.5% of the 40% interest in Aramco Oil Company that represented four American companies (Exxon, Texaco, Standard of California and Mobil).

How they figure Arabian oil prices

When an Aramco customer—usually one of the four owning companies—buys crude oil, it pays Aramco the posted price per bbl	$11.65
The posted price is calculated to give Saudi Arabia the $7 per bbl. it demands from Aramco in two ways:	
Royalty (12½%) posted	1.46
Taxes	5.54
The posted price also includes the profit the Saudis allow Aramco owners per bbl	.45
It also includes Aramco's cost of producing a barrel of oil	.13
Total	7.58
To make this price possible, Aramco refunds through dividends to its owning companies the difference between the market and posted prices	4.07
Grand total	11.65

Since the four US energy companies owned 40% of Aramco at the time of Mobil's ad, 40% of the $.45 allowed the industry for profits by the Saudis would come to "just under 20 cents a barrel."

Yet, while this is true, Mobil found reason to discuss the 40% of the dividends allowed to the owners of Aramco that the Saudis allowed. 40% of $4.07 brings an additional $1.63 to the "just under 20 cents a barrel" for a total of $1.83.

According to *The Wall Street Journal*, (3-28-74/13), the way the "dividend" works to the benefit of the oil industry finds that "transactions between Aramco and its owner companies take weird paths:"

". . . The owner company takes one million barrels of Aramco crude, paying Aramco $11.65 a barrel cash, or a total of $11,650,000. The owner company sells the oil for perhaps as much as $10 a barrel, giving it a 'loss' of $1,650,000.

"Aramco, meanwhile, has paid the Saudi government $7 million (at $7 a barrel) and has operating costs totaling $150,000 for the million barrels. It therefore has netted a 'profit' of $4.5 million, or $4.50 a barrel.

"But Aramco then declares a 'dividend' perhaps equal to $3.50 a barrel after retaining something for capital expansion—giving the owner company $3.5 million on the million barrels. Subtracting its earlier 'loss' of $1,650,000 on the transaction, the owner company has come out with a profit of $1.85 million."

Yet, in the interest of information that is accurate, fair and a service to the people, Mobil states that "industry profits on this oil are averaging just under 20 cents a barrel."

Another problem Mobil had with Ms. Trotta was her "pitch about the oil industry's 'generous tax benefits and tremendous government influence, not only in Washington but in most capitals of the world.'" To this Mobil responded, "How can one reconcile 'generous tax benefits' with major oil companies' loss of the depletion allowance—still permitted other extractive industries? Or with the cut-back in foreign tax credits—again, only for oil companies? Moreover, the oil industry is the only one in the nation still under the price controls initiated back in 1971—another fact Ms. Trotta never mentioned. And where's the vaunted political clout of an industry that's had its prices rolled back, is fighting divestiture at home, and watching its properties become nationalized?"

It is hard to believe that such a beleaguered company would make profits of $1.047 billion in 1974 and would pay US taxes of 5.3% when the average corporate taxes are supposed to be 48%. This is particularly difficult to fathom when Mobil boasts it paid 68% in taxes on its worldwide revenues. The royalties and taxes account for most of the so-called posted price. Saudi Arabia requires Aramco to sell to its owners at the posted price. Yet this gives the owners a tax advantage, according to Sen. Frank Church, because the payments to Saudi Arabia are credited dollar-for-dollar against US income taxes. In addition, the owners' profits in Aramco enable them to conduct other operations at a reduced profit, giving them an advantage over rivals. This is one of the situations that led Sen. Church to conclude that Aramco and similar arrangements have effectively eliminated "free enterprise, the competitive market." Between 1969 and 1973, Aramco's pay-out of dividends rose 350%. In the same period, the royalties and income taxes collected by Saudi Arabia also rose by 350%.

FREE ENTERPRISE

In light of such actions, Sen. Church concluded that Aramco was able to eliminate the free enterprise system and the competitive market. Yet Mobil shows that, with so many refineries, the talk of seven companies monopolizing the industry is preposterous. The Church committee investigating the transnational corporations showed that profits of the refining dimension enabled companies to take losses at other levels of operations, a great occurrence among vertically-integrated companies such as Mobil which controls every operational level; producing, refining, transporting and marketing.

When Mobil questions the allegations of its vaunting "political clout of an industry that's had its prices rolled back, is fighting divestiture at home, and watching its properties become nationalized overseas" one cannot forget Mobil's threat in early 1974 that if foreign tax credits for oil companies were eliminated in tax legislation then pending, "We would have to take every step we could to get out of US jurisdiction." Needless to say, the foreign tax credit remained.

In a meeting with Mobil officials, Tim Smith of ISSR, Steve Abrecht and Moke Locher of Corporate Data Exchange, Inc. and Rev. Michael Crosby (representing his Capuchin community as filers of the resolution) were told by Mobil officials that Mobil's unique 1974 profits resulted from filling its reserves at the earlier posted price of $5.11 and selling at $11.65 with $6 additional pure profit. This $6 bbl profit was not passed on to the consumer and little was passed on to the shareholders. Mobil used this money, along with borrowings to purchase Montgomery Ward for $800 million. As the official indicated, otherwise they would have had to pay taxes on such huge profits. Once the resources were depleted, they had to be filled, so Mobil had to borrow to pay the $11.65. Even though future sales would balance the purchases at the $11.65 price. Mobil paid only 5.6% in US taxes. At the same time it was among those claiming that it needed billions in profits to develop new energy sources. Reflecting on these facts, Malcolm Forbes commented: "If crude-short Mobil hadn't bought Marcor, all of us, including the Congress, would be more moved by the Big Oil's plea that they need billions in profits to find and develop vitally needed new energy resources. But when one of them can use $800 million to take over a major retailer of bedsheets, shirts, stoves (Montgomery Ward) and bags and boxes (Container Corp. of America), how can one believe that their money will go toward more energy?"

The difficulty about believing Mobil is thus not only shared by some shareholders; it is shared by the editor of one of the country's most influential business magazines.

Despite spending $5 million in print media advertising so the public can see Mobil as Mobil does, it stated on March 9, 1975, "We don't want to control the press. But we do believe a way should be found to provide adequate, timely, and economic channels of communication whereby individuals and organizations can correct demonstrably inaccurate reporting . . ."

In light of such a statement, it seems inconceivable that Mobil would refuse to make available to shareholders information about the concentration of its shareholdings. This Newsletter has demonstrated that Mobil inaccurately reported the full meaning of its shareholdings. These must be seen not only from a common denominator. Even more importantly, its holdings must be seen from the viewpoint of concentration which indicates where real power lies. When this was presented to Mobil officers by Mike Crosby, they indicated that to find out who the voting holders were would be a great expense, even though it has been shown at least $50,000 was spent showing that "nobody was mounted twice" in the division of its stock to 14 million Americans.

The problem that faces church groups as minority shareholders in the corporation is best summarized by Mobil itself: "What about the organizations and individuals who cannot afford to buy any advertising space to try to set the record straight?"

What of us? $50,000 would be one-third the budget of ICCR to deal with all corporations on all issues. It would be 7 times the budget for the seventeen-member Corporate Responsibility Action Group of which the Capuchins are but one member.

A representative will go to the shareholders' meeting of Mobil, knowing that Mobil not only would not write a letter to the various banks and institutions holding its large blocks of stock (as did Exxon in response to the Marianists' request), but opposes the resolution. In addition, the large

banks and institutions will vote against the resolution as well. And while SEC laws would allow the Capuchins only 200 words to explain why it proposed the resolution, as the bloc of institutional shareholders increases to the growing disenfranchisement of the average shareholder (remember the 14 million—it decreased 18.3% since 1970 due to a feeling of helplessness in the face of the large institutional investors), Mobil will urge shareholders to vote against the resolution. And since Mobil will have all the words it wants, plus the prestige of the company who has convinced shareholders to see it as Mobil does, the Capuchins will consider it a "victory" if they receive 3% of the vote.

DESEGREGATION AND THE CITIES—PART IX:

LOCAL LEADERSHIP AND EDUCATIONAL CHANGE IN MINNEAPOLIS

Mr. JAVITS. Mr. President, the list of major American cities where there has been active and constructive leadership at the local level in devising and implementing a citywide desegregation plan is very short. The largest is Minneapolis, where the task was undertaken under the leadership of Superintendent John Davis. The result has been an unusually intelligent, thoughtful, and creative approach to school desegregation bringing with it new educational options for children and their families. Minneapolis has not solved all of its problems—no school system will until other social and economic injustices are repaired—but it is working on them peacefully and with imagination and determination.

Minneapolis has only about a fifth of minority children, but this is approximately the number the Boston schools had in the mid-1960's when that city's politics first became almost completely dominated by the desegregation issue. Minneapolis great advantages were that it had educational leadership that treated desegregation as the educational challenge and opportunity it is and that most of the State and local political leaders refused to abandon their support for desegregation. The Governor, State school officials, the city's Congressman, DON FRASER, and others held to their principles when the conflict became most intense. Good public leadership and the good sense of the local voters kept the school board in the hands of those who wanted desegregation to work well, not the forces that often waste years of effort and hundreds of thousands of dollars in useless appeals trying to reverse the Constitution.

Minneapolis plan is not perfect and the city has confronted difficult problems of building new educational approaches more responsive to diverse demands of different groups of parents. The city does, however, provide a fine example of educational leadership and commitment of school officials to building genuinely integrated schools.

Today's inserts are a number of articles from the Minneapolis Tribune and one from the Milwaukee Journal describing the desegregation process as it unfolded in Minneapolis.

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:

[From the Minneapolis Tribune, Sept. 2, 1974]

LARGEST DESEGREGATION PHASE SET WEDNESDAY

(By Gregor W. Pinney)

The fourth and largest phase of compulsory racial desegregation in the Minneapolis Public Schools begins Wednesday when the schools open for the fall term.

Nearly 12,000 students will be bused to schools outside their neighborhoods for desegregation. In those schools, many new alternative educational programs will start at the same time. The total cost for busing and for people to handle desegregation and alternatives in the coming year will come to more than $3 million.

It will be the largest phase because the biggest concentrations of minorities are in the elementary schools, and the entire program to eliminate that segregation will go into effect this fall.

In addition, another of a series of steps of the secondary school desegregation plan will be carried out. Earlier steps were taken in 1972 and 1973 and, because of the one-grade-at-a-time method used in the secondary schools, the full rearrangement of students will not be completed until 1977. But most of the impact will be felt this year.

Strictly speaking, the elementary segment of the plan will not be completed this year either because three school complexes, which were designed as part of the plan, will not be finished until late 1975 or early 1976. But the students in those areas will be rearranged in a desegregated pattern in existing buildings this fall and simply will move as units eventually into the new complexes.

Those actions will complete the current desegregation plan, which is supposed to lower the racial minority percentage in all schools to what has been set as an acceptable level—35 percent.

But because the number of minority students is increasing while the white population declines, the minority percentages in some schools probably will rise above the acceptable level in the future.

That may bring pressure for more shuffling of students.

Indeed, it might bring an order for further action from U.S. District Judge Earl R. Larson, who has given himself continuing jurisdiction over all local desegregation matters as the result of a court case two years ago.

In three years of desegregation, there has been no reported violence that could be attributed to compulsory racial mixing. And none is expected this fall.

Compulsory desegregation has been going on in Minneapolis since 1971 when the school board undertook the first cautious step—the parting of Field and Hale Elementary Schools.

But even as that pairing began, pressures for more desegregation came from the state Department of Education and local integrationists, who had filed a lawsuit. So the school board drew up a comprehensive desegregation plan and adopted it in April 1972. A month later, Judge Larson found the city guilty of official segregation and, essentially, ordered the board to put its own plan into effect over the next several years.

So there could be no turning back.

The first part of the comprehensive plan—a few secondary boundary changes that affected relatively few students—went into effect that fall. A larger part of the secondary plan went into operation in the fall of 1973. That left more of the secondary plan and all of the elementary part for this fall.

Desegregation this fall will mean that additional thousands of students will not go to the schools that traditionally have served their neighborhoods. Instead, they will be assigned to schools that usually are farther away and that have a more diverse array of students. If the distance is too far to walk, as it usually is, the students will be bused at public expense.

In some areas, the old neighborhood schools have been closed. The students might go to new facilities or to other existing schools that have space because of dwindling enrollments.

The most prevalent technique for desegregation in Minneapolis, however, does not require closing old buildings or opening new ones. It is called "grade reorganization" and it means that the areas served by two or more schools are merged. One school takes certain grades (say, kindergarten through third) from the whole area while the other school takes other grades (fourth through sixth). One school might have been heavily black and the other heavily white, but they end up with mixed populations after the reorganization.

This technique has brought new words into the urban vocabulary: "pairing" for two merged schools and "clustering" for more than two.

And it means that most students do get to attend their neighborhood school some of the time—during those years when they are in the grades that the school still serves. But the students do not stay in that school for as many years as they would have in the past.

In Minneapolis, there is no "cross-busing" in which individual students in a school are identified by race and then are exchanged for individuals of an opposite race in another school.

The balancing act in Minneapolis is done by putting together certain areas of town or even whole school attendance areas that encompass both white and minority residents. Attendance boundary lines are redrawn in the process, and some of the shapes that emerge on the map resemble the results of gerrymandering.

The effect on the racial balance of the schools is the same as in cross-busing. But the techniques used in Minneapolis mean that neighborhood friends usually are not separated. Even if one youngster is black and another white, if they live near each other and are in the same school grade, they probably will get on the same bus and go to their new school together.

Also in Minneapolis, there has been no attempt to scatter the minority students evenly among all the schools of the city. That would require much more busing, and over considerably longer distances.

Furthermore, school officials see no virtue in reducing the minority percentage as low as possible. They think it is a good thing to have a significant number of minority students in a school—enough to carry some weight in the affairs of the school.

As a result, real racial mixing is limited to less than half of the schools of the city.

[From the Minneapolis Tribune, Sept. 9, 1974]

DESEGREGATION PLAN CHANGES CITY'S SCHOOLS

(By Gregor W. Pinney)

The extensive desegregation carried out last week in Minneapolis schools has profoundly affected the shape of education in the city, probably more than any other single force in the history of the school system.

The educational pattern in the city used to be a simple one: The city was divided into about 70 neighborhoods, and each one had a neighborhood elementary school in the middle. It was often the focus of that neighborhood's identity. And there were clear divisions between elementary schools, junior highs and senior highs.

But now, many of the boundary lines have been erased. Some of the buildings are gone, and so is some of the identity. The school grades are arranged in a variety of ways now that do not easily fit into the old three-level mold.

The school district used to issue just two maps to show attendance areas, one for elementary and one for secondary. But this year, a series of six maps was produced to show the new configurations, and they still are confusing.

The sight of children walking to and from school in the morning and afternoon is part of the city scene, but there is far less of it this year as the orange bus becomes a more important tool of education. One-third of the city's students ride to school this year.

Desegregation also has had a heavy impact on the substance of education. As students and teachers were rearranged, the faculties often took the opportunity to change the way education was offered. The faculties at Hale and Field schools, for example, after the more traditional-minded teachers had departed, decided to offer a continuous progress program with teams of teachers and a lot of specialties.

The programs not only were changed, they were enriched to make desegregation more attractive. Hale and Field each got five extra teachers in 1971, and the programs they offered put a glow on those schools that attracted scores of students from outside. Others were driven away, nevertheless.

There is some enrichment with this year's desegregation, but it is not as rich as Hale's and Field's because school officials say they do not have that kind of money anymore. Even Hale and Field do not have all the extras they once had.

Most of all, desegregation opened the door for citywide alternatives. The alternatives system, which offers several styles of learning and gives each student a choice, got started in the city in 1971 with the federally funded Southeast Alternatives project. And the school board, battered by antagonistic pressures over desegregation, took up the idea of alternatives as a way of giving all factions at least some of what they want.

As desegregation went into effect this fall, so did a lot of new alternative programs, with the prospect that the entire school system someday may offer choices of educational styles to students. In some cases this fall, alternatives are the sole technique for desegregation. Instead of assigning students to schools, officials simply have allowed students to choose, hoping that the races will balance themselves.

Although there has been no major violence in desegregating the schools, there has been public protest. There was a tremendous uproar at a school board meeting on the night in 1970 when the first desegregation policy was adopted by the Board of Education. And there were clamorous meetings after that, but the decibels dwindled. And after the federal court put legal sanction on desegregation, the protest seemed virtually to disappear.

There was a political protest, too. For a while, it threatened to throw out the liberal board majority and to oust the administration of Superintendent John B. Davis Jr. in the process. Two antibusing candidates were elected handily in the 1971 election. But by 1973, the issue had worn thin, and the voters elected two moderate candidates who promised not to interfere with the court-ordered desegregation.

Although desegregation technically is being carried out under a court order, the real thrust for desegregation in Minneapolis has not come from the courts. It has come from what could be called the liberal establishment of the city and from the school board and the school administration.

The liberal belief was—and is—that sending youngsters of different races to school together is the best hope ultimately for bringing racial harmony. . . . They want better human relations. They want blacks and whites and Indians to grow up together and learn how to get along. And the fact that there has been no real trouble as a result of desegregation in Minneapolis is taken as proof that it is working.

Opponents maintain, however, that true human relations have not developed between the races in schools. And some research in other cities has supported that position, although the accuracy of that research has been challenged.

The research, however, tends to get shoved aside, and desegregation moves ahead largely as a matter of faith.

[From the Minneapolis Tribune, Unpublished Column, Oct. 23, 1974]

WHY IT WORKED

(By Gregor W. Pinney)

If there is a race riot in the Minneapolis Public schools tomorrow, please consider this column inoperative.

But assuming there will not be a riot, I want to offer some theories about why school desegregation here has gone so smoothly.

Probably the most important single factor is the leadership of the school board and the administration of Supt. John B. Davis Jr. They were not always skillful molders of popular opinion, and they did not always move as fast as the city's integrationists wanted. But Davis and majority of the school board had an unswerving belief that integration was right.

Whether it was right or not is another question. They thought it was right. They were not just going along with it because of political pressure. And the deepness of their belief tended to soften the opposition.

Most important, it kept the opposition from getting up any hope that the board and the superintendent could be persuaded to change their minds. Consequently, a lot of people simply resigned themselves to desegregation and went about other things.

The board and the administration, however, had many things in their favor. One was that the comparative size and dispersal of Minneapolis' minorities meant that desegregation here was not really a big deal. Only one-fourth of the students have been forced to go to a school outside their neighborhood, and fewer than half of the city's schools are affected in any way. And nearly all those involved are elementary and junior high schoolers—not senior high youths who know how to stage a big riot.

The busing is so limited that most whites do not have to worry about being involved. Indeed, most of the furor over desegregation in Minneapolis came in the early stages when no one knew who would be caught up in it and just about everybody feared that they might be.

Throughout the whole desegregation experience, there has been no Boston-style hypocrisy. The liberals who pushed for desegregation did not escape it themselves. Indeed, the thing they wanted most was to get their own children into racially mixed schools. Some of the strongest backers came from the wealthy Kenwood area, where the superintendent and some board members live. The Kenwood children now are being mixed with some of the poorest black youngsters in the city.

In the midst of it all came the federal court decision by Judge Earl R. Larson, declaring the city in violation and ordering the board to put its desegregation plan into effect. That gave legal sanction to what the board had been trying to do voluntarily, and it seemed to make it impossible to reverse.

Alternative styles of education, which are offered in some desegregated schools, might also have helped, because they gave parents something to think about besides busing. And then there was politics. The opponents, overconfident after their big victory in winning two school board seats in 1971, put all their hopes in winning two more in 1973, which would have given them a majority. They became surprisingly calm in those two years, so much so that desegregation did not seem to be a desperate issue by the time the 1973 elections rolled around. The opponents lost.

I hate to say it, but they might have fared better in the election if they had kept things stirred up. They definitely would have fared better if all seats on the school board were open for election every two years as they are in Boston. An entirely anti-busing board would have been elected in 1971, and resistance would have been intense. But the school election laws of Minnesota require long, staggered terms just for occasions like this. Schools here are intentionally insulated from short-lived public pressures.

Another factor that led to the opponents loss in the election of 1973—and that contributed to the city's acceptance of desegregation—was the political hocus-pocus of the forces that won. They largely were liberal pro-busing people who cast themselves as moderates. They got two candidates—Jack Mason and Carol Lind—who had not previously spoken out either for or against busing, and cast them as anti-busing candidates. And through some means that I still find baffling, they got the support of organized labor, even though it was the conservative side that had served labor unflinchingly in the past.

The liberal-moderates won. The back of resistance was broken. The issue has become almost moot.

Last week, I happened to see one of the strongest anti-busing leaders, Norm Selby, as he was out campaigning for the State legislature. His seventh-grade daughter, whom he had once taken out of Field elementary School to avoid busing, is now attending Anthony Junior High as part of the desegregation program.

Is she being bused?

"Isn't everybody?" he replied.

[From the Minneapolis Tribune, Sept. 19, 1975]

TWO AREAS TO JOIN CITY SCHOOL PLAN FOR DESEGREGATION

(By Gregor W. Pinney)

Children from two white areas of Minneapolis will be brought into the city's school desegregation program when schools open for the fall term on Wednesday. But these moves will be small compared with the extensive busing and mixing of students that has begun in the past several years and will continue this year.

Approximately half of the city now is touched by school desegregation as public officials attempt to use gasoline to overcome the effects of human nature. This fall, 41 of the city's 82 public elementary and secondary schools will be involved to one degree or another, and more than 11,000 of the district's 53,000 students will be bused out of their neighborhoods for racial mixing. (An additional 13,000 will be bused for other reasons. That includes 4,000 who will get publicly supported rides to private schools.)

The two new areas are the Putnam Elementary School neighborhood in northeast Minneapolis and the Calhoun Elementary School neighborhood in the Hennepin-Lake district of south Minneapolis. Calhoun closed in June.

Both areas are being brought in so that their predominantly white student populations will lower the minority proportions at other schools as required by U.S. District Judge Earl R. Larson. The previous rounds of desegregation failed to do the job.

Putnam, a 91-percent white school at 1616 NE. Buchanan St., will send about 240 kindergartners and first- and second-graders this fall to Bethune Elementary School at 919 Emerson Av. N. That is three miles away, on the heavily black near North Side. Bethune, even though busloads of white students were brought in last fall, still had a minority enrollment of 47 percent, with 44 percent black.

That violated Judge Larson's new guidelines of no more than 35 percent of any one minority and no more than 42 percent of all minorities.

In turn, about 30 fourth-graders from the Bethune area will go to Putnam this fall. Next year, fourth and fifth graders will be at Putnam, and sixth graders will be involved in 1977.

Bethune also will send about 80 students—most of them black—in the western part of its neighborhood northward to Lowell and Hawthorne schools.

When all the youngsters have been sorted out this fall, Bethune is expected to have a 28-percent minority enrollment (compared with 87 percent two years ago) and Putnam is to have 16-percent.

In south Minneapolis, the closing of the 88-year-old Calhoun School at 3016 Girard Av. S. means that all of the approximately 400 students (85-percent white) in that area will be mixed into the four schools of the West Cluster. Exactly where they go will depend on their grade level and the kind of program they want—open, traditional or continuous progress. Without Calhoun's help, one or more of the schools might have been over the 42-percent maximum. They definitely would have been over Judge Larson's old 35-percent guideline, which was in effect last December when the board decided to bring in Calhoun.

Last spring, it appeared that 10 schools might be over the limit this fall. But now that Judge Larson has raised the limit and ordered prompt action to desegregate Bethune, officials are predicting that only two schools will be in violation.

Those are Irving and Greeley Elementary schools, which are just south of downtown Minneapolis in an area with some blacks and many Indians. School officials say they can eliminate that segregation when they move the youngsters into the new Hans Christian Andersen complex next year and invite white students in from the outside. They persuaded Judge Larson to give them time to try.

Desegregation caused a community uproar when it first was undertaken by the Minneapolis School Board five years ago. But there has been relatively little commotion in the last two years.

Some people in the Putnam area—traditional, white ethnic, northeast Minneapolis—voiced strong protests at two meetings last spring when they learned that their children were to be taken to the North Side. But those voices have died down.

"When we first went around to get support to stop it, people said they didn't like it, but they sure hoped we wouldn't have a Boston here," said Gerald O. Wegner of 1306 NE. Lincoln Ct., one of the leaders of a parents group last spring.

They soon realized that they could not stop the plan, "So we thought we'd do what we could to make the best of a bad situation," he said.

Wegner, 34, whose second-grade son Byron will ride a bus to Bethune, now is working to form a new parents' association, for Bethune School. Working with him is Mildred Ogisi, a black parent from the Bethune area, whose daughter Alefo also will be in second grade.

Mrs. Ogisi said, "On the whole, I think it should go rather smoothly. We desegregated at Bethune last year with no problems."

As for forming a new parents' association, she said, "I have found the Putnam parents very oriented to parent grouping."

Contrary to "outside prejudice," there are some pro-busing people in northeast Minneapolis, said Wegner, and he estimated that about half the parents are neutral. The rest are against it, with only a relative few adament about it.

"I'm basically anti-busing," he added, "for a number of reasons that I think have very little to do with black prejudice."

One reason is that he bought a house that is just across a park from the neighborhood school, "but now the school is across town."

Wegner, who is a Univac computer programmer, said his son's education will not be harmed at Bethune— unless parents cause trouble.

[From the Milwaukee Journal, June 12, 1975]

INTEGRATION COMES QUIETLY TO MINNEAPOLIS

(NOTE.—As background for a decision expected this year in a Milwaukee school desegregation suit, reporters in other cities were commissioned to describe the experiences of their school systems with court suits and, in most cases, court orders to desegregate. This story on Minneapolis, Minn., was written by Milton Coleman, a reporter for the Minneapolis Star.)

MINNEAPOLIS, MINN.—In 1971, the Minneapolis School Board began an experimental program of forced desegregation in two of the city's 94 public schools. Some parents shouted protests, others quietly packed up their families and moved away. And two anti-integration candidates won easy victories in that year's board elections.

Now the schools are nearing completion of the final phase of an expanded three year desegregation program under the supervision of the Federal Court.

And Marilyn Borea, a 37 year old white housewife who rode the crest of the anti-integration wave to victory in 1971, is spending more time urging an expanded girls' athletic program than answering phone calls from parents hassled by desegregation.

"No one discusses the pros and cons of desegregating anymore. It's a moot issue," she said recently. "By and large, it's working." Besides, Mrs. Borea added, "the court ruling has said that this is the way it's going to be."

SOME PROGRESS

But W. Harry Davis, the 52 year old black chairman of the board, is cautious. "There has been progress," he acknowledged. "But there hasn't been enough for us to sit back on our laurels."

Parents and school officials are waiting to see how and if academic achievement will change. They're also pondering the fate of one-third of the system's schools that are still nearly all-white and unaffected by the court ruling.

And in the local American Indian community, there are fears that dispersal of Indian students throughout the district is jeopardizing positive cultural identity.

Minneapolis, a city of 434,400, has a relatively small minority population: 4.4% of the people are black, 1.3% American Indian and seven-tenths of 1% Asian and Latin, according to the 1970 US census.

But similar to other urban areas of the country, minority enrollment in Minneapolis public schools is disproportionately high and growing higher.

CAMPAIGN BEGAN IN '60S

In 1963, there were 4,708 minority pupils, comprising 6.6% of the city's 71,530 students. By last fall, minority enrollment had increased to 10,722 or 19.1%, while total enrollment decreased to 56,161. There were 7,040 blacks, 2,676 American Indians, 583 Latins and 423 Asians.

The campaign of local blacks to desegregate public schools began quietly in the 1960s, without the citywide boycotts and spot demonstrations on construction sites that marked similar efforts in Milwaukee.

The School Board adopted a voluntary busing program in 1967 and established guidelines for voluntary desegregation in 1970. But it was not until the following year that the first attempt at forced desegregation was made on an experimental basis.

Two elementary schools on the city's South Side—Hale School, mostly white, and Field School, mostly black—were paired into a single attendance district. All students in kindergarten through third grade went to Hale, while those in foutrh through sixth grades attended Field.

LITTLE RACIAL CONFLICT

Despite frequent parent protests before the program began, there was virtually no racial conflict once it got underway.

The following year, the board adopted a sweeping plan for forced desegregation in 53 schools, following many hearings throughout the city at which throngs of parents—most of them white—criticized the proposal.

At the same time the board was deliberating the plan, Federal Judge Earl R. Larson was hearing a class action suit brought by the local NAACP on behalf of three black children.

DISTRICT COURT RULING

One month after the board adopted the plan, Larson ruled that the board had maintained segregated schools through its pupil and staff assignment, school construction and pupil transfer policies. He also said that housing patterns helped foster racial isolation in the city's schools.

But Larson rejected the plaintiff's request for city desegregation immediately, and instead said he would supervise the board's adopted plan which would phase in desegregation over a three year period.

The plan called for the redrawing of high school district boundaries beginning in the first year, and complete desegregation of 13 junior high schools, including the busing of 2,800 students, in the second year. Last fall, elementary schools were added to the operation in the third and final phase. Now 11,000 children on buses and 4,000 others attend schools outside their immediate neighborhoods.

The board included pairing and clustering schools into larger attendance areas in the fashion pioneered in the Field-Hale experiment of 1971.

This approach was feasible in part because the city's black population is centered in two separate areas, a highly concentrated one on the near North Side and a more dispersed one throughout South Side areas.

The linchpin of Larson's original decision was that by the end of the current school year, there be no school in the city where minority enrollment exceeded 35%, roughly twice the percentage of minority enrollment in the district as a whole at the time of the decision.

Before the ruling, 19 schools had minority enrollments greater than that figure.

NINE SCHOOLS ABOVE LIMIT

The board, claiming it was working as diligently as possible, nevertheless expected nine schools to still be above the 35% minority limit next fall. School officials said the primary reasons were delays in school construction and failure of magnet programs to attract enough whites to racially mixed schools.

The desegregation program was successful, however, in reducing the concentration of minorities. Two schools that previously had minority enrollments of 88% and 67%, for instance, were cut to 47% and 49% respectively.

Charles Quaintance, attorney for the plaintiffs, criticized the school system for relying so heavily on the concept of magnet schools to desegregate. He said it was unlikely

to attract enough whites and that progress under the program was too slow.

Quaintance asked Larson in April to require the board to comply more closely with the original court order.

LEVEL RAISED TO 42 PERCENT

In response, on May 7, Larson raised the 35% level to 42%, with the provision that no single minority such as blacks could constitute more than 35% of a school's population.

Larson said he made the adjustment because of the growth of the city's minority population since 1972, particularly the growth of the Indian community.

Raising the ceiling left only one school potentially above the 42% legal limit for next fall. And on May 27, the School Board adopted a proposal to add another school, 91% white, to the desegregation plan. Judge Larson approved this plan and presumably the action will bring the district into full compliance by fall.

AIMED AT BLACK SCHOOLS

The entire court effort has been aimed primarily at desegregating schools that were predominantly black. It has done nothing about many schools that are mostly white. Of 86 schools in the city, 28 have minority enrollments of less than 10%, a fact that worries Supt. John B. Davis.

The superintendent and the board have always contended that housing patterns affected school segregation. One place where that is most evident is in northeast Minneapolis, a tight ethnic enclave of Poles and Swedes across the Mississippi River from the main portion of the city.

Of more than 17,000 blacks living in the city in 1970, only 16 lived in the northeast; seven of the 28 schools with minimal minority enrollment are in that part of the city.

INDIAN COMMUNITY

Although the Indian population, which is also located in two different sectors of the city, was included in the court order, it has not greeted the desegregation program with all-out enthusiasm.

The activist American Indian Movement (AIM) has its national headquarters here, and its organizing has sparked a general cultural awakening among Indians.

Some Indians have requested transfers to schools where they are collectively in greater numbers. And at one point last year, there were some confrontations, but no violence, between blacks and Indians at one high school.

MINORITY STAFFING

Larson's order also affected minority staffing, which had previously been concentrated in schools with the highest minority enrollments.

Now every elementary school has at least one black teacher, and the minority staff ratio in each secondary school is at least 6%.

Several studies of student achievement have been made during the three years of the Field-Hale program. Officials say they show that black achievement has been improved and white achievement has not been harmed.

TWO STUDIES CRITICAL

The bulk of the citywide program started last fall, and few evaluations have been made since then. However, two conceptual studies of the desegregation plan released in October were sharply critical.

One report, undertaken by a school administration task force, concluded that both the voluntary and mandatory busing plans were perpetuating values of white superiority.

The second report, compiled by the Atlanta based firm of Tillman Associates, said the board's program was more concerned with meeting constitutional requirements of the court order than eradicating the root causes of racism in the schools.

[From the Minneapolis Tribune, Aug. 11, 1971]

SUIT TO INTEGRATE CITY SCHOOLS FILED

(By Greg Pinney, Staff Writer)

Pro-integration forces filed a lawsuit against the Minneapolis School District Tuesday in an attempt to force the integration of schools across the city in the fall of 1972.

The suit was filed in U.S. District Court in Minneapolis by Charles Quaintance Jr., a Minneapolis attorney who is representing the Committee for Integrated Education and the Minneapolis Chapter of the National Association for the Advancement of Colored People (NAACP).

Quaintance was formerly a trial lawyer for five years in the Civil Rights Division of the U.S. Department of Justice and handled successful lawsuits against school boards in Pasadena, Calif.; Tulsa, Okla.; Montgomery, Ala.; and Wilcox and Choctaw Counties in Alabama.

* * * * *

In a press release yesterday, the pro-integration forces said the Field-Hale pairing is a step in the right direction.

"But it is only a step . . . (and) equal educational opportunity should not come in steps," the release added. The pairing involves only middle-class areas "and does not touch the most difficult integration problems in Minneapolis, including the existence of four majority black schools (Hay, Bethune, Willard and Harrison) on the near North Side," it said.

* * * * *

Individuals on the board and in the administration have said privately in recent months that they would not be at all upset if a court were to order a speed-up in integration of the schools.

Officials have proceeded cautiously—the Field-Hale pairing is the only compulsory integration so far—because of intense opposition.

No school official is known, however, to have encouraged a pro-integration lawsuit.

The plaintiffs in the new lawsuit are two black girls, Jeanette Booker, 10, a 5th grader at Aggasiz School, and Montez Willis, 13, a 9th grader at Ramsey Junior High, and a white boy, David G. Hage, 16, a junior at Marshall-University High School.

Acting for the three youths are their parents or guardians. Curtis C. Chivers, grandfather of Miss Booker, is advertising manager of the Minneapolis Spokesman and is on the NAACP education committee; James M. Willis, father of Miss Willis, is a local attorney, and George S. Hage, is a University of Minnesota journalism professor and cochairman of the Committee for Integrated Education.

The basic allegation in the lawsuit is that the school board has discriminated by race and has, therefore, deprived the plaintiffs of equality of educational opportunity and of equal protection of the laws and liberty without due process of the laws—all in violation of federal and state laws and constitutions.

Specifically, the complaint says, the board has assigned students to schools by methods that have resulted in segregation in some schools, it has drawn attendance areas "built on residential areas that are racially segregated as a result of both public and private discrimination" and it has located some new schools and additions in such a way as to increase segregation.

The complaint also says the board has assigned teachers and other professional persons on the basis of race and has failed to hire and promote black persons on the same basis as whites.

The suit asks the court to order the school board to develop, adopt and implement an integration plan by the fall of 1972.

[From the Minneapolis Tribune, Oct. 8, 1973]

DESEGREGATION EFFORT SPARKS LITTLE FRICTION

(By Sam Newlund)

It was almost a month to the day since busing for racial balance began in Minneapolis junior high schools, and "Mr. Cool," a black student at Ramsey Junior High, had something to say.

"I was really kind of scared to come to this school, in a way," he admitted.

His fear, he said, was that white students would try to jump the incoming blacks, and he would have to fight.

"Now," he said, "I feel like whites ain't no different from blacks. And besides, color is only skin deep."

Mr. Cool is Gene Gates Jr., a ninth-grader who lives at 3400 5th Av. S. The nickname was coined spontaneously and effectionately by a Ramsey staff member who admires the youth's self-assured, straight-forward manner and his potential for leadership in making integration work at Ramsey.

Last year, Gates went to Bryant Junior High, near his home in a heavily black neighborhood. Lake many of his classmates, he would have preferred Bryant this year to busing to increase Ramsey's minority enrollment.

Now he's not sure. White students at Ramsey, he said in an interview last week, "seem more friendly than they did at Bryant."

Gates is one of about 2,800 junior high school students being bused out of their neighborhoods this fall to satisfy a court-ordered desegregation decree.

If statements like his are typical—and there's no certainty that they are—then desegregation is working.

If his professed change in attitude proved universal, then desegregation would achieve one of its goals: To defuse racial antagonism by allowing youngsters to learn from experience that "whites ain't no different from blacks."

But it's too early for such a rosy report. As one black parent at Ramsey put it recently: "I don't think kids have had enough time to choose sides. It might take another two or three weeks before they do."

Nevertheless, a series of interviews last week turned up not a single report of serious racial problems in the affected schools. The interviews were with administrators, teachers, students and with "conflict resolution aides" who were hired specifically to befriend students and smooth out difficulties.

The aides are working in Anthony, Bryant, Franklin, Jefferson, Jordan, Lincoln, Phillips and Ramsey junior highs, and in North High School, which this year has a class of ninth-graders.

All the aides interviewed, as well as other staff people, said integration has been virtually faultless. It is typical, however, that black and Indian students still tend to stick together in the lunchrooms and on the playgrounds.

Douglas Hill, 12, a black seventh-grader bused into predominantly white Jordan Junior High, was asked during a noon hour last week why he was surrounded by other blacks at his lunchroom table.

"We don't know anybody else yet," he said.

Tracy Sullivan, 14, a white ninth grader at Ramsey, said she discovered that the bused-in black students are "pretty nice kids. . . . If you sit next to them, they're really nice to you."

Antionette Jacobs, 14, a black eighth-grader who lives near Bryant, had a different view. She said she disliked the reduction in the percentage of black students caused by the influx of white students.

"Every class I go to," she complained, "I'm the only black one in there."

At Ramsey, Albert Durand, one of the school's two social workers, said there is a "healthy coexistence" between indigenous

students and outsiders. But it could turn unhealthy, he recognizes, and he sees young Gates and another bused-in student from the Bryant neighborhood as black leaders who could tip the balance either way.

The other student is Kevin Patterson, 14, 4337 Portland Av. S.

Patterson, a sports enthusiast, said his attitude when told he would have to leave Bryant and ride the bus to Ramsey was that "I wasn't going to do nothing at Ramsey." He was not, in other words, going to participate in sports like football or basketball, which he loves.

But like Gates, Patterson says his attitude has changed since school began Sept. 5—partly because, to his surprise, the teachers and staff are interested in, concerned about, and tuned in to the new students and their needs.

Their reputations as leaders of the incoming group came along with Gates and Patterson, and adults like Durand are determined to help channel that leadership into a positive force.

Patterson said he was surprised to find that teachers he didn't know actually knew who he was and would call him by name in the halls.

"I said to myself: 'Wow! Is my reputation that big?'" he confided, adding: "It makes you feel good."

Last week Durand and aide Karlyce Pestello asked for a meeting with Gates and Patterson to learn about whatever problems the newcomers might have.

Durand said the youths entered the 90-minute meeting hating all white and emerged feeling that such an attitude may be wrong. Durand is black and Mrs. Pestello is white.

Interviewed later, the two youths acknowledged a change in attitude.

"For all the years I've been a student," Gates said, "this year, I really feel like a student."

[From the Minneapolis Tribune, Oct. 8, 1973]

MINNESOTA POLL: SCHOOL BUSING NOT A BURNING ISSUE IN 1973

Busing of school children to another neighborhood for racial balance does not appear to be the explosive issue in Minneapolis that it was two years ago, even though residents list it first among the important problems facing the public school system.

That is the finding of a special survey by the Minneapolis Tribune's Minnesota Poll, based on the interviews with 605 Minneapolis men and women.

The survey also shows that a majority of city residents rate the school system as "pretty good" to "excellent" in providing a good education. But many give the system a lower standing than suburban schools.

Other findings:

Half of the city's residents are not sure what the most important issue is in the school board election Nov. 6.

A bare majority favors the idea of open schools at the high-school level, but two-thirds are opposed to such schools at the elementary level.

A third of the respondents said that too little attention is given to teaching the basics, such as reading, writing and arithmetic, while almost half said that enough attention is given to enrichment, remedial and other special programs.

When people were asked what was the one most important issue to them in voting for school board candidates, 49 percent said they didn't know.

One adult in four (24 percent) said busing and integration is the key issue as far as they are concerned. In 1971 strong antibusing sentiments helped elect two conservatives to the school board.

Eleven percent said replacing the conservative influence on the school board with more progressive thinking is the high-priority consideration.

Others mentioned the qualifications of the candidates themselves, getting financial support for schools, and a variety of concerns that got scattered mention.

The attitude of city residents toward their public school system is shown in the replies to two survey questions:

"How would you rate the Minneapolis school system in respect to giving the city's children a good education—would you say that in this regard the school system is excellent, pretty good, only fair, or poor?"

[In percent]

Excellent	11
Pretty good	40
Only fair	21
Poor	11
Not sure	17
	100%

FUNDING OF VETERANS' ACTIVITIES FOR FISCAL YEAR 1977

Mr. MOSS. Mr. President, on April 3, 1976, the Senate Budget Committee reported the first concurrent resolution of the Budget for fiscal year 1977—Senate Concurrent Resolution 109. In the brief interlude before April 8 when the resolution was considered by the Senate, unfortunately some incorrect information was circulated that the Senate Budget Committee had voted to cut veterans' benefits. That information was incorrect, but the circulation of such erroneous information precipitated many letters directed to me and other members of the Budget Committee expressing concern about the alleged budget cuts. I have always been a staunch supporter of veterans' programs and if such a cut had been proposed I would have strongly opposed it.

As Members know, the Senate Budget Committee originally recommended a VA budget of $19.3 billion for fiscal year 1977. This amount provided for cost-of-living increases for veterans' pensions, compensation payments and readjustment benefits. It was an increase of $2.1 billion over the President's budget, $1.8 billion over the Appropriations Committee recommendation, and over a billion dollars higher than the amount proposed by the House Budget Committee. However, the House figure was subsequently amended during the floor debate in the House to provide for a higher amount. Accordingly, during the joint House-Senate Budget Conference we reached agreement on a figure of $19.5 billion for fiscal 1977. This was indicated in my statement to the Senate on May 12 when I submitted the conference report.

Mr. President, in replying to the letters addressed to me on this matter I attempted to clarify the situation by summarizing the facts, pointing out the significant funding for the VA budget provided in Senate Concurrent Resolution 109 which the Budget Committee had recommended and enclosing a copy of my statement before the Senate on April 9 when the Cranston amendment to the budget resolution was considered and tabled. I replied in this manner to a letter I received from Mrs. Vivian Talbott of Humboldt, S. Dak. I have now received a second letter from Mrs. Talbott in which she expressed her gratitude for my letter "clearing up" the situation and which she indicated "clearly explains that no actual cuts in veterans' programs or benefits are being made." Mr. President, I ask unanimous consent to have Mrs. Talbott's letter printed in the RECORD in its entirety.

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

HUMBOLT, S. DAK.,
May 13, 1976.

DEAR SENATOR MOSS: Thank you, for clearing up any incorrect information that was circulated concerning the Senate Budget Committee's vote to cut veterans benefits.

Thank you, also for the enclosed statement of the Congressional Record of April 9, 1976.

It explains clearly, that no actual cuts in veterans programs or benefits are being made, and why you voted to table this resolution.

Thank you for your kindness, time and support in this matter.

Sincerely,

MRS. VIVIAN TALBOTT.

Mr. MOSS. Mr. President, I recognize that disagreements or differences may arise from time to time in our attempts to reach the right decisions on the many important matters that come before us. However, I think it is of the utmost importance that any such differences be those of judgment and not of recitation of "facts" upon which the judgments are based. As one who has consistently supported veterans programs I am pleased to have had the opportunity to clarify the picture regarding funding of veterans activities in fiscal 1977.

EFFECTS OF POPULATION GROWTH

Mr. MATHIAS. Mr. President, one of the world's most pressing, unresolved problems is the unprecedented rate of population growth in the urban areas of developing nations. William S. Gaud, national chairman of the Population Crisis Committee, and a distinguished public servant whose career has given him a profound personal knowledge of the stress created by unrestrained population growth in the light of finite resources addressed this problem. He spoke in terms of the impact of population policies on human settlements, in a speech that he delivered May 6 at a meeting of the Council of Washington Representatives on the UN, UNA–USA. Mr. Gaud's remarks, and the subject to which they were addressed, merit public attention, and I ask unanimous consent that the text of his speech be printed in the RECORD.

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

THE IMPACT OF POPULATION POLICIES ON HUMAN SETTLEMENTS

Toward the end of a long day of meetings recently, where many of the interrelated problems of the world had been discussed, and one wondered if the world would stay glued together, a friend sitting next to me started to smile. Afterwards I asked him what on earth he had found to smile about. He replied that as a child he had decided that when he grew up he would be a "problem solver." Then, in his teens, he worried a great deal that all the problems in the world would be solved before he grew up. That's what he was smiling about.

Well, he needn't have worried. Unsolved problems are one thing we've got plenty of. And today, I want to talk about one of our most urgent and pressing unsolved prob-

lems—namely, the world's unprecedented rate of population growth in the urban areas of the developing nations.

First, let's look at the problem of global population growth in general. It took all of history until about the year 1830 for the world to reach a population of 1 billion. Then, in 1930—only a hundred years later—the world's population reached 2 billion. In April of this year, the Population Reference Bureau tells us, the population reached 4 billion.

This remarkable population growth is due to one simple fact: a rapid reduction in death rates—a reduction for which we can all be thankful—that has not been matched by a corresponding reduction in birth rates. Furthermore, staggering though this rate of growth may seem, we are not through yet. There are many countries in which half or more of the population is under 15 years of age. In addition, death rates are still falling in many areas. So we can look forward to further large population increases no matter how successful we are in our efforts to control fertility.

As we all know, the rate of population growth is much higher in the developing countries than in the developed countries. Indeed, for many years population growth rates have been steadily declining in the developed countries. But they have been increasing in many of the developing countries. As a result, the proportion of the world's population living in the developing countries has steadily increased. Those countries now contain 70 percent of the world's people, and that figure is rising every day. As one writer has put it, population has a perverse logic—it grows most rapidly in those areas of the world least equipped to handle larger numbers of people.

I need not dwell on the pressures that this kind of population growth puts on physical and social resources of the countries where it is occurring. Those pressures are already overwhelming. Today—thanks to population growth and despite all of the world's development efforts—there are in absolute numbers more people illiterate, miserably housed and malnourished than ever before in the history of mankind. It is estimated that from 10 to 20 million children die from starvation or malnutrition each year. And many of those who survive are irreversibly damaged—physically, intellectually and psychically.

Take India, for example, a country which cannot adequately feed, clothe, house, educate and find jobs for its present population of over 600 million. With 2.4 percent of the world's land area, India has about 15 percent of the world's people. The Indian writer, Dom Moraes, presented the Indian situation very graphically when he said: "Every 30 seconds an Indian child comes crying into a world that does not want it." If the average family size in India remains constant at the 1970 estimated level of 5.4 children per family—and pray heaven that it does not—the population will be way over a billion by the year 2000. Dr. Karan Singh, Indian Minister of Health and Family Planning said only last month:

"It is estimated that our population . . . is now rising at the rate of well over one million per month . . . Indisputably we are facing a population explosion of crisis dimensions which has largely diluted the fruits of the remarkable economic progress that we have made over the last two decades. If the future of the nation is to be secured, and the goal of removing poverty to be attained, the population problem will have to be treated as a top national priority and commitment."

It is no wonder that Maurice Williams, Chairman of the Development Assistance Commitee, has said: "This may be the last generation that can deal with the population problem through measures compatible with human dignity." And indeed, some of the Indian States with exceptionally high fertility rates are already threatening to resort to enforced sterilization after three children.

So much for population growth rates generally. Now for a look at the population problem of the cities. Whereas the total populations of developing countries are doubling every 25 or so years, the populations of many of the large cities in those countries are doubling every 10 to 15 years, and the populations of their urban slums are doubling every 5 or so years.

The extent of this growth is almost unbelievable. In 1800, the total urban population of the world was around 25 million, which is equal to the combined present population of Tokyo and New York—the world's two largest cities. Now, the acceleration in urban growth is so rapid that the United Nations Population Division estimates that in the year 2000, perhaps as many as one-half the world's people will be living in urban areas.

If the urban deluge and present rate of population growth continues, there could be in the Third World by the year 2000 one or more gigantic metropoles of more than 25 million inhabitants each—Mexico City, for example, or Sao Paulo, or Jakarta. If that sounds far-fetched, let me remind you that Mexico City's population has increased from 1,000,000 in 1930 to 8,500,000 in 1975—and it is still growing by leaps and bounds.

How does one handle a city of 25 million or more inhabitants? In many cities, the amenities are already stretched to—or even beyond—the breaking point. In Calcutta it is estimated that 600,000 people sleep in the streets at night. Robert McNamara says that about one-third of the population in most cities of the developing world lives in slums that are either wholly without or inadequately served by public water, sewerage, transport, education and housing.

The Indonesian journalist, Moctar Lubis, uses a haunting phrase for the already large cities in the developing world. He calls them Miseropoli. And when one thinks of the proliferating tensions and social disorders such as the crowding, the unemployment, the atomising effect on traditional family values, alienation, juvenile delinquency, drug addiction, prostitution, sexually transmitted diseases and all the other by-products of life in the slums of the great urban areas, we have miseropoli indeed.

None of this is to say that the cities in the developed world don't have their problems, too. They do—definitely. But, by and large, their efforts to solve their problems are not frustrated, or complicated, by rapid population growth. On the contrary, many cities in the developed countries are losing population rather than gaining it.

This is very different from the situation that exists in the mushrooming cities of Latin America, Asia and Africa. About half their growth is due to natural population increase—that is, births minus deaths—within the cities themselves. Most of the other half is due to population migration from the rural areas—migration that is attributable to the high birth rates, economic and social stagnation of the countryside, its dreadful poverty and the belief that things are better in the city than in the country.

In short, just as the increase in world population is not evenly distributed between the developed and the developing countries, so—within the developing countries—the increase in population is not evenly distributed between the urban and the rural areas. And the imbalance is growing at a rapid rate as the Third World becomes more and more urbanized.

What's to be done? Fortunately, as you know, a good deal is already being done about over-all population growth although the United States unfortunately has cut back its support for international family planning programs for the last few years. Even less, I fear, has been done about the urban problem.

Insofar as the population problem as a whole is concerned, although much still remains to be done, the past 10 years have seen considerable progress. An excellent analysis of the last decade of major population events has just been published by the Population Reference Bureau, called World Population Growth and Response. Let me take just a minute to remind you of the progress that has been made in those ten years by the three organizations that are now most active in this field.

Ten years ago, the United Nations Fund for Population Activities (the UNFPA) did not exist. It was established in 1967 with a mere $3 million in contributions from a handful of countries to respond to requests from governments. In the current year it expects contributions totaling some ninety million dollars from 42 countries. Currently it is supporting over 1200 projects in a hundred countries through direct grants to private organizations with special expertise.

Ten years ago the International Planned Parenthood Federation (the IPPF) had a budget of under two million dollars and was working through affiliates in 56 countries. Today, the IPPF has affiliates in 93 countries, and a budget of just under forty million dollars.

Equally dramatic has been the growth of population activities on the part of the Agency for International Development (AID) here in the United States. Early in 1967, when I was Administrator of AID, I established the first operational population office in the Agency. It was an important beginning—prior to that time there had been only four employees, and a budget of a couple of million dollars committed to population programs. Today, there are some 113 employees and the budget has for five years been in excess of $100 million per year.

One cannot measure progress in an area such as this entirely by the number of dollars appropriated and spent. But I believe that anyone familiar with the facts would agree that, fast as the three agencies just mentioned have grown, they and the many other agencies working in this field have not been able to keep pace with the requests for assistance from the developing world. There exists today a far greater awareness of population problems than was the case ten years ago. Some 37 developing countries—which together account for about 80 percent of the population of the developing world—today have official government policies to reduce their rates of population growth, and are carrying out programs designed to do just that.

It is estimated that only about one woman in seven in these countries is yet being satisfactorily reached by family planning programs. To be successful, these programs must make available to many millions of additional women—many of them illiterate and living far from any urban center—the knowledge and the means that will enable them to control the number and the spacing of their children. New type family planning programs involving community based systems for supplying means and information direct to users are showing that much can be done at low cost, getting around the chronic shortage of doctors.

I personally am convinced that the motivation to bear fewer children is there. To cite just one bit of evidence to support this conclusion, the National Academy of Sciences estimates that 40 million unwanted pregnancies are terminated by induced abortions world-wide every year. Some organizations cite a figure of 50–55 million. But whatever the figure many of these abortions are illegal, take place under the most dreadful conditions, and lead to countless unnecessary deaths. I don't believe for a minute that women would resort to measures of this kind if they had access to safe and effective means

of fertility control. And the experience of a number of developing countries which have succeeded in reducing their population growth rates bears this out. Birth rates tumble wherever the full range of family planning services is made convenient and acceptable and available at low or no cost.

Everything that has been done and that is now being done to reduce population growth rates in the developing countries will help solve the problems of their growing cities. But other policies are also needed. On the one hand, a major attack must be mounted on the urban front to improve the quality of life for city dwellers—those now existing and those who will exist in the future. On the other hand, an intensive effort must be made to cut down the rate of migration from the rural areas to the urban areas. For unless this is done there is no way of ameliorating urban problems in the long run.

The rapid growth of European and American cities during and after the Industrial Revolution was due in the main to the need of industry and commerce for labor. There was a "pull" being exercised by urban communities. Today, by contrast, the cities of the developing world are growing because people are being "pushed" towards them from the rural areas. They have no jobs waiting for them, and no clear notion of where they can live or what they can do. They are simply desperate people who believe that life must have more to offer than they have found in the country.

The best way to cut off the flow of these people to the cities is to make the countryside more viable for them—and to create incentives that will keep them and their children from wanting to leave. This demands a commitment on the part of the leaders of developing countries to move promptly on far-reaching, integrated rural development programs.

It means the adoption and carrying out of policies through which farmers are paid the going market price for their product—rather than a low price rigged to avoid unrest in the cities. With the proper price they can afford to use more fertilizer and improved seeds so that they can produce more and can pay better wages to the landless. Rural development also means organizing credit systems for seeds, fertilizers and tube wells, and creating institutions in which farmers can protect their savings. It means expanded cooperatives, workable land reform systems, physical infrastructures such as irrigation works and low-cost farm to market roads, and inducements for development of local industries.

Rural development programs require the establishment and support of centers for research and training in a vast array of skills, in order to transfer technology to the village and small farmer level. This includes training in, among other things, livestock and small animal development, better fishing techniques, improved storage facilities, disease and insect control, watershed management, methods of getting potable water to village pumps, irrigation, soil management practices, clearing of currently uncultivated land, multiple cropping and reforestation. Since women produce more than half the food in many developing countries, it is important that women be included in these training programs. To the extent that women are offered opportunities independent from childbearing, these efforts should also reduce fertility.

A revitalization of the countryside will have to include the creation of institutions to overcome the bonds of ignorance, malnutrition and disease. This calls for courses on all levels in at least functional literacy, decent nutrition and disease control. Large numbers of paramedics and para-veterinarians must be trained. Women, particularly, should be trained in those roles—as paraprofessionals in mother-and-child health delivery services and as midwives, family planning purveyors and the like in the fashion of the Frontier Nurses in Appalachia and the barefoot doctors in China.

On May 31 there will open in Vancouver, Canada, the United Nations Conference on Habitat—more colloquially, the United Nations Conference on Human Settlements. It is being convened as a result of the United Nations Conference on the Human Environment that was held in Stockholm in 1972, and takes its place in the chain of conferences that have been held since including the World Population Conference, the World Food Conference, the International Women's Year Conference, and so on.

This will be one of the largest UN conferences ever held—and certainly one of the most ambitious. The Conference Secretary General, Enrique Penalosa has described it as "a global inquiry into man's future." The general purpose of the Conference, like that of the other UN Conferences I have just referred to, is to improve the quality of life for mankind as a whole. In this instance with particular reference to the conditions—population growth, unbalanced economic development, rapid unplanned urbanization, rural dispersion, to cite only a few—which have made life unacceptable for vast numbers of people whether they live in the city or in the country.

The Conference is expected to adopt a Declaration of Principles, National Plans of Action, and International Plans of Action. No one believes, I am sure, that representatives from 140 countries gathering for 12 days can come forward with concrete and specific solutions to the many complex problems which will bring them together in Vancouver. But the Conference can, as was said by a representative of the United States in a preparatory meeting, "stimulate governments, increase the interest and involvement of individuals and private organizations, chart new directions and set things in motion which can eventually bring about improvements in the quality of life."

There will be a great temptation in Vancouver to concentrate on the most obviously visible of the problems in human settlements: the sprawling urban nightmare. But it is to be hoped that the delegates will resist this temptation. The Conference has as much to do with rural affairs—and with population growth rates—as with urban affairs. For unless the first two are effectively addressed there can be little prospect of progress in improving life in the cities.

The Conference in Vancouver will air many problems, and produce numerous resolutions relating to those problems. It will also, I trust, stimulate many people and governments to take action on the urban front, on the rural front and on the population front. And this is most important. For it will take continued political activism on the part of all of us—not just those of us who go to Vancouver—if objectives of the Conference are to be achieved.

We must do all we can, for example, to see that the mandate of the World Population Plan of Action is carried out: that the millions of people in the developing countries who still do not have access to the means to control their fertility are given that access.

We must do all we can to persuade all countries to commit themselves to proper town planning supported by adequate rural development programs in which population and family planning activities are fully integrated, and to tackle the many problems that have made so many of the world's urban and rural areas such unsatisfactory places in which to live.

The primary role in achieving these objectives belongs to the developing countries themselves. Ours is a secondary role—to stand in the wings and lend encouragement and assistance. To do this successfully we need two things: first, an understanding of the problems faced by the peoples of the Third World and, second, a strong and effective aid program (both bilateral and multilateral) that will help them solve those problems.

You and the organizations you represent are in a unique position to generate around the country a greater awareness of the needs of the developing countries, and to build a strong constituency for our aid program. I hope you will give this high priority.

SURVIVING A NUCLEAR WAR

Mr. GARN. Mr. President, last week I responded in some detail to arguments raised by Senators KENNEDY and CRANSTON against continued production of the Minuteman III intercontinental ballistic missile. Today I would like to consider one other point raised by their "Dear Colleague" letter of May 17, because it reflects a concern that is widely expressed, and a misconception that is even more widely held.

On the second page of their letter, my colleagues make the following statement:

> Our deterrent capability is unquestioned, its destructive capacity many times over that needed to effectively destroy the Soviet Union.

To begin with, Mr. President, our deterrent capability is not unquestioned. Indeed, that is what the whole strategic debate is all about. It is precisely because our deterrent capability has been called in question that we engage in these exercises. Contrary to the belief of some, it is not because we enjoy spending billions of dollars of the taxpayers hard-earned money. We do it because we have serious questions about the deterrent capability of the United States.

The question of our capability has been raised by observers far more experienced and expert than the junior Senator from Utah. Former Secretary of Defense James Schlesinger raised these questions, in fact raised them so sharply and insistently that he is no longer Secretary of Defense. These questions have been raised by Gen. Donald Graham, former Director of the Central Intelligence Agency, a man perhaps uniquely placed to be able to judge deterrent capability and effectiveness. The questions have also been raised by the Honorable Paul Nitze in his influential article in Foreign Affairs, where the question was perhaps analyzed most systematically. And of course, many other Senators on both sides of the aisle have joined the junior Senator from Utah in trying to explore these questions.

What Senators KENNEDY and CRANSTON are talking about, I am sure, is the supposed "overkill" ability which the United States is assumed to have. I say "assumed," because it is not at all clear that the assumption is justified, and that is what I would like to look at this morning.

History tells of many nations which fell, and great armies which were defeated, because those in command acted on assumptions which did not conform to the facts. To find an example, we need look no further into the past than the war in Vietnam. The belief that the United States possesses the power to

destroy the Soviet Union and much of its population with our arsenal of nuclear weapons is just such as assumption. We are told, by those who subscribe to this belief, that the United States has the capability of massive "overkill." We are told that, therefore, we can relax complacently behind this mighty arsenal. We are told that we need do little more to make this Nation's future secure.

Let us examine the validity of the statistical roots from which this overkill legend has grown. As an example, I cite an article in the April 6, 1975, "Bulletin of the Atomic Scientists." The author of this article tells us that, with its present stockpile of nuclear weapons, the United States could destroy the world's population "12 times over." He arrived at this remarkable conclusion by extrapolating from the casualties per kiloton produced by the atomic bombs dropped on Hiroshima and Nagasaki in World War II. He ignores the fact that these casualties were sustained in abnormally high-density areas, by populations which had no warning and no knowledge of the need for survivors to protect themselves from fallout.

By applying an equally valid line of reasoning, we can show that the entire population of North and South Vietnam should have been killed during the war in Southeast Asia. After all, the more than 25 billion pounds of TNT dropped there amounted to an average of some 730 pounds for every Vietnamese man, woman, and child. Similarly, during World War II, more than 50 pounds of TNT per inhabitant were dropped on Germany, Japan, and Italy, much of it in densely populated areas. The result, if we were to employ the logic of those who talk overkill, should have been told annihilation of the entire population of these countries.

Such logic is crucial to those who adhere to the doctrine of mutual assured destruction, that doctrine whose acronym, MAD, so perfectly expresses its essence. In brief, the doctrine holds that in the event of a first strike by either side, the other side could launch a counterstrike against population centers that would essentially wipe out the civilian population of the attacking nation. There are, of course, serious problems with this concept as an instrument of policy, but apart from its moral shortcomings, it has been rendered increasingly untenable technically. Some of the developments which have undermined it have been the development of incredibly accurate missiles, missiles with very large warheads, and the continued emphasis on civil defense measures by the Soviet Union.

On this last point, I quoted some figures a few weeks ago by Mr. O. C. Boileau of Boeing Corp. which demonstrate dramatically the effort being made by the Soviet Union in civil defense. Mr. Boileau notes that a year ago, 23 million Soviet youth were mobilized for military-sport games; that the Soviet Civil Defense establishment consists of 72,000 people, most of them military; that the Civil Defense commanders in each Soviet republic are major generals or lieutenant generals; and that the Soviet police force of 500,000 could easily be mobilized to augment this permanent force.

In a column that appeared in the Washington Post yesterday, Rowland Evans and Robert Novak made much the same point. They repeated excerpts from testimony received by a special panel of the House Armed Services Committee on this subject. The members of this panel, not normally noted for their hawkishness, unanimously recommended an increase in civil defense authorizations, from $71 million to $110 million, following this testimony. I ask unanimous consent that the Evans and Novak column be printed in the RECORD.

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

SURVIVING A NUCLEAR WAR

(By Rowland Evans and Robert Novak)

With "detente" now stricken from the administration's lexicon and Congress unwilling to challenge President Ford's record-high defense program, this country's increasing danger on the civil defense front is under belated attack from an unlikely combination of hawks and doves.

What is astonishing is that defense of the homeland against possible nuclear attack—"thinking the unthinkable," in the words of former Secretary of Defense James Schlesinger—has been a virtual no-no topic of serious political debate for 15 years.

But this stark warning from a dovish House Armed Services Committee panel signals belated change.

"The panel received truly alarming estimates . . . about the comparative casualties in the event of nuclear attack if the Soviets had evacuated their people during the crisis period and we were unable to do so: The Soviets would lose about 10½ million people; the United States would lose about 90 million people."

The chairman of the three-man panel is Democratic Rep. Robert L. Leggett of California, a moderate dove. Also on the panel is moderate Republican Donald Mitchell of New York and one of the most dovish freshman Democrats in the House, Rep. Robert Carr of Michigan. Their unanimous recommendation: that the misery $71 million civil defense program be increased to $110 million at once.

Even such an increase would not come close to the long-time Soviet spending level on civil defense, which the panel estimated at $1 billion a year. Before he was fired as Defense Secretary, Schlesinger was deeply worried over the low level of civil defense preparedness in this country, for a fundamental and frightening reason: Soviet ability to "survive"—and U.S. ability not to survive—a nuclear exchange with an enemy.

Soviet survival is based on rapid evacuation of the cities, on vast subterranean fallout shelters in the evacuated areas and on war plants capable of continuing operations after a nuclear exchange by virtue of "hardened" sites or geographic dispersal in remote areas.

Lacking even skeleton programs for these "war-survival" measures (often called passive defense), the U.S. could find itself prohibitively out-psyched if deadlock between Moscow and Washington became the prelude to a possible nuclear exchange. Rather than risk such an exchange from a position of proven inferiority in terms of the ability to withstand it, the U.S might be forced to yield.

Indeed, ability to absorb a nuclear attack and continue as a nation is regarded by some experts as only marginally less important than possession of rough "equivalence" in nuclear striking force. That is why a Soviet diplomatic agent—openly and above board—attended all 11 sessions of the Leggett panel. What the U.S. does in civil defense is of paramount importance to Moscow.

The heart of the panel's report warned that "the size and the reach of the Soviet effort coupled with its aggressive buildup of arms, raise profound questions about the appropriate defensive counter-actions to be taken by the United States."

That conclusion fits a totally separate warning by former ambassador to the Soviet Union Foy D. Kohler, now a professor at the School for Advanced International Study at Miami University; a hard-line hawk, Kohler, who ran the U.S. embassy in Moscow from 1962 to 1966, states in the foreword to a just-published book ("War Survival in Soviet Strategy," by Dr. Leon Goure, published by Miami University):

"The Soviet Union has stepped up in very substantial ways its war-survival program since the advent of the detente relationship with the U.S. in May, 1972, and is today steadily increasing its attention and resource allocations to the program."

To Kohler, the essential and dangerous difference between American and Soviet response to the terrifying possibility of nuclear war is that Americans really believe no exchange will ever occur because neither nation will risk its own destruction; but the Soviets "have never accepted the 'overkill' concept or the concept of 'mutual assured destruction' . . . the Soviet emphasis has rather been on survivability and indeed on the possibility of victory in a nuclear war."

With knowledgeable hawks like Schlesinger and Kohler and dovish Democrats like Carr and Leggett in basic agreement, perhaps the time has come when this country will stop playing the most dangerous kind of Russian roulette with a totally unpredictable future.

Mr. GARN. Mr. President, the peculiar mathematics which has led to the overkill concept assumes that the entire Soviet population will be collected in great density in prime target areas, will be held there to await its fate, and will be permitted no shelters during or after the attack. This hypothesis contradicts the strategic planning of the Soviet Union and leaves the United States in a peculiar moral position.

Soviet military doctrine, as defined in its published material, does not subscribe to the concept of overkill, nor does it accept the idea that nuclear war would result in mutually assured destruction. Its civil defense program and its in-depth air defenses, are designed to insure both Soviet survivability and Soviet victory if war should come. The Soviet's own estimates show that the losses it expects to sustain from a nuclear war amount, at maximum, to 10 million people.

We may scoff at the Soviet estimates, but this misses the cardinal point. If the Soviet Union believes it can survive a nuclear exchange, then its leaders may be willing to accept the risks involved in a direct confrontation with the United States. Against the Soviet belief that it can survive and emerge victorious from a nuclear exchange, our deeply held belief in the overkill concept is a two-edged sword. If in the midst of a major crisis, America finally recognized that the Soviets were indeed serious in their belief, we would have little choice but to back down. If, on the other hand, we were to persist in our assumption of "overkill," we would underestimate the willingness of the Soviets to escalate to nuclear war. As a result, we might well

pursue a course which would lead to a nuclear war that the Soviets are prepared to survive and we are not.

I submit that the time has come for us to take off our blinders, to examine realistically the capability of our present nuclear arsenal. While it is clear that we have made nuclear war unthinkable for ourselves, there is serious doubt that we have made nuclear war unthinkable for the Soviet Union. We must take whatever measures are necessary to insure that nuclear war will be unthinkable not just to one side, but to both sides. This, certainly, will reduce the risk of future confrontations brought about by Soviet adventurism. That risk will be further reduced if we in the Congress are willing to insist that our Nation maintain the conventional strength necessary to discourage Soviet initiatives.

Unless we are willing to do these things, I foresee the day when our confidence in the efficacy of nuclear overkill will lead us into a trap from which the only escape is retreat.

INNER CITY RENOVATION IN WASHINGTON

Mr. HATFIELD. Mr. President, the crisis of urban housing for the poor is a problem of growing intensity in almost every American city. Housing experts at all levels of government have found low-income housing to be the most unprofitable and the most unmanageable of all their projects. Faced with increasing costs, housing officials are now anxious to unload and even destroy low-income housing projects.

Despite millions of dollars of Federal, State, and local funds, housing needs of low-income Americans have not been alleviated, but in fact ascerbated. Literally thousands of housing units in our cities are vacant due to absentee landlords, vandalism, and neglect. The abandonment of such housing units not only erodes the tax base of our cities, but it also contributes to crime, drug abuse, and the general deterioration of our urban neighborhoods.

In defiance of this rather bleak outlook for urban housing, a group called "Jubilee Housing," located here in the Nation's Capital, is in the process of proving housing experts wrong. They are proving that low-income housing can be provided to the urban poor, and that such projects can work.

Peggy Smeeton Stanton, in the April 25, 1976, edition of the Washington Post, wrote an article called: "Inner City Renovation: It's Hardly a Case of No Sweat." This article tells of the mission of Jubilee Housing. Jubilee is a mission—not designed for profit—but is intent upon providing people with structurally sound, clean, decent housing. After some 3 years of work, over 50,000 volunteer work-hours, the vision of Jubilee Housing is beginning to shine. The thrust of Jubilee Housing is beginning to be felt here in Washington and other cities as well.

Mr. President, I commend to my colleagues' attention the news article by Peggy Smeeton Stanton. The story of Jubilee Housing needs to be told in every American city, for it is a story of hope.

Mr. President, I ask unanimous consent that this newspaper article be printed in its entirety in the RECORD.

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

INNER CITY RENOVATION: IT'S HARDLY A CASE OF NO SWEAT

(By Peggy Smeeton Stanton)

Amid the scarred and graffitied ruins of Washington's inner city, a change is taking place. It has defied common sense and previous experience, and it raises a serious question. Is this an answer to Washington's housing crisis?

Bankers denied loans. Insurance companies were frankly incredulous. Government experts said it couldn't be done. But in three years, more than 1,000 volunteers, donating 50,000 work-hours totaling $125,000 in "sweat equity," have renovated several houses, three slum buildings and 140 apartment units. Now even the most skeptical observers are reassessing their opinions.

And it all began because 25-year-old Carolyn Cresswell spent a sleepless night.

The daughter of a wealthy real estate developer, brought up in the lush landscapes and easy privilege of San Francisco society, Cresswell came to Washington to work for Sen. Mark Hatfield (R-Ore.) and drifted into her father's profession.

One day a friend asked her to appraise a property in near Northeast.

The three-story townhouse had four bedrooms and 16 occupants. A semi-retired carpenter and his housekeeper-wife lived there with their four children and their grandchildren. Only two floors were habitable. The top floor had been ravaged by fire. Rather than repair the gaping hole in the roof, the landlord merely promised not to raise the rent. Tarps and plastic sheeting were the only barriers against the rain and snow. The walls were a montage of peeling paint and falling plaster. Newspapers covered the broken windows. Holes in the floor bared the ground beneath.

"Don't you have rats?" Cresswell asked the grandmother, who was folding clothes on the sofa. As if on cue, a giant rodent appeared from nowhere and raced across the woman's lap.

That scene replayed itself in Cresswell's mind all that night. The next day she related the story to fellow parishioners at the Church of the Savior, 2025 Massachusetts Ave. NW, an innercity mission. "What are you going to do about it?" they asked. "I'm going to buy it," she said.

With her small amount of savings and some stocks that her parents had given her, she went into partnership with her pastor, the Rev. Gordon Cosby. "We only had about $3,000," Cresswell said, "and most of it was borrowed from friends." No lending institution would initial the risks. "These kinds of projects never work," bank officials told them. But fellow parishioners readily gave them long-term, no-interest loans. They bought the house for $9,000 and poured $20,000 into renovation. Before they knew it, they owned three houses on the street, all of which they rehabilitated without raising the rent.

That was the beginning.

The group with whom Cresswell had initially shared her concern set the wheels in motion for the establishment of a nonprofit corporation: Jubilee Housing. "The church," recalls Cresswell, "had talked for years about doing something in the Adams-Morgan area where nonaffluent families were being forced out of their homes. I was sort of commissioned to scout the area for a suitable property to buy." She targeted the Ritz and the Mozart, whose combined units comprised 90 apartments. "They had experienced a very rapid decline," she says. "The kids in the neighborhood and the teachers in the nearby schools told us the situation in these buildings was particularly rough. A lot of drug traffic and several murders."

Jubilee set out to buy the dwellings from the owner, H. Grady Gore.

Despite the condition of the properties, Gore, whose daughter Louise was then on the threshhold of a gubernatorial campaign in Maryland, negotiated for a year and a half until he got top dollar. Gore bought the buildings for $224,000. Sitting in his office next to the Gore family's Jockey Club restaurant, he finally agreed to sell Cresswell the Ritz and the Mozart for $600,000 in cash. Cresswell was so anxious to have the apartments, she signed the contract on the spot. She had no idea where she was going to get the money. "You have," she told her friends at the Church of the Savior," 60 days to pray for $600,000."

James Rouse, the builder of Columbia, Md., turned out to be the answer to the prayer. He took out a $600,000 mortgage in his name and leased the dwellings to Jubilee until Jubilee can purchase the property. Then he joined the board. "We held our first meetings in the front room of the Ritz," Cresswell remembers. "Jim Rouse had good cause to wonder about his investment. Every meeting was interrupted by the arrival of the police or the fire trucks.

The first Saturday we owned the buildings, there was a shooting in each one. One person died. Sunday morning, Jubilee volunteers went in and cleaned up the blood that was spilled all down the stairway."

Nobody had expected it to be easy. Jubilee went to the federal government; the group went to foundations, but the coffers were empty. There was no money for renovation. They had no choice but to do the work themselves.

In order to keep the costs at rock bottom, they begged, borrowed and cajoled materials. Driving down the street one day. Cosby spotted a paint store having a close-out sale. "How much will you charge me for everything?" he asked the retiring owner. The startled proprietor had no idea what to ask. "Two hundred dollars," he blurted impulsively, "if you have everything out by tomorrow." The next day, a caravan of Jubilee cars pulled up and without any concern for colors or wallpaper selections, emptied the store of its entire inventory.

"It was chaos at first," a Jubilee member admits. "We just knocked on doors and asked where the worst problems were. The first apartment took two months. Some places were done so badly (by us) that they fell apart and we had to do them all over again. One day we were so proud. We had finished four apartments. Then a pipe burst on the top floor and flooded apartments in that whole tier all the way down to the basement. So we had four done that day, and four wiped out."

Janet Colwell, a CBS administrative assistant, joined the effort and order eventually prevailed, according to Cresswell. "She went to every family and cataloged their needs. She brought them color samples and wallpaper swatches. When the workers arrived, they found typed-up instructions and the materials ready and waiting. She would arrive at 9 a.m., an hour before the crews. She'd get the families up. Sometimes she'd dress the children. Some parents would take off and we not only had an apartment to renovate, but five children to look after. And it was Janet who saw to it that they were taken care of. I don't know if we ever would have accomplished what we did without her."

Under Colwell's supervision, the amateur workmen sanded floors, scraped walls, re-

plastered, painted, rewired; with expert help, they replaced the risers and tiers in the elevators. David "Dave the Bugman" Marsh, 22, a volunteer, exterminated the roaches and rats. In two years, all 90 apartments had been renovated.

Out of the restoration program, "mini-institutions" grew. Jubilee collected clothing and distributed it on a chit basis to resident children who helped with the work; a preschool was established: There were classes in ballet, photography and cooking. Ritz-Mozart children now run a bakery coop; they bake bread and pastries and sell it to the Potter's Coffee House, to the residents and to Jubilee volunteers. "They make really good stuff," Cresswell claims.

From the seeds of Jubilee's labors at the "Ritz-Art" grew the desire to buy another property.

(A second, separate Church of the Savior group, Eighth Day Community Inc., has bought an Adams-Morgan apartment house, too, but is involved in litigation with the tenants over the occupancy.

Rev. Tom Nees resigned his pastoral post at the affluent First Church of the Nazarene and formed a new congregation around the rehabilitation of the Cresthill apartments at 1430 Belmont St. NW. His flock numbers 10. Nees, 38, is soft spoken and wears aviator glasses. A deep crease pierces his cheek when he smiles, which is often. The call to action at 1430 was a formidable task. Thirty tons of garbage populated by rats and snakes rested on the backside of the apartments. "There are some jobs," Nees laughs, "that can only be done in big groups." A group of students "did" the 30 tons of garbage. "It sounded like a football game out there," he recalled. "I heard them clapping and cheering and I wondered what was going on. I went out and discovered that what they were doing was killing rats. Every time a kid would kill a rat, he or she would hold it up by the tail to great applause."

Below the first floor, a plumbing pipe had burst and had not been repaired. "When I first walked into that basement," Nees says grimly, "there was six inches of raw sewage and garbage waist high."

Another problem was security. There were no exterior doors to speak of. "People could just come in off the streets and victimize the tenants." Heavy doors are now in place and one of the residents has been employed as a security guard.

In one year, Nees and his volunteer crew have eliminated all the trash, repaired the roof and the boiler, replaced windows, secured doors and renovated, in a major or minor way, all 48 apartments. One-and two-bedroom units with crumbling plaster shredded floors and scorched and sooty walls have been transformed into clean, resurfaced, refinished and brightly painted "homes."

In the end, it is a resident who tells the best story. Sheilah Royster is the resident manager of the Crestwell apartments and worked for the previous landlord. "I've been here five years," she says. "The time that I moved here, there was trash everywhere, in the halls, in the stairwells, in the basement. There was a janitor service, but it was inadequate 'til a year ago. Before we could even move into our apartment, my husband had to do all the plastering and painting and the carpentry work just to make it liveable for us to move in."

She is frank to admit that the tenants were highly skeptical of the new owners. They had had years of broken promises. They were expecting more.

Today, she says, "The attitude has changed dramatically. April 15, 1975, we had the ribbon cutting and they've been working ever since. Just a constant thing of improving everyone's apartment and helping everyone insofar as personal problems are concerned . . . all the doubts and fears have been put aside. Everyone has pitched in and helped. Someone said to me, we never knew you had to scrape the walls before you put the paint on. They were so used to someone coming in and slapping paint on the walls and that was the end of it. A fever just developed through the entire building.

"Before," she adds, "it was just a cycle, a first of the month cycle." When a renter with a broken faucet or a faulty radiator came to her, "I'd say, I'll talk to the agent, and nothing would happen. Now that Jubilee is here, if someone comes and tells me their commode is stopped up, I can have it fixed almost immediately, because the materials are here and the help is here. This has changed my life altogether. I almost feel unchained. Now I can be a woman of my word. No more hiding behind the door."

NUCLEAR ARMS

Mr. BUCKLEY. Mr. President, since Congress ratified the Strategic Arms Limitation Accords in 1972, we have witnessed the repeated failure of the Soviet Union to comply with the terms of those agreements as defined in associated agreed understandings and in unilateral interpretations by the United States prior to their ratification.

The Soviet Union has conducted an 18-month test program that could upgrade its SA–5 surface-to-air missile antiaircraft system into an antiballistic missile system, a program undertaken covertly before congressional protest caused the Soviet Union to desist. Nevertheless, it is entirely possible that, as a result of this breach of the ABM treaty, the Soviet Union could now possess a 1,000 launcher antiballistic missile system already in place. The Soviet Union has also attempted to frustrate the United States technical means of verifying Soviet compliance by attempts to camouflage its military research and development facilities as well as its construction of ICBM's and submarines. This morning, on the radio, I heard a report that the Soviets have violated still another provision of the Accords by launching ballistic missile launching submarines without dismantling the land-based ICBM's they are to replace.

I have just learned, Mr. President, of still another possible violation that could be of profound importance. During the SALT ratification debate in 1972, we were specifically assured that the Soviet Union would not be allowed, under the terms of the Interim Agreement, to deploy a land-mobile ICBM—and that if it did, the United States would consider such deployment a violation of the accords. The significance of this matter derives from the fact that it is exceedingly difficult to monitor the deployment of a mobile ICBM because of the ease with which it can be hidden.

For the past several months I have been following reports on the R. & D. program of the most recent Soviet strategic missile, the SS–20, which was originally believed to have only an intermediate range. However, recent assessments indicate that this missile may have intercontinental capabilities.

Because the SS–20 is a land-mobile system, and because the most recent U.S. intelligence estimates suggest that it may have a range capable of hitting targets in the continental United States, we are faced with what may be a significant violation of the 1972 accords, as understood by the Congress.

This new development points out, once again, the magnitude of the military threat which faces the United States, a threat which is a direct consequence of the aggressive R. & D. and procurement programs being pursued by the Soviet Union.

The only program now underway that can augment the U.S. strategic nuclear capabilities is the deployment of the Minuteman III ICBM's. It is the only strategic weapon delivery system that we are currently producing.

The administration has appealed to Congress to fund continuation of the Minuteman III production so that we may be able to deploy improved ICBM's that will, in part, offset the growth in the Soviet Union's strategic capabilities.

It is unthinkable that the Congress should do other than fully fund the program proposed by the administration and supported by the Armed Services Committee; a program that will keep the Minuteman III in production.

We will not have another ICBM available until the 1980's when the M–X will be completed. In the interim we must be prepared to improve our ICBM capability so that our security interests, with respect to maintaining strategic balance and deterring Soviet nuclear blackmail, is fully maintained.

THE GREENING OF VOCATIONAL EDUCATION

Mr. JAVITS. Mr. President, Marvin J. Feldman, who serves as president of the Fashion Institute of Technology which is located in New York City, recently addressed the joint meeting of the National and State Advisory Councils on Vocational Education. Mr. Feldman has distinguished himself for many years as an active and eloquent spokesman for vocational education. I have found President Feldman's address particularly worthwhile, and believe it deserves the attention of all those interested in the contributions of career and vocational education to our citizens and American education.

The idea of relating the world of education and the world of work has been an important part of American society since our country's founding. In recent years, the need to relate education and work more effectively has been reflected all too clearly in the levels of unemployment and underemployment that have affected so many millions of our citizens.

Mr. Feldman's address responds to the critics of vocational education and emphasizes the successful emergence of career-oriented education. I commend Mr. Feldman for the spirit of his address, and the challenge it sets forth.

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

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

THE GREENING OF VOCATIONAL EDUCATION

(By Marvin J. Feldman)

Last fall, no less highbrow a publication than the Harvard Educational Review, two professors—W. Norton Grubb of Berkeley and Martin Lazerson of the University of British Columbia—fired a thunderous broadside at career education and vocational education.

It was a shot heard round the educational world. While vocational educators seethed and sputtered, the Washington Post and the New York Times applauded. The article was as widely quoted as any I can remember. At the very time when work-related education was finally ascendant in the public consciousness, the article was cited as evidence that the vocational emphasis in education was illicit and ineffective.

I know most of you have encountered the Grubb-Lazerson article. I want to use it as a point of departure for a couple of assertions of my own. The article is essentially wrong, but it is wrong in a useful way. The authors and the reaction to their work exposed a couple of dangerous weaknesses in vocational education.

These weaknesses are not the ones Grubb and Lazerson meant to expose or thought they were exposing. In fact, I expect they are puzzled by the uses to which their piece is being put.

Grubb and Lazerson make a point which falls far outside the mainstream of the debate about the place of work-related education in the larger scheme of American life. They are not so much upset by what work-related education does, but by what they believe it fails to do.

They are principally troubled because career education and vocational education have failed to set right certain "crimes committed by the economic structure."

Now for one thing, this is not the language of scholarship; it is the language of the soap-box. For another, the authors have trouble with the relationship between career education and vocational education considering the former the successor to the latter. But, leaving these problems aside, the authors describe the "crimes" which career education fails to correct as follows:

"Capitalism is an economic system in which capital is central. As part of the drive for profits . . . managers in an economic system like ours endlessly divide, simplify and eliminate jobs. This results in a constant status of underemployment for most workers." Needless to say, this indictment of the market economy is not new. Marx wrote in Das Kapital over a century ago:

"In manufacture, the enrichment of . . . capital, is dependent upon the impoverishment of the workers." And, in another place,

"Manufacture transforms the worker into a cripple, a monster, by forcing him to develop some highly specialized dexterity at the cost of a world of productive impulses and faculties . . ."

In short, Grubb and Lazerson assert that what are most commonly called Marxian social ideals are not best achieved by career or vocational education. Or, even, that work-related education interferes with the realization of these ideals—that, like religion, it is a kind of "opiate" of the working class.

And in this assertion, of course, the authors are absolutely right. The concept of career education, and the practice of vocational education have not contributed to the overthrow of the capitalist economic order. This was not an oversight. This has never, to my knowledge, been our intention.

The editor's summary puts the matter succinctly. "Grubb and Lazerson conclude that the ills career education proposes to solve . . . are intrinsic to our economic system."

The point is, of course, that we propose to solve an entirely different ill—the dependency-creating lack of skills to make a living. We don't believe people are enslaved when they learn skills. We believe they are enslaved when they have no skills. Nor do most of us believe that a tendency to "cripple" wage earners is "intrinsic" to our economic system. We do not advocate work-related education as a way to correct this imaginary tendency.

A recent book by Samuel Bowles and Herbert Gintis titled Schooling in Capitalist America broadened the indictment. "Since its inception," they write, "the public school has been seen as a method of disciplining children in the interest of producing a properly subordinate adult population."

In short, schooling is designed to produce a docile work force for the capitalist.

Now it is true that both schools and work places have only slowly been freeing themselves from the ancient supposition that hierarchical organization and repressive discipline were the best way to get results from people. But to call this coincidence a conspiracy is fanciful. It was the simple result of an error common to both schooling and business management. As Christopher Jencks points out, schools where hierarchical and repressive when wage labor was practically unknown, when most white citizens were self-employed.

Where it seems fair to ask, are Grubb and Lazerson's ideals achieved? Where is the model? It is, we find in a footnote, in Communist China where work and school are "logically" integrated. There, "the production of goods and food is meaningful." But in the United States where goods are produced "for the profit of the few," the integration, presumably, is not logical. "A strong sense of community and purpose also serves to animate work among the Chinese people," while in the United States "almost all jobs are motivated by external reward—primarily wages, and secondarily status and power."

Now these authors seem to know more about the Chinese experience than the rest of us. In my opinion, the carefully controlled evidence that has reached us so far does not support any generalization. There is the much longer, somewhat more accessible Soviet experience but it does not, on the whole, invite emulation.

The dialectical extravagance of Grubb and Lazerson is out of place in a serious discussion of the goals and achievements of career and vocational educators. The authors, of course, are entitled to believe what they want to. The market system is far from perfect; but, the Marxian forecast notwithstanding, there is simply no evidence that it has in practice offered progressively less satisfying work to fewer and fewer people.

Many educators, including vocational educators, see the need for enormous improvements in workplaces, and are often among the severest critics of the inhuman use of human beings by organizations of all sorts. But few would agree that there is an inherent, inexorable tendency toward such abuses under capitalism so that the only durable remedy is some elemental systemic change.

Thus the principal assertion of Grubb and Lazerson is not arguable. Marxian social ideals are not, as they say, best achieved by career or vocational education.

But many of the assertions the authors make in support of this major contention are uninformed or wrong-headed or both, and have contributed to a misunderstanding of the goals and practices of vocational education, and this is what has disturbed members of NACVE.

The authors imply, for example, that career education comprises a monolithic position which can be readily and rigidly characterized. The fact is that career education has never spoken with a single voice. Yet Grubb and Lazerson not only assert that it does, but attribute to it an elaborate set of intentions and attitudes. To begin a sentence with "Career educators believe . . ." is already to mistake the character of the career education "movement."

What are some of the attitudes the authors attribute to career educators? Here are a few:

That "they have been aggressive in refusing to define career education precisely."

That they "call for a dramatic re-orientation of the entire educational system . . . so that all phases of the curriculum would be job-oriented."

That they "stress that too many pupils unnecessarily go on to college."

That they "see retraining as distinctly subordinate to the reform of elementary and secondary education."

That they believe "schools make work into an abstract concept."

That they "place great faith in the moral benefits of work."

That they "claim all work can have equal dignity and meaning."

That they assume "jobs are both increasing in technical sophistication and requiring less education."

Some educators may share some of these beliefs; a few may hold all of them. But the authors present no evidence, except a few quotations from a handful of sources, to support their contention that "career educators" as a whole rally 'round this elaborate rationale.

Grubb and Lazerson assert without evidence that "career educators have gone to great lengths to dissociate career education from traditional vocational education." Their purpose, apparently, is to set the stage for a synthetic conspiracy not unlike the stage-managed rape in The Fantasticks. I am not aware that anyone has gone to any length at all to dissociate career from vocational education. Everyone I know acknowledges their unmistakable philosophical connectedness.

We are treated to a fanciful interpretation of the origins of vocational education. It was, the authors tell us, "part of a movement by the educational system to embrace the goals, structure, and methods of corporate capitalism." This is simply silly.

Vocational education, they say, has failed. "In terms of status, income, job mobility, unemployment, and job satisfaction, vocationally trained students did no better and often did worse than students in academic programs." This is demonstrably untrue.

The article throughout is factually undernourished. The authors present thunderous generalizations without evidence. "Most work," they say flatly, "is boring." "The degradation of work," they assert, "has been continuous."

This is not the American reality—not nearly. Our economic system (really it is a non-system) has provided an ever-expanding number of jobs. Real wages have risen dramatically. 85% of the cash flow generated by business is paid in wages. Hours are shorter. The four-day week, once a pipe-dream, has become a reality for many workers, the three-day week for some. Work places are safer and cleaner. Machinery has eliminated the most back-breaking and repetitive tasks and is continuing to do so. And the humanization of work-places is gathering new momentum. A new book, The Future of the Workplace, catalogs this growing phenomenon.

This is not to say that everything is swell. Of course it isn't. But the contention that American workers are being progressively and inexorably degraded, exploited and dehumanized, is not to be taken seriously.

When Gallup asks people, "Is your work satisfying?", 80%–90% consistently say "Yes."

The famous Work in America report to the Secretary of Health, Education, and Welfare in 1972 reported that 80% of all Ameri-

can workers say they would keep on working even if they inherited money and didn't have to.

But what is most remarkable about the article is the confusion it created in the ranks of both career and vocational educators. Many felt abused and defenseless.

We are not guilty of the particular sins of which these particular authors accused us, but many of us weren't sure at first whether we were or not. Whenever our legitimacy is challenged, we are angry and disarmed. "Whom the gods would destroy, they first make mad."

The attack exposed a serious vulnerability. We have no systematic rationale. We have no solid sense of identity and purpose. We do not always have a sure sense of our relationship to the other necessary aspects of education. And if there is a national policy toward vocational education, I would like somebody to tell me what it is.

Our rationale has too often been simplistic and superficial. We have been inner-directed. We have talked to ourselves. We have been sitting in the back of the bus, seething and grumbling. We have been evangelists—too often depending more on emotional appeals than on reason.

Some of us in vocational education have complained for years that the world sees us as a subordinate second to liberal education. I certainly have.

Some of us wallow in the knowledge that we are maligned and misunderstood. I certainly do.

But lately I have been thinking that perhaps we have invited these demeaning characterizations because we ourselves have a limited vision of vocational education. I think we have misunderstood ourselves. Vocational education has a soggy sense of identity and is desperately in need of consciousness raising.

We in vocational education need our own liberation movement, and the first step is to liberate ourselves from a limiting definition of what we are and what we can do.

If a person thinks in his heart that he is second rate, he is trapped by that definition, as surely as if he were. He will be second rate. He cannot go beyond it.

I see signs that vocational education is suffering from a serious identity crisis. Things vocational educators have said for years are becoming the new universals.

We have a great and growing role to play in modern society. But we are not responding fully. We have accepted the submissive, subordinate role so long we have grown comfortable in it. We have been riding in the back of the bus so long we have grown comfortable there. We have become the Uncle Toms of the educational establishment. The world has at last taken a different view of us. Now we must take a different view of ourselves.

A wise man once pointed out that the specialist's most common error was to stretch the relevance of his specialty beyond its natural limits. We have, in our desperation for support and attention, too often implied that vocational education would solve all the problems of the world—from ingrown toenails to peace of soul.

Vocational education has clearly outgrown its original rationale and achieved a new maturity. It needs a mature rationale to match.

We have been proudly "practical," forgetting that this practicality has a rationale with roots in Aristotle.

Academic educators speak of liberal arts as if a vocational emphasis were somehow illiberal. Vocational education is liberating. It liberates from an enslaving limitation—dependence on degrading toil. Many of the most stirring and permanent works of art are the work of anonymous craftsmen. Artisans extend the range of choice, enlarge the human experience.

We are told that the liberal arts liberate the artisan from the narrowness of his special skill. That is true. It is also true that liberal arts are lifeless without practical expression and thus the practical arts are equally essential to the civilizing process.

The Grubb-Lazerson article seems to underline another necessity—the need to cultivate a wider audience. We have traditionally spoken almost exclusively to the consumers of vocational education. That will forever be our first, favored constituency. That is the source of our particular strength.

But we have clearly neglected other constituencies. We have, perhaps because of a sense of inferiority, neglected the academic community.

In 1968, NACVE mounted a campaign to change the attitudes of parents and students toward vocational education. That effort was a success. Vocational education isn't perceived as a program for somebody else's kids anymore. In my state—New York—half the students in secondary schools and community colleges are enrolled in vocational education. Nationally our enrollment now exceeds 13 million. The nation now spends $3 billion a year for vocational education.

We've achieved many of the goals we dreamed about in the Fifties. Vocational education is becoming the dominant mode of education in America.

This new status brings problems and responsibilities of a new and unfamiliar order.

We need a new outreach to the nation's thought leaders. We need a new rationale, solidly rooted in sound scholarship. We need a coherent national policy.

The Bicentennial Conference in Minneapolis this Fall can be a crucial first step toward these new imperatives. I hope its planners will give it maximum depth and that all of us in vocational education will give it our full support.

And I think we should, at least in private, thank God for scholars like Grubb and Lazerson who take vocational education seriously enough to criticize it extensively. We can only profit from such attention.

Thank you.

DAVID LUKE HOPKINS

Mr. MATHIAS. Mr. President, David Luke Hopkins proved the rule that a man does not have to hold public office in order to be a public servant. In a lifetime of deep personal interest in his community he touched the lives of more people than many who bear official titles and carry public responsibility. His concern for the Nation was expressed in his strong support for a number of our more essential institutions. He understood that intellectual and moral strength are the bulwarks of genuine national security and he acted upon this principle through his support for higher education and for the church.

At his funeral in the Church of the Redeemer in Baltimore, one of the hymns sung, "Fight the Good Fight," included the appropriate line—"Lay hold on life, and it shall be thy joy and crown eternally."

That is just what Luke Hopkins did and no better words could have been chosen to describe him.

In all his efforts he had the encouragement and help of a wonderful family to whom he was devoted. Mrs. Hopkins and their children, C. A. Porter Hopkins, David L. Hopkins, Jr., Mrs. Charles A. Borda and Mrs. Charles H. Mellon III have been an example for the rest of us in the affection that bound them together and the way they could attack problems as a family team. While Luke Hopkins will be sorely missed in many places, he will be represented by a family that will carry on the tradition of individual responsibility for public affairs that he has left them. The Washington Post published an Associated Press report on Mr. Hopkins' death on May 18 and the Baltimore Sun published an editorial tribute to one of that community's most outstanding citizens. I ask unanimous consent that these items be printed in the RECORD.

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

[From the Washington Post, May 18, 1976]

MD. BANKER D. LUKE HOPKINS, PRESIDENTIAL MEDAL WINNER

BALTIMORE, May 17.—D. Luke Hopkins, 77, banker, Johns Hopkins University trustee and winner of the Presidential Medal for Merit, died yesterday at the Greater Baltimore Medical Center following an apparent heart attack.

Mr. Hopkins, a Baltimore native who served as chairman of the board of Maryland National Bank from 1964 to 1966, had remained a member of the board until last year. He also had served as chairman of the finance and trust committees of the bank.

He became a trustee of the Johns Hopkins University in 1933. His work with the university's Applied Physics Laboratory during World War II won him the Presidential Medal in 1946, and a building bearing his name was dedicated at the laboratory last month.

Mr. Hopkins also served in 1952 and 1953 as an assistant secretary general of the North Atlantic Treaty Organization, and was a member of the Atomic Energy Commission Security Survey Panel from 1950 until 1952.

A member of the Maryland Port Authority from 1956 to 1964, he served as its vice chairman for a time and was named to the Permanent International Association of Navigational Congresses.

Mr. Hopkins, the father of state Sen. C. A. Porter Hopkins (R-Baltimore County), was educated at the Jefferson and Marston schools and graduated from Princeton University in 1921.

Mr. Hopkins served as director and member of the executive committees of the Chesapeake & Potomac Telephone Co. of Maryland, the Fidelity and Deposit Co. of Maryland, the Savings Bank of Baltimore and the West Virginia Pulp and Paper Co.

He also served on the boards of the Johns Hopkins Hospital, the Harriett Lane Home for Invalid Children and the Evergreen House Foundation and was chairman of the board of the Walters Art Gallery here from 1963 to 1971. He also was a member of the board and chairman of the Greater Baltimore Medical Center.

Mr. Hopkins is survived by his wife, the former Katherine Disston; two sons, Sen. Hopkins and David L. Hopkins Jr. of Mount Kisco, N.Y.; two daughters, Mrs. Charles A. Borda of Wayne, Pa., and Mrs. Charles H. Mellon III of Fair Hills, N.J.; a sister, Mrs. F. Barton Harvey of Ruxton, Md., and 16 grandchildren.

[From the Baltimore Sun, May 18, 1976]

D. LUKE HOPKINS

Shortly before his death this week at the age of 77, D. Luke Hopkins was present at the dedication of a building named in his honor at the Johns Hopkins University Applied Physics Laboratory. The ceremony had a dual significance. It was a tribute to Mr.

Hopkin's wartime work in the development of the proximity fuse, a breakthrough device that helped shorten the war. It was also a tribute to his continuous service as a Hopkins University trustee since 1933. Endurance and an extraordinarily wide range of endeavor were characteristics of this Baltimorean.

A banker wise in the ways of business and a civic leader acutely conscious of his obligations to the community, Mr. Hopkins was a member of boards governing such diverse institutions as the Maryland National Bank and the Family Welfare Association, the Walters Art Gallery and the Greater Baltimore Medical Center. Yet he was never a "board sitter" and always a "board worker"—someone ready to take on the onerous chore of fund-raising or overseeing a new project. While most persons would have been driven frantic with a fraction of Mr. Hopkin's activities, he was an exceptionally calm and well-ordered man. One wartime associate recalled fondly that he could "make an impossible job seem easy."

Mr. Hopkins was never a seeker of publicity, and got very little. If responsibility came to him, it was because of his obvious capacity to perform well. Thus, in 1952, he became assistant secretary general of NATO, an impressive post by any light. Yet after a suitable hitch Mr. Hopkins was happy to come home where he felt there was more to do. Maryland and many of its institutions were fortunate that he did.

CLEAN AIR AMENDMENTS OF 1976

Mr. McCLURE. Mr. President, the Senate will turn to consideration of the Clean Air Amendments of 1976 sometime in early June. During the past several weeks substantial concern has been generated over the "significant deterioration" provision contained in S. 3219 as reported from the Senate Public Works Committee.

On Friday, May 21, Senator HOWARD BAKER, ranking minority member of that committee, summed up what I think is the concern of all of us who worked to develop this provision about the information that is circulating regarding its potential impact.

I think his statement helps to clarify our intent in the drafting of this provision and I ask unanimous consent that Senator BAKER's statement before the Aluminum Association be printed in the RECORD.

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

STATEMENT OF SENATOR HOWARD BAKER

I want to applaud the recently announced campaign of the Aluminum Association to establish an effective communications program to inform government about the Aluminum industry. There are several legislative proposals evolving in Congress which will have an important impact upon your industries and upon which your association can have a major impact.

It is always of great concern to me that Congress obtain sufficient information and background from industry regarding the potential economic impacts of our actions in order that we may accurately and intelligently assess their effect. This is especially true in the area of environmental policy.

By the same token if Congress is to be responsive to the industrial sector it is imperative that the actions of Congress also be accurately conveyed to industrial representatives.

This is a matter of serious current concern to me in view of reaction to the clean air legislation recently reported by the Senate Public Works Committtee and the House Interstate and Foreign Commerce Committee—especially the significant deterioration provisions of these bills.

I want to speak to you regarding my observations on significant deterioration—not only because it is a major environmental policy of tremendous potential importance to your industry, but because it is a significant case study on the subject of industry-government communication.

For background: In 1972 the Supreme Court affirmed the judicial interpretation of an ambiguous policy statement in the Clean Air Act and created the concept of significant deterioration. The Court's decision set in motion regulatory machinery at EPA and the situation has been in litigation and confusion ever since.

In frustration environmentalists, industry and public officials turned to Congress demanding clarification of the situation.

Congressional consideration of the issue began, as it should, with a thorough review of the philosophy underlying the policy. In drafting the air pollution strategy of the 1970 Act, Congress had given careful consideration to the need for cleaning up dirty areas, but development of a policy for protection of the vast clean air regions of the nation was largely overlooked.

Early in the debate last year the Senate Committee decided unanimously that such a strategy was unacceptable. It certainly was not and is not the intent of Congress in specifying national standards which identify potentially dangerous air quality conditions to make those levels the targets or goals for pollution control efforts in the nation's clean air areas.

Having made this decision the hard work of developing a workable strategy for protecting clean air areas began.

The Senate Committee and its environmental subcommittee held 45 markup sessions on proposed Clean Air Act Amendments during this and the previous session of Congress. Many of these were spent in discussion and revision of the significant deterioration provision. These discussions utilized background developed in hearings held on the issue in each session of Congress from 1972 to 1975.

Amazingly notwithstanding this careful study, it is suggested that we postpone enactment of a clear significant deterioration strategy and study the matter further. And the Moss Amendment, which makes this proposal, has apparently gained some support among major industrial groups included under the coverage of the bill's program.

If the Moss Amendment passes two things will most certainly happen which should be of substantial concern to all industry. The court-ordered EPA regulations will remain in effect, and litigation pending against those regulations will continue to cloud long range prospects regarding the construction of major industrial facilities for years.

But, gentlemen, I am dismayed at the opposition to the Committee's bill for a further reason. There has been substantial confusion over the proposal and much of the criticism I have read and heard misconstrues its effect. The import of the criticism is that the members of the Committee have given little regard to the economic and energy implications of their action. That is totally inaccurate.

Let me briefly tell you what the bill does and does not do—especially in reference to the EPA regulations which the Moss Amendment would leave in effect.

All of the proposals advanced so far including the Senate bill contain a provision for stringent protection of certain areas such as national parks, which are designated Class I areas.

EPA's regulations provide that any federal area can be designated a Class I area at the sole discretion of the Federal Land Manager in Washington. Early proposals offered in our Committee would have designated almost every imaginable national area a Class I area—parks, wildlife refuges, recreation areas, monuments, even meandering scenic rivers and seashores.

The Committee bill specifically limits Class I to certain major parks and wilderness areas. The total land area included under the Senate provision comprises slightly more than 1% of the United States and no federal land may be redesignated Class I unless the State government concurs.

There has been a great deal of concern about so-called buffer zones around these Class I areas. These buffer zones are the radius around Class I areas in which construction of major facilities will be predictably curtailed because of the application of arbitrary pollution limitations within the area.

EPA's regulations and the subcommittee bill both provided for these buffer zones.

The Committee bill rejected these arbitrary limitations and bases protection of parks upon a specific finding that emissions will cause actual harm to the values for which the area was established on a case by case basis.

Additionally, the Committee proposal would turn the EPA permit program over to the States with specific direction that economic and energy impacts be given appropriate consideration in the development of technological requirements.

State control, flexibility and clarity of application are the hallmarks of the Committee's effort on significant deterioration. The Committee carefully and I believe skillfully redrafted the provision to assure that while it provides real protection to clean air areas it allows for realistic industrial growth. And the Committee provided for continuing review of the program to assure that appropriate "mid-course corrections" can and will be made to assure that our significant deterioration mechanism accurately tracks this goal.

I am convinced that the confusion over significant deterioration will be resolved and a rational, workable strategy enacted.

But the problem of coordinating Congressional environmental activities with industrial interests remains.

Over the past several years both government and industry have gained valuable experience under the first generation of environmental programs. That experience has often indicated the need for "mid-course corrections."

Unfortunately our knowledge of environmental issues has gotten ahead of our ability to coordinate and communicate that information in the legislative process—as is evident from the experience with significant deterioration.

I am encouraged that organizations like the Aluminum Association have begun an earnest effort to mobilize the mechanism for presenting industry's case to Congress.

I would leave you with two thoughts which I hope will be helpful in this effort:

First, many, I believe a majority, in Congress are determined to focus our environmental programs on rational goals consistent with economic and energy realities. But make no mistake, the environment remains a real and vital issue across the nation.

Second, among the members most instrumental in drafting environmental legislation there is a fervent desire for objective, knowledgeable input on environmental programs and issues. Much of the effort in drafting environmental legislation has been spent in interpretation of overstated or biased information. The organization that establishes the competence to understand environmental

programs and the restraint to speak forthrightly on environmental issues will find an eagerly receptive ear in Congress and can play a significant role in evolving the second generation of major environmental laws.

THE B-1 BOMBER

Mr. GOLDWATER. Mr. President, the Senator from Wisconsin (Mr. PROXMIRE) has made his sixth and last statement on the B-1 and I answered him last week. Since that time the Department of the Air Force from the Office of the Secretary has also prepared an answer covering the points the Senator was trying to make. I ask unanimous consent that this rebuttal be printed in the RECORD.

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

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., May 24, 1976.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: With your sixth B-1 speech, your arguments against the B-1 have come full cycle. Your latest presentation was little more than a summary of earlier assertions and criticisms which we have repeatedly answered. Therefore, in my response to the last in your announced series of six speeches, I would like to close out the discussion by returning to the two central issues which have been the master threads of your critique: cost and capability.

Throughout our exchange, I have consistently emphasized the need for accuracy, proper context, and comparable bases when discussing system costs. The Air Force has never claimed that the B-1 was inexpensive. What we have claimed is that the B-1 is an essential system providing a premium capability with far greater cost effectiveness than any other alternative. The development program has been well managed, life cycle costs will be much less than for the B-52 fleet, and even during peak procurement years, the B-1 program will account for less than 2% of the defense budget. We consider this an eminently reasonable investment for modernizing that component of our Triad which accounts for the delivery capability of half our megatonnage.

Your counter-arguments have repeatedly inflated the true B-1 cost by burdening the analysis with imaginary requirements such as a new fleet of strategic tankers. Moreover, your case for various alternatives generally compares B-1 costs, calculated with inflation compounded out into the 1980s, with dated, unsupported, and highly optimistic estimates which ignore future inflation.

Even with such a misleading cost methodology, your case still remains unconvincing because your nominal alternatives simply cannot adequately perform the critical mission for which the B-1 was optimized. As the Joint Strategic Bomber study established and your colleagues on the Senate Armed Services Committee recently confirmed, "... the B-1 will accomplish the required mission in a manner superior to any of the proposed alternatives. In fact, the B-1 will be a capable system against targets that cannot be successfully attacked with proposed alternatives."

In the final analysis, these considerations of cost effectiveness and mission capability must be the pivotal issues for decisions on our strategic forces. I have welcomed the opportunity to express for the record the Department of Defense's logic and rationale for the B-1. I am confident that your colleagues in both Houses of Congress will consider the merits of our respective positions and register a consensus which will support the security interests of our nation.

Sincerely,

THOMAS C. REED.

SENATOR PROXMIRE

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.

Cost of B-1 has increased $200 million in the last 3 years.

The current unit cost is $88.6M and indications are that this will grow to $100M.

When Congress was first briefed on the B-1 bomber in June 1969, the total program costs were $8.8 billion.

"Examining the full life cycle costs of the B-1 results in a $91 billion total in current dollars by the Brookings Institution . . ."

For the $21 billion direct costs of the B-1 program; the Nation could fund 10 invulnerable Trident submarines.

FACT

We agree with Senator Proxmire that each program must be measured against competing programs from other services. The DOD programming and budgetary process does exactly that and allocates resources accordingly. In that process, the B-1 has competed successfully with other programs both within the Air Force and within the entire Department of Defense. The program has been constantly supported on its merits at all decision levels.

We assume the Senator is referring to the last 3 months. The FY76/TQ Appropriation Act cut the RDT&E program by $74.5M. This reduction, and attendant Air Force actions resulted in a net increase to the program of $125.5 million dollars.

In real terms, B-1 Program cost has increased 12% since 1970. This average growth of 2% per year since 1970 marks the B-1 as one of the best managed programs in DOD history. Inflation accounts for the remaining 88% of cost growth in the program to date. The current unit cost estimate ($88.6M) includes provisions for economic escalation over the entire production program.

Prior to 1970 a number of bomber studies were performed. The first B-1 cost baseline was the development estimate established in June 1970 at $11.2 billion dollars.

Even the Brookings Institution did not purport their $91 billion figure to be the life cycle cost of the B-1. Rather, it is the Brookings Institution notion of bomber and tanker program costs for the period 1976–1985 assuming advanced tankers, too many weapons, and as they admit, some "cavalier" costing assumptions.

The Brookings Institution study (Senator Proxmire's Table III) shows $91 billion as the cost over the 1976–1985 time period, of the total bomber-tanker force mix of B–52s, FB–111s, KC–135s, ATCAs and missiles, as well as the B–1. Less than one-twelfth of the aircraft (one-sixth of the bombers) operated in Table III are B–1s. Furthermore over 44% of the $91 billion is for indirect operating and other investment costs that were allocated to this bomber-tanker force and have no direct relationship to the force shown.

In dealing with costs of major weapons systems which are procured and operated and supported over a period of three decades, it is necessary to work with a constant value of measurement to assure meaningfulness and provide for comparison with competing weapon systems. In constant FY 1976 dollars the total Life Cycle Cost (LCC) of the B–1 fleet is $26.8 billion. This includes a nominal 20 years of full fleet operations, roughly FY 86–FY 2005. Most of the research and development funding has been appropriated. Therefore, the unsunk LCC is $23.4 billion.

The then-year dollar LCC of the B–1 fleet has not been derived since we do not have means to predict economic escalation through the year 2005. Moreover it is our view that inflation compounded over more than three decades—which would be applied to GNP, to revenues, and to all purchases—not just defense purchases—would obscure the real cost of manpower and material required.

Procurement of additional Trident submarines would violate the current strategic arms limitation limit on MIRVed delivery vehicles or cause a radical change in the ICBM forces. Both of these situations are undesirable, the first from the standpoints of international reaction, the second because of the downgrading of the TRIAD concept.

SENATOR PROXMIRE

I ask . . . that various tables from the Brookings Institution Study . . . be printed in the RECORD . . . as Tables II, III, and IV.

We should postpone the B–1. Ten years from now we can build a better, more efficient one. We will continue to have superiority over the Soviet Union; if there is a gap it will be on their side.

The B–1 is not the plane the Air Force told Congress it wanted in 1969 . . . characteristics have slipped.

There is ample time to wait before making a major new bomber decision. There are promising new technologies that could be incorporated into a new bomber design. The age of the manned strategic penetrating bomber is over.

. . . 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.

B-1 takeoff distance has been degraded.

Delivery of the first B–1 has been delayed six months. The initial operational capability of the aircraft has been delayed 14 months until mid-1982.

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.

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 a number of critical capabilities of that aircraft including all weather capability, weapons delivery and defensive avionics.

FACT

Tables II, III and IV used by Senator Proxmire bear little relationship to one another. The major weapon system acquisition dollars shown in Table II do not match the major weapon system acquisition dollars in Table III. The procurement quantities shown in Table IV do not lead to the operating quantities shown in Table III (nor do they match the program in Table I).

It will take sixteen years from B–1 design to full operational capability. To begin a new program ten years from now will place its full operational capability at the year 2000, well beyond the effective life of the B–52 alone. The Department of Defense has not asserted that there is a bomber gap; however, it is well known that the superiority of our bomber force allowed us to accept some asymmetries with respect to missile forces under the Arms Limitation Agreements.

The B–1 design is based on the development estimate made in 1970 and the current capability of the B–1 compares very well with that development estimate. It can effectively perform the same combat mission as originally envisioned for the B–1. Same mission profile. Same penetration speed and altitude. Same accuracy. Same payload. More importantly the aircraft completely covers the target structure of the future, as it did then. The present B–1 remains the most advanced high quality strategic system, notably capable of performing any assigned mission.

These notions appear to contradict themselves. They reflect more the Senator's opposition to the B–1 than any clearly perceived alternative.

The B–1, as currently designed, will be capable of defeating the threat postulated for the mid to late 1980's. It is designed to be a viable weapon system through the 1990's and into the 21st century. If we started today to build a bomber for the 1990's, it would closely resemble the B–1. This aircraft now incorporates the latest technology available for heavy strategic bombers.

Takeoff distance is an extremely important factor in escaping the home base, and the tremendous improvement the B–1 provides over the B–52G (the most numerous B–52 model) is very significant. In takeoff distance alone, the B–52G requires a 40% greater takeoff roll and for a great portion of the year requires water augmentation. More importantly, the significant factor is that fully loaded B–1's will be able to use more than twice as many runways as B–52's. In addition there are more runways capable of handling B–1's than the number of B–1's currently envisioned to be procured.

The six months delay in the delivery of the first production aircraft is a direct result of the Congressional reduction in long lead funds requested in FY 1976/Transition Quarter. The 14 month delay in the Initial Operational Capability date is also due to this reduction, as well as the FY 1975 Congressional funds reduction, increased material lead time, and revisions to production planning.

The GAO report on which Senator Proxmire bases his remarks included data to October 1975. The report is now almost seven months out of date. We have already incorporated design refinements into the aircraft which have significantly increased the gearbox to Auxiliary Power Unit coupling reliability.

Even under the longer engine starting conditions imposed by unfavorable weather, the B–1 will reach a safe escape point faster than the B–52 due to the B–1's short takeoff roll, high flyout speed and resistance to nuclear effects. Nevertheless the Air Force is studying alternatives. Among these are a change in operational procedures in which two engines would be started initially and the other two while taxiing, a new APU with more power, and a change in engine-to-Auxiliary Power Unit gear ratio. The correction poses no real technical problems.

The B–1 program adheres to the principles of the fly-before-you-buy philosophy. The critical items which effect aircraft performance will be thoroughly tested and evaluated prior to production contract award. Indeed, most of this testing has already been accomplished. The aircraft's structural integrity has been proven by extensive ground testing, the aircraft's engines have exhibited excellent performance both on the ground and in the air, and the aircraft's flying qualities and handling characteristics have been judged to be superior.

These are the parameters of importance in an aircraft test program and the B–1 has lived up to its expectations in all of them.

Weapons delivery capability will be demonstrated prior to the production contract award. All weather capability is not a critical issue and will pose no problems, therefore, testing has been deferred until later in the program but prior to delivery of the first production aircraft. The Air Force deferred development of defensive avionics until late in the program in order to better define the system and reduce costs. The development of this system is proceeding well, and we expect no difficulty. Aircraft/defensive avionics interfaces will be defined and incorporated into the first production aircraft such that the equipment can be easily installed when it is available.

SENATOR PROXMIRE

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.

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

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.

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 at the lower speed of mach 1.6, the B–1 could not outrun many of the Soviet Union's modern fighters.

FACT

The ability of the automatic terrain following radar is not an issue. It has been exhaustively tested in the F–111 and has been operational in that aircraft for some time. Sufficient testing will be conducted in the B–1 to verify the compatibility of this radar with the remainder of the offensive avionics system.

The B–1 is the first aircraft specifically designed to be resistant to nuclear effects. Extensive engineering analysis and component testing have already been accomplished to determine the aircraft's resistivity to nuclear effects. From the results of this activity, the Air Force has high confidence that the design criteria will be met.

Isolation of vibration sources are a part of any flight test program. Engineering analysis showed the possibility of vibration levels which would exceed the allowable specifications under certain conditions. However, standard practice is to withhold corrective action until actual levels are confirmed by flight testing. This was the case for the B–1. Correction of the minor vibration experienced in the B–1 can be done in several ways. One of the easiest fixes involves mounting a small piece of metal in such a way as to disrupt air flow patterns. Others include shock mounting of components or movement of components. The Air Force plans to conduct further testing before the most effective option is selected. Even if nothing is done, the vibration encountered to date would not affect the ability of the production aircraft to perform its mission.

The B–1's supersonic, high altitude capability, although not the primary tactic, can be highly effective against some targets. A supersonic capability also provides another effective defensive measure during portions of bomber's penetration to a low altitude descent point and withdrawal after striking its assigned targets. Not to be forgotten is the possibility that the B–1 might be used in roles other than its primary mission, a highly flexible option provided by the manned bomber. When an aircraft is designed to have a lifetime spanning three decades, it is important to retain as much flexibility as economically possible to cope with unforeseen and unforecast situations. Without a supersonic capability this option is lost forever, no matter how desirable supersonic, high altitude flight might become. Tactical flexibility, including the supersonic option, remains a definite plus to the B–1's cost-effectiveness.

The supersonic capability of the B–1 would require an enemy to maintain an air defense system capable of coping both with a supersonic, high altitude and high speed, low altitude threat. The cost of air defense is high—and resources devoted to air defense, which does not place our country at risk, are not available for more threatening pursuits; such as, more advanced ICBMs, SLBMs or bombers. Deployment of the B–1, possessing very effective low and high altitude penetration characteristics, will further compound the defensive problem of our adversaries.

If a high altitude, supersonic penetration tactic is employed, the B–1 would be routed to avoid enemy defenses to the maximum extent possible. SRAM would be employed to attack objectives without penetration of the defended area, or if required, to destroy defenses which could not be avoided. The B–1 will carry infrared decoy flares, which are automatically dispensed, for protection against infrared guided missiles. Additionally, the B–1's low radar cross section and advanced ECM will seriously degrade enemy surveillance and tracking radars necessary for the employment of defensive missiles and interceptors. The supersonic segment of such a mission is only required during transit of the higher threat areas, as a result, high fuel consumption resulting from the high speed penetration would only be required for relatively short periods of time.

The Air Force performed a detailed analysis of the difference in capability provided by a Mach 2.2 B–1 and a Mach 1.6 B–1. It was determined when all of the B–1 characteristics were considered, the difference in effectiveness was small, and that the Mach 1.6 speed still stressed the enemy defenses. Based on cost effectiveness considerations, the decision was made to not install the Air Induction Control Inlets, which allow the higher supersonic speeds, on the production aircraft saving about $240 million.

While we do not consider the marginal loss in effectiveness resulting from 0.6 decrease in Mach to be serious, we do consider the Mach 1.6 supersonic capability to be of significant value. Furthermore the Air Force has preserved the option to return to the Mach 2.2 speed with a relatively simple modification, should that become necessary in the future.

SENATOR PROXMIRE

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.

Flying missions into the heart of the U.S.S.R. with gravity bombs is virtually a suicidal flight. Modern technology can supply us with enough cruise missiles to saturate any known Soviet targets.

Cruise missiles are cheap weapons which are able to evade radar, evade hostile attack and saturate the area.

"Re-engining the B–52G and H fleet at a cost of $2.1 billion, which will give them longer life, improved range, takeoff distance, and payload capacity."

Purchase new wide-bodied jets for use as stand-off bombers carrying up to 60 cruise missiles each.

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 the Backfire bomber, about its range and whether it would qualify as a long-range bomber capable of attacking this country.

FACT

Basing a bomber's effectiveness on its ability to "outrun" a fighter grossly over simplifies the issue. In fact, it is highly unlikely that the bomber and fighter aircraft would ever be in relative positions for such a "race". The actual problem is one of the enemy being able to detect, track and guide a fighter into position to successfully deliver its weapons. The B–1's low radar cross section and advanced ECM combined with the high altitude supersonic speed will severely complicate those tasks. Even if the controlling radar systems could guide the fighter into close proximity to the B–1, it's Mach 1.6 speed and countermeasures would pose an additional problem for the defenses. As a bomber's speed approaches that of the interceptor, which is the case for the B–1 at both low and high altitude, the margin for error by the defenses is reduced or eliminated making an effective attack very difficult and complicating the air defense battle management because of the need for backup interceptors. Also, the more severe intercept problem decreases a missile's probability of successfully striking the bomber, even if a launch is possible.

The B–1's supersonic capability is a fall-out of a design which provides for rapid escape from its take-off base, a high degree of hardness to the effects of a nuclear burst, and for penetration at very low altitude at near the speed of sound. The required bomber characteristics for safe escape, hardness, and low altitude, high subsonic penetration speed, coupled with the requirement to operate from relatively short runways (as compared to a B–52) result in a swing-wing design, a compact fuselage, a very strong structure, and afterburning engines—the same aircraft characteristics which support supersonic high altitude flight. Since the B–1 has been designed with the criteria of high survivability against nuclear effects and a *primary* penetration tactic of very low altitude, very high subsonic speed—the weight, cost, complexity and subsonic performance degradation attributable to the secondary supersonic penetration capability are very slight. In fact, if the supersonic mission were eliminated in a newly designed B–1, a decrease in weight and an increase in range of less than 2% would result.

Studies have demonstrated that all cruise missile forces do not do as well as B–1s when applied against the *same* targets and defenses. An air defense that had *only* to contend with cruise missiles would likely develop a capability against the launch platform as well as with cruise missiles.

Cruise missiles fly where they are programmed to fly. The programmer can take them around known defenses except where those defenses protect targets. Mobile SAMs and fighter interceptors cannot be anticipated by the programmer, they pose a severe threat to a stand-off cruise missile force. Saturation of an area does not necessarily put more weapons on target. Because of its low effectiveness the price of an all stand-off cruise missile system would be too high.

Aside from the cost estimate which is out of date, re-engining the B–52G and H does not extend the life of the airplane nor does it increase its payload capacity.

The Senator supports a major defense acquisition that the Department of Defense has determined, against the same Soviet threat, to be both less effective and less cost effective than the B–1.

It is true that today the United States possesses a clearly superior bomber force, both in numbers and quality of aircraft, as well as the proven operational experience to effectively employ the bomber in a combat environment. It is this effective bomber force that contributes so heavily to essential equivalence since the Soviets possess more ballistic missiles than the US under the SAL I agreement. However, the Soviets have not phased out their bomber and tanker force, in fact, they are currently deploying the intercontinental, swing wing, supersonic BACKFIRE B in both their Long Range Aviation (LRA) and Naval Aviation (SNA) forces.

There is no question within the Department of Defense as to the intercontinental capabilities of this modern bomber, which is much larger than our FB–111, almost the size of the B–1. This fact was explicitly addressed by the Secretary of Defense during his annual report to Congress:

"Even without aerial refueling or staging from bases in the Arctic, BACKFIRE bombers could cover virtually all of the U.S. on one-way missions, with recovery in third countries. Using Arctic staging and refueling, they could achieve a similar target coverage and still return to their staging bases in the Soviet Union."

In January, the Secretary also revealed the current estimate that over 50 BACKFIREs had been produced with most of them deployed. Should the Soviets choose to continue BACKFIRE production, and there is no reason to believe otherwise, they could possess an almost totally modernized bomber force equaling ours in size (including the B–1) in the 1980s.

Faced with these *facts* and the increasing threat to our current bomber force, failure to deploy the B–1 could result in both a numerically and qualitatively superior Soviet strategic bomber force in the 1980s.

CIA ISSUES NEW REGULATION ON CONTACT WITH MISSIONARIES ABROAD

Mr. HATFIELD. Mr. President, on December 15, 1975, I introduced legislation prohibiting Federal intelligence agency contact with missionaries and clergymen. That legislation was prompted by the failure of the executive branch to prohibit these contacts despite their revelation in disturbing press accounts last summer. Those stories reported, and former CIA Director Colby confirmed, that the CIA has made it a regular practice over the years to use missionaries, clergy, and members of religious organizations for intelligence purposes. As I said at the introduction of my bill, S. 2784, I believe such collaboration quite rightly tarnishes the image of the United States in foreign countries, prostitutes the church, and violates the first amendment's separation of church and state.

At the time of the bill's introduction, our distinguished majority leader, Senator MANSFIELD, expressed his approval of the idea, and Senator CRANSTON later joined as a cosponsor of the bill. I am grateful for their support.

After the introduction of my bill I continued to correspond with CIA Director George Bush in hopes of reaching a satisfactory solution to the problem. Due to his cooperation and concern for the fundamental principles involved, the Central Intelligence Agency has issued a new regulation restricting agency contacts with the clergy, missionaries, and members of religious organizations. I ask unanimous consent that a copy of that new regulation be printed at this point in the RECORD.

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

NEW CIA REGULATION

(M) CLERGYMEN AND MISSIONARIES

In light of the special Constitutional concern with church-state relationships, CIA shall establish no secret, paid or unpaid contractual relationship with any American clergyman or missionary. This restriction applies to any person whether or not ordained who is sent out by a mission or church organization to preach, teach, heal, or proselyte. In addition, American church groups will not be funded nor used as funding cutouts for CIA purposes. The CIA will, however, continue to welcome information volunteered by American clergymen or missionaries. If, in the determination of a senior Agency official, such individuals might possess important foreign intelligence information, the Agency might initiate contact so as to afford an opportunity for channeling this information to the Government. Such initiatives, however, shall not be taken abroad.

Mr. HATFIELD. Mr. President, I emphasize that the regulation broadly defines the role of a missionary, prohibits any secret paid or unpaid contractual relationship with any American minister or missionary, and prohibits the CIA from initiating contact with clergy or missionaries abroad for intelligence purposes. The prohibition is essentially the same as that pertaining to contact with Peace Corps volunteers and Fulbright scholars.

The new regulation also applies to Americans performing missionary work for organizations which are technically not controlled by denominational or interdenominational church bodies, but whose ultimate sponsorship comes from religious organizations. This is made clear in Mr. Bush's letter time of April 12. I ask unanimous consent that that letter and other correspondence pertinent to this new development be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HATFIELD. Mr. President, I am very pleased that Mr. Bush recognized the special problems caused by CIA contact with missionaries abroad, and has taken this remedial action. I trust that the churches and missionary organizations will also remain attentive to the difficulties association with U.S. intelligence agencies can cause, and will direct their workers to refrain from contact with these agencies.

Because of the new CIA regulation, Mr. President, I do not intend to press for committee action on my bill.

EXHIBIT 1

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., May 14, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: I was very pleased to receive your letter of 5 May 1976 summarizing our understanding regarding CIA relationships with American clergymen and missionaries abroad.

Your offer to withdraw your legislation is especially appreciated, and I believe our agreement in this area has led to an effective and equitable resolution of the problem. I do not feel any further announcement on my part is needed at this time.

I am enclosing for your information a copy of the recently implemented CIA regulation outlining the Agency's policy on relationships with American clergymen and missionaries. As you can see, this regulation reflects the understanding reached with you that the CIA shall not establish any secret contractual relationships with any American clergyman or missionary, and henceforth shall not take the initiative abroad to provide a channel for such individuals to convey information to the Government.

I trust that this fully covers any remaining questions you might have regarding this important matter. Your cooperation in resolving this issue is most appreciated by myself personally and on behalf of the Agency. I look forward to working closely with you on other matters of mutual concern.

With warm regards,
Sincerely,

GEORGE BUSH,
Director.

U.S. SENATE,
Washington, D.C., May 5, 1976.

Hon. GEORGE BUSH,
Director, Central Intelligence Agency,
Washington, D.C.

DEAR GEORGE: Thank you for your letter of April 12 following up on our discussion of April 8 concerning CIA involvement with clergymen and missionaries abroad.

I believe the ideas expressed in our discussion and stated as new CIA policy in your letter will resolve our differences and protect the special relationship missionaries have with the people they serve. I am pleased that you have seen fit to prohibit CIA initiation of contact with American missionaries abroad, as is presently the case with Peace Corps volunteers and Fulbright scholars, and have also agreed to extend this policy to Americans performing similar work for organizations technically not controlled by denominational or interdenominational church bodies, but whose ultimate sponsorship comes from religious organizations.

As I mentioned in our discussion, I will be happy to withdraw my legislation in view of this agreement. If you wish to make a public statement on this new policy, I will withhold any statement on my part until you have done so. If you do not wish to make an announcement, please let me know so that I can proceed to inform my colleagues of the new policy.

Again, George, thank you for your cooperation in reaching this agreement.

Warmest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., April 12, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: I found our conversation on Thursday regarding CIA contacts with the clergy and missionaries very useful. As is the case with almost any written formulation of policy, my 11 February 1976 statement on this subject can lead to reasonable questions regarding precise definitions, scope and intent.

As I said in my earlier letter to you of 6 April 1976, we do not intend to define "missionary" in a narrow sense but to include anyone sent abroad "to preach, teach, heal, or proselyte." Responding to your concern about Americans performing similar work for organizations which are technically not controlled by denominational or interdenominational church bodies, I would include them in our policy provided their ultimate sponsorship comes from religious organizations.

In regard to CIA initiatives to request an American clergyman or missionary to supply foreign intelligence information on a voluntary basis, I shall provide in our implementing regulations that CIA will not take any such initiative abroad.

In light of the special constitutional concern with church-state relationships, I believe it appropriate for this Agency to limit its contacts with American clergymen and missionaries to this extent. At the same time, it leaves them the right to volunteer information to their government on an individual basis, each as his own conscience dictates.

Sincerely,

GEORGE BUSH,
Director.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., April 6, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: Thank you for your letter of 17 March 1976 seeking further clarification of this Agency's policy regarding contacts with clergy and employees of religious or church-related organizations.

I share your interest in assuring that the Agency's policy in this area is clearly understood by the Congress and the American public. This Agency's position on your bill, S. 2784, is being coordinated within the Executive Branch prior to transmittal to Chairman Stennis, but I do want to respond to the specific questions you raised in your 17 March letter.

The term "contractual relationship" is used to apply to any regularized, specific

agreement involving services or information provided by an individual. In light of my 11 February statement, let me reiterate that it is Agency policy not to maintain any secret, paid or unpaid, contractual relationships with American clergy or missionaries.

That policy does not apply, however, to American employees of religious or church-related organizations who are not members of the clergy or missionaries, nor does it preclude relationships with such individuals as mentioned in your letter. Any arrangements of this nature would be private and voluntary and would not involve the use of their organizations or positions for U.S. Government purposes.

The policy restrictions apply to any person whether or not ordained who is sent out by a mission or church organization to preach, teach, heal, or proselyte. I am assured that American church groups have never been funded or served as funding cutouts for Agency purposes and I can assure that this will continue to be the policy of the CIA.

The ban on secret paid or contractual relationships applies only to American clergy or missionaries.

The CIA will continue to welcome information volunteered by American clergymen or missionaries. If, in the determination of a senior Agency official, such individuals might possess important foreign intelligence information, the Agency might initiate contact so as to afford an opportunity for channeling this information to the Government.

Rgulations regarding Agency relations with American churchmen currently are being drafted and I will have forwarded to you a copy of this unclassified regulation as soon as it is issued. In the interim, Agency officials have been notified of the policies set forth in my 11 February statement. Your deep interest in this matter is appreciated and it is my intent that you shall be informed if there is any change in the policies reflected herein.

If this letter and our comments on S. 2784 are not fully responsive to your concerns, do not hesitate to let me know and I will be happy to discuss them with you at a convenient time.

Sincerely,

GEORGE BUSH,
Director.

MARCH 17, 1976.

Hon. GEORGE BUSH,
Director, Central Intelligence Agency,
Washington, D.C.

DEAR GEORGE: Thank you for your letter of February 25, clarifying your Agency's position relative to the employment of churchmen for intelligence purposes. I very much appreciate your making clear that the CIA has no secret paid or contractual relationships with any American clergymen or missionaries at present and that this practice will be continued as a matter of policy.

In order to be absolutely sure that the new policy falls within what I would consider an acceptable church/state framework, however, I would like to clarify a few points with the following questions:

(1) Does your understanding of "contractual relationship" include only a relationship in which a salary or stipend is paid for services rendered, or does it extend to long-term, regularized, routine relationships with churchmen or missionaries on a voluntary, non-paid basis?

(2) Does the ban also apply to American employees of religious or church-related organizations, who are not members of the clergy or missionaries? Some examples would be an administrator of a missionary program or a relief worker for Church World Service or International Voluntary Service or a refugee worker with Catholic Relief Services.

(3) Does the ban also apply to missionaries who are not ordained?

(4) Does the ban forbid American Church groups (as opposed to individuals), including demonstrations, relief and charity organizations, and missionary societies, from receiving, directly or indirectly, CIA funds or serving as a funding conduit or cut-out for CIA funds?

(5) Does the ban apply in any way to foreign members of the clergy, missionaries (ordained or not) or church groups?

(6) Will the CIA continue to seek out American members of the clergy and missionaries who wish to voluntary provide information or will the CIA now only take information from those who take the initiative in approaching the CIA?

Since the CIA's internal directives are not normally available to members of the Senate, I would appreciate it if you could send me a copy of the internal directive issued in connection with your February 11 statement terminating the CIA's paid use of American members of the clergy and missionaries and copies of any other internal CIA directives concerning use of these people.

Finally, I would also appreciate receiving your personal assurance that if any of the CIA directives regarding members of the clergy and missionaries are changed once again, I will be promptly notified.

Warmest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., February 25, 1976.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MARK: Thank you for your thoughtful letter of 30 January 1976 asking me to reconsider the position of my predecessor with respect to CIA contacts with missionaries abroad.

I have given this matter a great deal of thought and have discussed the issue of contacts with members of the news media, churches and missionary organizations, with a number of people. I wanted to be in touch with you earlier on this but unfortunately I was out of town last week although my Legislative Counsel, George Cary, did provide Keith Kennedy, of your staff, a copy of my 11 February press statement on this subject.

Let me just summarize some of the thoughts in that statement. Over the years, CIA has indeed had relationships with individuals in many walks of American life. Many of these have been of a voluntary and unpaid nature, reflecting the sincere desire of patriotic Americans to be of assistance to their country. It is my understanding that the sole purpose of such contacts by the Agency was to satisfy its foreign intelligence responsibilities, not to influence or act against the interests of any American institution. Despite the concern that has recently been expressed about CIA's relationships with members of the clergy, I am unaware of any impropriety on the Agency's part in its limited contact with individuals in church and missionary organizations.

In recognition of the special status afforded these institutions and in the interest of avoiding even the slightest appearance of impropriety, I concluded it was important to publicly enunciate an Agency policy which makes it clear that the Agency has no secret paid or contractual relationships with any American clergymen or missionaries and this practice will be continued as a matter of policy.

At the same time we recognize that members of these groups may wish to provide information to the Agency on matters of foreign intelligence of interest to the U.S. Government and we will continue to welcome information volunteered by such individuals. If various religious organizations do not wish to have their members associating with Government intelligence organizations, this is a matter strictly within the purview of instructions from those organizations to their members and should not be the subject of legislation. I would be happy to discuss this matter further with you at your convenience and am enclosing with this letter an additional copy of the press release which we issued on this subject on February 11.

We are drawing up a position on your bill, S. 2784, and will provide specific comments on it when they are coordinated within the Executive Branch.

Sincerely,

GEORGE BUSH,
Director.

CIA-MISSIONARIES,
January 30, 1976.

Hon. GEORGE BUSH,
Director, Central Intelligence Agencey,
Washington, D.C.

DEAR GEORGE: Although it is early in your term of service to be asking for a reversal of your predecessor's policies, I am most deeply concerned about CIA contacts with missionaries abroad, and urge you to issue a directive prohibiting such contact.

You are no doubt familiar with my letters to Mr. Colby and the President on this matter, and their responses. Copies of this correspondence are attached for your review. Also, I assume you know of my legislation, S. 2784, to prohibit CIA-clergy contacts.

Most recently, Mr. Colby responded to Mr. Claire Randall and Mr. Eugene Stockwell of the National Council of Churches, relative to their request for a similar prohibition by internal directive. I question two apparent inconsistencies between that letter and earlier correspondence with me.

First, in his September 13 letter to me, Mr. Colby states that "in many countries of the world representatives of the clergy, foreign and local, play a significant role and can be of assistance to the United States . . ." Mr. Buchen agrees in his letter, saying that "clergymen throughout the world are often valuable sources of intelligence . . ." Both statements certainly imply that the CIA makes more than infrequent use of clergymen in the performance of its mission. Yet in his January 16 letter to Messrs. Randall and Stockwell, Mr. Colby states that "CIA has very few such contacts" and "our contacts with foreign clergy are also very limited." I believe a clarification is needed.

Second, Mr. Colby stated to me his firm belief that clergy could be of assistance to the United States in an intelligence operation "with no reflection upon their integrity nor their mission." Irrespective of the nearly unanimous disagreement with this statement that I have received from church organizations and individuals, I would raise the following question: if CIA contacts with various organizations and individuals in the field do not jeopardize the mission of those organizations or individuals, why was it found necessary to issue an internal directive prohibiting CIA operational contact with ACTION volunteers or with Fulbright scholars? Is there a difference between the "taint" that could possibly affect those individuals and the "taint" that hinders missionary work?

I would be most appreciative of your response to these questions as soon as the press of your new duties allows. Also, I would welcome a discussion of this whole issue at any time.

Kind personal regards.

Sincerly,

MARK O. HATFIELD,
U.S. Senator.

LOUIE ALLEN

Mr. MATHIAS. Mr. President, one of Washington's best-known personalities, Louie Allen, died May 9. Mr. Allen was a television weather forecaster here for 26 years, most of them at WMAL, and the last 2 at WTOP. He was more, however, than just another TV weatherman. He was a professional meteorologist, highly respected in his field, both on and off television. The Washington Post paid editorial tribute to Louie Allen, in an editorial in its May 14 editions. The Washington Star, on May 17, published a letter to the editor from Walter A. Scheiber, executive director of the Metropolitan Washington Council of Governments, who added another perspective to Louie Allen's service to the Washington community. I ask unanimous consent that both these items be printed in the RECORD.

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

[From the Washington Post, May 14, 1976]

LOUIS P. "LOUIE" ALLEN

In the mercurial world of broadcast programming, where the stars of the airwaves rise and fall so unpredictably, Washington weather newsman Louis P. (Louie) Allen, who died Sunday, managed with ease to remain a popular fixture here for 26 years. What endeared him to generations of Washingtonians was his rare blend of warmth and expertise—talents not so much of a "television personality" as of a person whose counsel was respected enough to be sought and welcomed nightly in the home. Much like the kindly uncle patiently sharing knowledge with a fascinated youngster, Louie Allen relied on a routine of simple humor, doodles and familiar gestures to tell us all about the elements, and why they acted that way.

"If I can establish a curiosity about how the weather works, I think I'm doing my job right," Mr. Allen told an interviewer last year, explaining his lifelong love of meteorology. Indeed, it was his work in weather that brought him to television—not the other way around. Born in Washington and graduated from Central High School and Wilson Teachers College here, Mr. Allen was a teacher before he began weather forecasting in 1944, while serving as a Navy lieutenant in World War II. During that time, he forecast the weather for the invasions of Iwo Jima and Okinawa. Later, Mr. Allen became chief civilian meteorologist for the Navy Hydrographic Office and also worked for the Office of Naval Research. In addition to a master's degree in meteorology from UCLA, Mr. Allen earned a master's degree in mathematics from the University of Maryland.

His broadcasting career began here in 1948, with WNBW, whose call letters were later to be WRC-TV. His relationship to the station, like his repertoire, was to develop casually. Mr. Allen started as an unpaid freelancer; after three years, he joined Channel 9. In 1955, he moved to WMAL, remaining there until his return to WTOP radio and television in 1974. In addition to his broadcasts, he operated the Allen Weather Corp., which he founded in 1955.

At WTOP, Mr. Allen's return was thought to have quite a lot to do with a rise in the station's ratings, which in broadcasting is the standard gauge of a performer's success. But what really counted was the deep loyalty and affection that Louie Allen earned so justly throughout his years of electronic visits with the people of his hometown.

[From the Washington Star, May 17, 1976]

THE DEATH OF A REAL PROFESSIONAL

While Washingtonians everywhere were saddened by the untimely passing of Louie Allen, we at the Council of Governments had special reason.

As COG worked with extra effort in recent years to focus attention on the Washington area's air pollution problem, it found a willing ally in Louie. What impressed us was not only his interest but his conscientiousness in learning all he could about this complex subject so he could do a better job of reporting the story.

We heard from Louie often, particularly in the summer months with their high air pollution potential. He came to our office for a lengthy briefing. He later asked for a tour of an air pollution monitoring station. We took him, and for two hours he asked the technicians there the questions he felt he had to learn about. There was no camera crew to film it for broadcasting, just Louie trying to learn more so he could be a better weather reporter. We talked to him every day, and if we didn't call him first, he called us.

And that's what impressed us most about Louie Allen—not just that he was a good guy and good company, but that he was a conscientious professional working extra hard, on his own time, without fanfare, trying hard to cover a difficult subject well.

That was the Louie Allen we knew at the Council of Governments. And that's why we'll miss him.

WALTER A. SCHEIBER,
Executive Director, Metropolitan Washington Council of Governments.

WASHINGTON, D.C.

OIL INDUSTRY EARNINGS

Mr. GARN. Mr. President, a few days ago I placed in the RECORD the summary of a study of the oil industry by the Energy Policy Research Project of George Washington University. The conclusions of the research indicated the continuing competitive nature of the industry.

Confirming those conclusions, I have now received a copy of a study by Dr. Sherman Clark, done under the auspices of the Rose Institute of State and Local Government of Claremont Men's College. Dr. Clark's study, entitled "Oil Industry Earnings," is fairly technical, and I will not put much of it in the RECORD. I would simply like to pull out a quote or two, and then urge my colleagues to look at the entire study, which has been sent to every Senator's office. I think these quotes give a good quick look at the nature of the industry:

The oil industry's payments of dividends as a percentage of net income have consistently been below the average of all manufacturing industries.

The oil industry not only distributed dividends conservatively, but it still failed to generate sufficient profits to provide all the funds necessary for capital investment without increasing its debt burden. . . .

The competitive nature of the petroleum industry is unchanged from the 1960s when a surplus existed, price wars were prevalent, and the rate of return was below the average for all industry.

The oil industry is actually less concentrated than most other large industries.

There is now overwhelming evidence that oil (and gas) production is a rising cost industry.

These findings are, of course, of particular interest as we consider general antitrust legislation, and as the Judiciary Committee completes action on various "divestiture" bills aimed specifically at the oil industry. They suggest, at the least, that there is no overwhelming need for such legislation, and that extreme caution should be used before dismantling a tremendously productive industry.

Dr. Clark does not ignore the charges leveled against big oil. In fact, on the question of profits, he responds directly to two recent books, "Highway Robbery," by Allvine and Patterson, and "Competition in the U.S. Energy Industry," by Duchesneau.

Allvine and Patterson charge that even though oil's rate of return is not unreasonable, special tax treatment has enabled the industry to accumulate assets not reported in earnings statements. Dr. Clark notes that no facts are asserted to prove the statement, and presents his own facts showing that asset accumulation by oil is not out of line with such accumulation in all industry.

Duchesneau's charge is that the existence of excess capacity is evidence of a lack of competition. Dr. Clark finds that argument also to be without merit, pointing out that the excess capacity existed to meet national defense needs, and was the conscious policy of the regulators who are so prevalent in the oil industry.

In short, Mr. President, Dr. Clark's study is a useful antidote to much of the nonsense spouted by commentators and politicians these days. It is, of course, somewhat technical, demanding and difficult. For that reason it is not accessible to the average citizen, but it should be digested by our lawmakers, if they are to avoid the mistakes of the past.

REBECCA HAGE, HIGH SCHOOL STUDENT IN ST. CLOUD, MINN., WINS ESSAY CONTEST

Mr. MONDALE. Mr. President, Americans are becoming increasingly aware of the tremendous potential of the physically and mentally handicapped. They are also becoming more aware of the tremendous obstacles and prejudices that the handicapped individual in our society faces. Past policies of isolation have created unnecessary and cruel personal hardships and deprived many individuals of fruitful and creative lives. These past policies represent nothing less than a national scandal.

The President's Committee for Employment of the Handicapped deserves our highest commendation for its efforts to bring to the fore the situation of the handicapped and for its leadership in integrating the handicapped into the Nation's work force. To help inform the country of the urgent needs of the handicapped, the committee sponsors an essay contest called, Ability Counts, among students throughout the country. I am especially delighted that this year's national winner is a young student from Minnesota, Miss Rebecca Hage.

Miss Hage is a high school student in St. Cloud, Minn. She is in every way an outstanding young woman who has devoted many, many hours of her time in helping those who are handicapped. She

has contributed over 400 hours as a candy striper in the St. Cloud Hospital and, for the past 3 years, she has worked as a volunteer for the Stearns County Social Services where, under the direction of a physical therapist, she provides therapy for seriously retarded children.

For her excellent essay, Rebecca received a savings bond from the Minnesota State Council for the Handicapped and attended the President's Annual Meeting on Employment of the Handicapped here in Washington, D.C. I was pleased that I had the opportunity to meet with Rebecca and her parents, Mr. and Mrs. Orval K. Hage, at that time.

Rebecca is certainly a fine young student who deserves our heartfelt thanks for her daily efforts in helping those less fortunate than herself and for her essay which sensitively depicts one man's struggle to find the strength to approach life and to succeed.

I commend Miss Hage's essay to my colleagues and ask unanimous consent that a copy of her essay be printed in the RECORD.

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

A PROFILE OF ACHIEVEMENT: HOW A HANDICAPPED PERSON APPROACHES LIFE

(By Rebecca Hage)

October 16, 1972.—John Wertz: an achiever. Husband; Senior High School Social Studies teacher; swimmer; avid sports enthusiast.

October 17, 1962—John Wertz: intensive care, U. of Minn. Hospital critical list; crushed chest cavity; excessive internal bleeding; multiple leg fractures; severed spinal column; diagnosed paraplegic.

John Wertz was riding his motorcycle. He was full of life and energy and was tasting the freedom of speed and the satisfaction of physical exertion. Perhaps, he was thinking that sometimes it seemed that there was nothing he couldn't accomplish in life. Perhaps, he was thinking of his parents silly warning, "to write a will." Maybe, that was when the drunken driver ran him off the road, and changed it all. . . .

For John's wife Sharon, there was only one concern, "Would John live?" She held on to the belief that because John was crisis oriented, if he would live, everything would work out. The doctors informed John's family that he would never walk again. For them, it was a time of little hope.

Sharon remembers crying together with John. She remembers the sadness and the depression. She also remembers that, because of John, this dark time lasted only a few days.

Hope, and a time for a new beginning, came for John when he came to the conclusion, "I must continue to achieve. I will not lower my standards for what I expect of myself." For John, this was the first step in the process of learning what real achievement is.

Sharon said, "Adjusting after the accident was hard; but I was not living with a crippled man, I was living with John." For John, some of the most difficult things were learning that independence does not always mean being in complete control, and that freedom cannot always be defined in physical terms.

John was, and remains, the only paraplegic teacher in the Saint Cloud school district. For many of his colleagues, it was a new experience and was hard to accept. It's different when it's faculty in a wheelchair, rather than a student, and teaching from his chair forced John to face many new challenges. Again, this was the beginning of a process of redefinition. He was forced to redefine his vocational achievement. John concluded, "So much of it is my own attitude. If I assume it's going to be awkward, it is." John also realized that the school wouldn't go out and look for a handicapped teacher, and that if he lost his job it would be difficult to find another. Because of this, John believes that, "being in school, being handicapped, helps the students." One of his dreams for achievement was to serve as a special example.

One of his students, Barkley Carrier, said, "His handicap doesn't bother the students, and because of his unique personality, they're comfortable with him." Another student remarked, "Mr. Wertz was the first handicapped person I was exposed to. Until Mr. Wertz, I always thought of them as freaks. I wish all students could have the opportunity to relate to him." His presence is also a model for handicapped students. He helps them with their problems .nd they know that he is really committed to a fight for the rights of other handicapped people.

Margaret McCormick student—taught with him the first quarter after he returned from the accident. She couldn't imagine how it was going to work. However, "he set the tone and gave a base to react to. He was very open. The wheelchair didn't slow him down at all. I know he never wanted pity and he was always student-oriented. The student came first. He has continued many of his relationships with students after they graduate."

John's closest friends summarized their fears and pointed out some of the obstacles that they were afraid he couldn't face. They worried that he would lose his job, would give up all of his activities, wouldn't be able to support his family, and perhaps the biggest fear was that his accident had taken away his masculinity.

John has proven his friends' fears false. Mr. John Kjera remarked, "I could see that he was self-supportive and that he had discovered his real inner resources. He is definitely more of a man because of it."

One friend summed it up, "After the accident he had more depth, and more substance as a person. He seemed to think more of other people and seemed to know his own needs more."

John said, "I don't usually compare myself before and after. I see myself as two different people, one died in 1972, one was born. They were two different lives, two different lifestyles. Looking back, I can see that I didn't lose anything that I really value. I value being able to communicate, and to form close personal relationships. I value my hands as a tool, and I value my teaching."

Some of Sharon's thoughts about John's new life were, "Before the accident he was getting more withdrawn. Now he laughs and jokes more, and seems to really enjoy life."

John's original commitment that he could not lower his standards for achievement are echoed in his remarks that he doesn't see himself as having any greater handicap than anyone else, some peoples' are physical, some are emotional, and some are mental. John's achievements, even according to his own tough standards, are impressive. Some of his activities include membership in the Equity enough. This is not compatible with the Affirmative Action Program. He is also a member of the Saint Cloud Tenants Association and an executive for the District Seventeen Democratic Party.

John Wertz is an example of "achievement redefined". As his friend, John Kjera, puts it, "being around John makes you realize, that a real handicapped person is someone who refuses to try, either physically or mentally."—John Wertz is not handicapped.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. HRUSKA. Mr. President, within the next several days, the Senate will be considering S. 2212, the bill extending the authorization of the Law Enforcement Assistant Administration.

As part of the debate on that matter, it is likely that reference will be made to recent news stories concerning two reports critical of LEAA.

Since the reports have surfaced since hearings on S. 2212 were closed, the Judiciary Comimttee's report does not deal with them. They have, however, been the subject of discussion in the appropriations subcommittee with jurisdiction over LEAA.

At our hearing on May 18, our colleague, Senator PASTORE, the distinguished chairman of the subcommittee, asked the Administrator of LEAA, Richard Velde, to comment on the two reports. Mr. Velde provided the subcommittee with a description of the unusual set of circumstances surrounding the press story regarding the report entitled, "Law and Disorder IV."

He noted that copies of the report are not available. The Associated Press had received only a draft report in "raw" form, and which was represented to be "subject to change." Entire chapters were reportedly missing. The report's author, a Washington attorney, has based many of her criticisms of LEAA on a distortion of the contents of a lengthy, careful, and independent study made public by LEAA more than 2 months ago. Her conclusions, which were given wide circulation by the media, are certainly subject to dispute. Administrator Velde reasonably suggested that LEAA be judged by an objective review of the facts; not on the basis of an "unavailable draft report."

During the same subcommittee hearing, Mr. Velde responded to the chairman's questions regarding a study entitled, "Law Enforcement: The Federal Role," released by the Twentieth Century Fund Task Force. The task force states that its goal is to provide an up-to-date, independent evaluation of the Law Enforcement Assistance Administration.

Mr. Velde's response included a summary of the most serious errors of the task force report. His comments suggest the report is in no sense a comprehensive examination of LEAA, and many of the task force statements indicate a serious misunderstanding of how LEAA operates and of LEAA's mission, as mandated by its enabling legislation, the Omnibus Crime Control and Safe Streets Act of 1968.

Mr. President, in order that Senators may have the benefit of the testimony taken by our subcommittee, on these matters, I ask unanimous consent to have printed in the RECORD the prepared statements of Mr. Velde.

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

RESPONSE TO NEWSPAPER REPORTS CONCERNING A REPORT BY THE CENTER FOR NATIONAL SECURITY STUDIES

(By Richard W. Velde)

Earlier this month the Associated Press distributed a story based upon a so-called "independent study" which was sharply critical of the Law Enforcement Assistance Administration.

The article noted that the study is to be published by the Center for National Security Studies, that it was to be called "Law and Disorder IV," and that it was part of a series all highly critical of the LEAA program.

I would like to call your attention to the unusual set of circumstances surrounding this Associated Press story.

The first I heard about the criticism was when I read about it in the newspaper, since neither the Associated Press nor the report's author, a Washington lawyer named Sarah C. Carey, had called to LEAA's attention the fact that such a report existed. Had they done so I would have been happy to have commented on the document, which would have cleared up many errors that Ms. Carey had fallen into and which the Associated Press and its member newspapers had thereupon repeated.

As a matter of fact, the Associated Press had received only a draft report, in "raw" form, and which was represented to be "subject to change." Indeed, entire chapters were reportedly missing, making it difficult for anyone to evaluate its findings.

Shortly after the Associated Press story was printed in the newspapers, we and other Federal officials made various attempts to obtain the report so that we would be prepared to respond to questions about it from the Congress and from the public, to whom we are accountable.

When we called Ms. Carey's office the day the story appeared we were told that Ms. Carey was not available. When we called the Center for National Security Studies we were told to call Ms. Carey. When an official of the Office of Management and Budget also called the Center for National Security Studies he was told that the Center had a copy of the draft report but "Sarah Carey had ordered that the report not be given to any Government agency."

In the meantime, we receive requests for comment about Ms. Carey's charges. How could we respond when we had only second-hand and thirdhand accounts of what she was supposed to have alleged?

(The International Association of Chiefs of Police also requested a copy of the report draft, as it had heard of erroneous remarks in it attributed to the Association. However, the IACP was told it would have to wait 6 to 8 weeks.)

The unfairness of this situation—being forced by media attention to respond to an "unavailable document"—makes this attack most difficult to address. I appreciate the opportunity to try to reintroduce some objectivity into the discussion of LEAA's effectiveness.

LEAA conducts its business in the open. It expects to be criticized when it is wrong. It expects to account for its actions in all responsible forums. However, it has a right to expect that its critics adhere to common standards of truth and fairplay. This, I might add, includes news reporters as well as those who would attempt to evaluate our efforts.

I believe it is important that the Congress and the public know that neither the Center for National Security Studies nor Ms. Carey has an established reputation for expertise in criminal justice matters.

The sponsor of the report, The Center for National Security Studies is, according to the Congressional Research Service, supported by the Fund for Peace, of New York City, which, in turn, is supported by the Abalard Foundation, the Field Foundation, and the Stearne Foundation. The Center has never to my knowledge interviewed LEAA officials or discussed Ms. Carey's report with us.

The author of the report, Sarah Carey is an attorney. To the best of my knowledge she has little or no experience in the improvement of state and local criminal justice systems. Indeed, the basis for many of her criticisms of LEAA is a distortion of the contents of a lengthy, careful and independent study made public by LEAA more than two months ago. It was a comprehensive analysis by the MITRE Corporation of our High Impact Anticrime program. However, Eleanor Chelimsky, who heads the MITRE Corporation's Criminal Justice System Research Department and who wrote the High Impact analysis, has come to a conclusion directly opposite to the one reached by Ms. Carey. In a recent letter, Ms. Chelimsky commented that abolishing LEAA "would not help, it would just set the fight back by 3 years" to where we were before the program began.

Ms. Chelimsky pointed out, in addition, that it "is really not credible to say that LEAA has not made serious improvements in the criminal justice system. Just looking at Impact alone, we have seen a quantum jump in system capability, in planning and evaluation, in coordination. We have seen community involvement develop where there was none before, and we have seen crime rate decreases now, in four Impact cities (Atlanta, Baltimore, Newark and Portland) while Denver and Dallas have improved, contrary to press reports.

"These facts, however, have been overlooked by Carey. Further, the scope and arduousness of the problems confronting LEAA escape her simplistic, subjective approach.

"Subjectivity, that is the real problem. Carey makes no effort at objectivity, yet this is an essential quality of the evaluator she claims to be, or of any social scientist for that matter. Carey, however, is not a social scientist, her approach is neither scientific nor objective, she is a lawyer, concerned with prosecution. But if she is not objective, and makes no effort to be so, then there is not confidence that her conclusions are based on fact rather than fancy, on performance rather than politics."

As it happens, Ms. Chelimsky has spent some time with Ms. Carey, and this is what she said about her: "What bothers me most about [Ms. Carey's] remarks is their simplistic nature: her utterances would lead to the belief that people are either heroes or villains, frauds or saints, fascist pigs or great liberals, nothing in between. In the same way, her remarks show little understanding of the complexities involved in the planning, organization, management, implementation, coordination and evaluation of a program like Impact. Even more importantly, however, she wants no part of such understanding. On the contrary, she is quite comfortable with her monolithic view that crime is a simple problem and that we can make it go away if we just belong to the right political denomination or get rid of the bad guys. The proof of this is that she makes no suggestions as to what should be done differently and/or better to reduce crime. This, of course, is because she doesn't know. But why then, should we take seriously her opinion that LEAA 'should be abolished' if she doesn't know what to put in its place? Would she let crime continue to rise unchecked? And why would one abolish LEAA because crime rates are up? This is like abolishing NIMH because there is more schizophrenia or DOD because we have lost a battle."

My own view is that LEAA is a pioneer working in what is largely an uncharted area. It can provide a relatively limited amount of assistance—less than 5 percent of the total amount spent annually for law enforcement—and cannot reasonably be expected to reduce crime single-handedly.

But LEAA funding has stimulated state and local governments into re-thinking about many of their basic law enforcement programs. It has supported demonstration projects involving new criminal justice concepts. It has permitted the states and localities to select for funding those criminal justice programs that address their most pressing needs.

LEAA believes that program has been successful and should be judged on an objective review of the facts; not on the basis of an "unavailable draft report."

RESPONSE TO A REPORT BY THE TWENTIETH CENTURY FUND TASK FORCE

The Twentieth Century Fund Task Force recently released a study entitled: "Law Enforcement: The Federal Role." The Task Force, in the report's introduction, said its goal was to provide an up-to-date, independent evaluation of the Law Enforcement Assistance Administration.

LEAA certainly has no misgivings about a constructive analysis of its operations. A reasonable and thoughtful discussion of what LEAA is doing can only result in more effective programs for LEAA and contribute to better government, which is in the interest of LEAA and, more importantly, the nation. LEAA expects public scrutiny—indeed, welcomes it—for that is one of the most effective ways to resolve problems, especially when dealing with the complexities of the criminal justice field.

The major recommendation of the report deals with the reorganization of LEAA. The basic premise of this recommendation was proposed by the Administration three years ago and was rejected by the Congress. The proposal to employ special revenue sharing was presented by the Attorney General before Subcommittee No. 5 of the House Judiciary Committee on March 15, 1973. Here is an excerpt from that testimony:

"(The) block grant concept gave the state and local governments the leading voice in how to set up their crime reduction programs and use the funds. (It) represented an excellent first step.

"However, local control was not totally assured under block grants. And the President is now seeking special law enforcement revenue sharing to complete the course toward a fully rational criminal justice assistance program for the state and local governments.

"Under the new proposal for LEAA, special revenue sharing for law enforcement would include those funds LEAA now awards for block action grants as well as the present special grants for planning, general law enforcement training, organized crime prosecutorial training, corrections programs, technical assistance, manpower development, and education."

Congress flatly rejected the proposal and retained the block grant action program.

RED TAPE

Included in the report's revenue sharing proposal is a recommendation for the abolition of LEAA's ten regional offices. We respectfully disagree with this recommendation. These offices are very small with a heavy workload of not only administering block grants by LEAA but categorical programs as well. LEAA shares the concern of the Twentieth Century Fund about "red tape" and the Congress also has agreed.

During the Congressional oversight hear-

ings in 1973, the Committees received testimony which was primarily concerned with delays in the receipt of funds. Only occasionally did the testimony mention paperwork requirements.

In response to these concerns, LEAA's legislation was amended to require that states either approve or disapprove any application from a local government unit within 90 days of the receipt of the application by the state criminal justice planning agency. All states have developed procedures and are in compliance with this requirement. In addition, requirements were placed upon LEAA that state plan submissions be approved or disapproved within 90 days of their submission to LEAA. Likewise, action on such state plans have all been well within the 90 day statutory limit.

LEAA also has initiated a red-tape reduction project to streamline operations as much as possible and to reduce unnecessary paperwork.

This Committee should also be aware of the following errors in fact in the Twentieth Century Fund report that LEAA in good conscience must correct for the record:

"The printed guidelines for state plans are 200 pages long." The highest number of pages ever for the guidelines was 71, generally they are 20 to 30 pages long.

"Some state plans are the work of outside consultants. . . . to LEAA's knowledge, only two states have ever used outside consultants. One state used consultants for two years, the other for one year.

Some red tape is imposed upon us by statute. LEAA has three major areas of regulation: civil rights compliance, audit and privacy and security. In two areas, civil rights compliance and privacy and security, the report states that LEAA is not doing enough. This is not compatible with the overall view of the Task Force which advocates cutting down red tape. And although the Twentieth Century Fund does not mention "Audit," this is a federal oversight program common to all federal programs including general revenue sharing.

One final note on "red tape." The Twentieth Century Fund Task Force recommends that payments be made directly to individuals in the Law Enforcement Education Program (LEEP) instead of to educational institutions.

A measure was introduced in 1973 in the Senate that would have ordered LEAA to distribute LEEP funds directly to the students as the Task Force recommends. The proposal received only two votes, indicating that the Congress, too, could foresee the morass of "red tape" that such a program would entail.

In addition, evaluations of programs that make payments directly to students indicate that abuse under these plans is significant. Such a plan would remove some of the existing incentives for schools to strengthen the quality of their crime-related programs. It is conservatively estimated this would require 400 additional personnel to monitor just this function. LEAA's total staff is about 700 people.

RESEARCH

The recommendations of the Twentieth Century Fund are superficial when the Task Force addresses research. There is one side of the recommendation with which we agree and that is the need of continued and more in-house facilities.

First, the National Institute of Law Enforcement and Criminal Justice already supports a program of Research Fellows which attracts talented researchers who come to the Institute to work on innovative projects of their own design. Secondly, the Institute in its past experimented with an in-house research component and found that it was not practical with existing staffing allocations. It was not the inability to attract good researchers, but rather the immediacy of the program development monitoring demands for the external research program which quickly eroded the time of even the small staff which was concentrating on its own research. The Research Fellowship Program assures that researchers have maximum freedom to manage their own research. Given an ideal situation in which staff resources matched the demands of the program, the Institute would welcome an expansion of an in-house research capability.

The charge that "little attempt has been made to incorporate findings into the criminal justice systems at state and local levels" is false.

The fact is that the Task Force's proposals have been carried on by the Institute ever since its existence. They were strengthened with the 1973 amendments that directed the Institute, "where possible," to determine the impact of LEAA's criminal justice assistance programs. To achieve that, the Institute established an Office of Evaluation to evaluate the management and performance of selected LEAA programs, help state and local agencies to improve their evaluation capabilities and develop new evaluation tools and methodologies. It also established a National Evaluation program to assess the effectiveness of special approaches to criminal justice problems.

In addition, the Model Program Development Division of the Institute has been providing basic information to state and local units of government concerning what works and what does not work in law enforcement and criminal justice. Today, more than 5,000 practitioners and policy makers have received training as part of this program.

The Task Force claims that "too much reliance on outside research has made LEAA's research program too diffuse and unmanageable . . . little Institute sponsored research has found its way down to the states, far less to the streets . . . the Institute has been reluctant to build up their staff of in-house researchers, on the theory that first-rate talent will not want to work for the government."

The entire section relating to "in-house research" is without factual basis. Unlike the comprehensive assessments of LEAA and the Institute currently under way by the Advisory Commission on Intergovernmental Relations and the National Academy of Sciences, no staff were interviewed, no résumés were examined, no grants and contracts examined, no state and local officials surveyed. The specific statement regarding the reluctance to have in-house researchers is totally inaccurate and without foundation.

SYSTEMS AND STATISTICS

To turn to the area of data collection, LEAA agrees completely with the necessity to develop a "systematic regularized, reliable set of criminal justice statistics." The recommendation to analyze the needs and validity of existing crime statistics has already been addressed by LEAA. The National Criminal Justice Information and Statistics Service is now in the process of completing a five-year master plan for the development of improved criminal justice statistics dealing not only with the incidence of crime but the flow of the offender through the criminal justice system. In the crime reporting area, LEAA has funded the improvement of state Uniform Crime Reporting through the Comprehensive Data System program to enable the states to provide high quality crime statistics to the national collection effort. As a result of LEAA's investment in this area, 31 state statistical analysis centers are now beginning to collect good criminal justice statistics in their respective states.

As a result of efforts initiated by Project SEARCH, LEAA has created and is funding the development of a nationwide statistical system based on the flow of offenders through the criminal justice process. The strategy for implementation of this nationwide improved criminal justice statistical program focuses on the development of improved collection and analytical capabilities in the states themselves, rather than mandating a federal program.

Efforts are also under way to correlate the LEAA victimization statistics with uniform crime reports to compare victim experiences with crimes known to the police. Based on models developed with LEAA funds, state judicial information systems and offender-based corrections information systems are being implemented in many states with the requirement that these systems produce the offender-related criminal justice statistics so badly needed in the nation. The entire Comprehensive Data System program is under continual review and new guidelines are currently being issued.

The Task Force alludes to discussions over the control of a nationwide computerized criminal histories network and alleges that conflict exists between the FBI and LEAA in control of this system. This is clearly not the case. LEAA has funded the National Law Enforcement Telecommunications System to help the states exchange information not provided by the National Crime Information Center operated by the FBI. The Department of Justice has already created the Task Force-recommended review board to deal with the policy for operation of any and all systems funded or operated by Department of Justice agencies. Further, the National Crime Information Center has an advisory policy board representative of the criminal justice community to deal with these issues.

ORGANIZED CRIME

We generally agree with the Task Force's comments in the area of organized crime, but we respectfully suggest that LEAA's activities are somewhat more extensive than the report reflects. Also, this is a type of program that takes time—a lot of time—and this would hardly be possible under the one-year extension of the LEAA that the Twentieth Century Fund recommends.

POLITICS

We violently disagree with the Task Force report allegations that partisan politics has played a part in the allocation of LEAA funds.

First, the block grant concept, the population formula under which LEAA distributes most of its funds, leaves no room for political partisanship at all. Also, over the years, the agency has dealt with hundreds of state and local government officials of all political persuasions.

An overwhelming majority of those officials have in fact been members of a different political party to the Administration in Washington.

As for the specific charge that there was political pressure brought to bear in Philadelphia, I have no personal knowledge of this alleged incident. Although I was at LEAA at the time, I was not privy to any discussions or negotiations, if in fact there were any. Also, our subsequent relationships with Philadelphia suggest there was no partisanship. Our largest grant has gone to the courts. The next largest went to the special prosecutor for the investigation of official corruption in the City of Philadelphia.

PRIVACY AND SECURITY

LEAA has a complete set of privacy and security regulations and requires that in LEAA-funded criminal justice information

systems, certain basic security and privacy considerations be followed.

It should be pointed out that LEAA has executed this rigorous and extensive program governing the privacy and security of information collected and disseminated as a consequence of LEAA funding. However, the serious constitutional issues involved in this area are more properly the province of Congress. Since 1971, the Department of Justice and LEAA have repeatedly offered legislative proposals to resolve these issues, but the proposed legislation has failed in Congress.

COMPREHENSIVE PLANNING

Here is an instance where the Twentieth Century Fund Task Force is for a program, and at the same time is against it! The Task Force criticizes the annual plan review, but on the other hand suggests that the comprehensive planning process be placed on a five-year cycle. This of course makes no sense at all when you consider that the Task Force has recommended in the first instance a one-year extension of the LEAA program. In the past, LEAA has favored multi-year plans which could be updated by annual plan submissions. Current LEAA guidelines permit a single plan to become the basis for multi-year funding with annual updates of changed portions of the plans.

GMIS

The LEAA grants management information system, contrary to the Task Force report, was set up to permit the effective management of the LEAA grant program, rather than in response to earlier criticisms. The grant descriptions are indeed submitted by the grantees, and properly so, and are now being checked for accuracy in the editorial process. During the last year, LEAA has undertaken a substantial effort to improve the accuracy and completeness of this record of grants. The fact that the data is not completely and accurately entered into the computer does not imply that such data is not available in manual form.

Again, LEAA has already undertaken the revision of the coding procedures and the design of the system to provide more rigorous and complete descriptive data on all categorical and block grants. The agency does require, and will increasingly insist, that grantees provide data for the system in a timely fashion. While this system does not provide all of the fiscal data required for the effective management of the program, other information systems and manual systems do exist to account for the expenditure of funds.

ONE-YEAR REAUTHORIZATION

Not only would this proposal of the Twentieth Century Fund have the effect of changing the nature of the LEAA program to the type of short-term and limited efforts which have been criticized by the Congress and others on several occasions previouly, but would also have other adverse effects on the objectives of the Safe Streets Act.

It should be emphasized that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974. That legislation has as one of its primary objectives the development of a long-range planning capability by the Federal Government, with program expectations stated for five years. Extension of the LEAA program for five years would be consistent with this Congressional objective and would assure stability in this aspect of federal assistance.

One of the key features of the current LEAA program is the comprehensive planning process which I mentioned earlier. This planning, to be effective, must necessarily have long-range implications.

A one-year program and the uncertainty as to future assistance would have adverse effects on state and local efforts.

The nature of the projects supported could change significantly in form, from innovative efforts expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal operational expenses.

Jurisdictions would be hesitant to make a commitment to many significant undertakings because of the possibility of abrupt loss of support.

Short-term programs would also encourage the purchase of equipment by localities since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive since they require no follow-up planning or evaluation.

There could additionally be a chilling effect on the raising of matching funds by localities. Local officials may not wish to make a substantial investment in a program which could possibly remain in existence for a brief period, or which might be drastically changed in nature.

One particularly striking example of the negative results which might occur because of a reauthorization limited to one year is in the area of LEAA's corrections effort. The objective of our corrections program is to develop and utilize hypotheses concerning techniques, methods, and programs for more effective correctional systems and improved capabilities of corrections, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating the outcome of such efforts requires substantial time, effort, and funding commitments. One year is an unrealistic period to accomplish such objectives.

OVERSIGHT

This paper catalogues some of the most serious errors of the Task Force report. Apparently the authors of the report do not understand the provisions of the Act which created LEAA. This is particularly distressing to LEAA because the agency spent many hours filling the requests for information by the Twentieth Century Fund. It is in no sense a comprehensive examination of the LEAA program and many of the Task Force statements indicate a serious misunderstanding of how the LEAA operates and of the LEAA's mission—as set forth by Congress in the enabling legislation.

Moreover, to quote the report, the "Task Force urges that Congress exercise more vigorous oversight regarding LEAA." The impression is that LEAA has rarely—if ever—been questioned by Congress on its programs and projects. That is patently nonsense. Both the House and Senate Judiciary Committees held oversight hearings on LEAA in 1970, 1973, and 1975. Each year, LEAA undergoes oversight before both the House and Senate Appropriation Committees. The House Governmental Operations Committee conducted extensive oversight hearings on LEAA. In fact, the testimony is 1,000 pages long! And the General Accounting Office has audited scores of LEAA programs and projects. In relation to juvenile delinquency, the Senate Judiciary Subcommittee and the House Education and Labor Committee conducted hearings in 1973 and 1974. LEAA has undoubtedly undergone a thorough scrutiny in the last eight years—not to mention the hearings representatives of the agency have testified at this year.

CONCLUSION

What is the role of LEAA? In the seven years the Agency has been in operation, there has been confusion over whether it is crime reduction or system improvement. This confusion began with President Johnson's crime message of 1967 and was continued in certain respects into the Nixon Administration. LEAA should not be held responsible for crime reduction objectives. Congress understood this and our legislation clearly and repeatedly states that the basic responsibility for improvement of the criminal justice system rests with state and local governments. They do most of the work, as well as supply most of the funds. The Law Enforcement Assistance Administration is clearly only responsible for system improvement.

Under the Crime Control Act, LEAA cannot dictate to state and local governments how to run their criminal justice systems. LEAA neither approves nor disapproves specific projects a state or city may want to support with block grant funds—unless the proposal is inconsistent with the provisions of the state's comprehensive plan. Each state makes those decisions on the basis of its own evaluation of needs and priorities. These are statutory requirements to which LEAA must adhere.

STOCK MARKET RECORD COMPARISONS

Mr. HUMPHREY. Mr. President, claims by one political party or another during an election year can sometimes be seriously misleading. I believe it is important to set the record straight on the condition of the stock market during respective Democratic and Republican administrations of recent years.

The facts of the matter are that the Nixon-Ford administration has put the stock market on a roller coaster ride that has left the investing public and corporate America with a severe case of financial motion sickness.

The 1976 Economic Report of the President, on page 266, presents Standard and Poor's common stock data and discloses that during the 8-year period, 1961–68, the years of the Kennedy-Johnson administrations, the stock market was not only stable but followed an overall growth trend which increased by 50 percent the average composite price of industrial, public utility, and railroad shares.

On the other hand, the Nixon-Ford administration years, 1969–75, are represented by a list of composite average common stock prices that begin at a slightly lower price level than was attained in 1968, zoom up for a 2-year gain in 1972 and 1973, and then plummet to a point well below the price level of 1968.

This is not exactly what you could call a great example of stability and prosperity for the investing public and the Nation's publicly owned corporations. In point of fact, a fair segment of the investing public got out of the market altogether during this period.

Mr. President, let us examine the different trends in the stock market during Democratic and Republican administrations, which are graphically indicated by the President's Economic Report of 1976. What follows is the yearly composite average price for industrial, public utilities and railroad stocks as compiled by Standard and Poor's. The list represents the year-to-year action among 500 stocks accounting for most of the value of all common stocks traded on the New York Stock Exchange. First, the period

1961–1968 when Democratic administrations served the Nation:

1961	$66.27
1962	62.38
1963	69.87
1964	81.37
1965	88.17
1966	85.26
1967	91.93
1968	98.70

Compare this with the roller coaster years of the Nixon-Ford administration:

1969	$97.84
1970	83.22
1971	98.29
1972	109.20
1973	107.42
1974	82.85
1975	86.16

Mr. President, I invite the investing public to trade in its economic motion sickness for the comfortable, steady growth and prosperity enjoyed by all the people of the Nation during the years when Democratic administrations served the country.

CONGRESSIONAL ARCHIVES

Mr. HRUSKA. Mr. President, on May 6 of this year, in the assembly room of the Dirksen Congressional Research Center in Pekin, Ill., a symposium concerned with various aspects of congressional archives was held under the auspices of the Lilly Foundation. Some 60 archivists, historians, and librarians attended.

My colleagues will recall that the Dirksen Center was established in memory of the late Senator Everett McKinley Dirksen. Its board of directors, under the able and dedicated leadership of James Unland, president of the Dirksen Endowment Fund, has undertaken an ambitious program to develop the center as a unique archival library and research center serving legislative scholars and historians.

It was in furtherance of that goal that the symposium had as its keynote speaker the distinguished Archivist of the United States, James B. Rhoads.

Other participants included:

John E. Velde, Jr., Commissioner, National Commission on Libraries and Information Science;

Robert A. Jones, Director, Cullam-Davis Library, Bradley University;

Philip Weinberg, Director, Center for Learning Resources;

Sylvia Faibisoff, Professor, Graduate School of Library Science, University of Illinois;

William C. McCully, Jr., Archivist and Administrator, Dirksen Congressional Research Center;

Charles O. Jones, Professor, University of Pittsburgh.

In addition to the presentation of formal papers, extemporaneous presentations were made by Richard A. Baker, Historian of the U.S. Senate, and Max M. Gilstrap of the Richard B. Russell Library at the University of Georgia.

Dr. Baker was kind enough to send me a summary of his notes of the symposium.

Mr. President, in order that Senators who are considering the disposition of their own papers may have some understanding of the considerations involved, and to further an appreciation of the exciting work being undertaken at the Dirksen Center, I ask unanimous consent to have printed in the RECORD the introductory remarks of President Unland, the keynote address of Dr. Rhoads, and the summary notes of Dr. Baker.

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

SEMINAR ON CONGRESSIONAL ARCHIVES, PEKIN, ILL., MAY 6, 1976

Welcome by Mr. James M. Unland, President of the Board of Directors of the Everett McKinley Dirksen Endowment Fund:

We are delighted to have you all in Pekin, Illinois, at the home of the Pekin Public Library which is combined with the Dirksen Congressional Research Center.

The Research Center has been financed with private funds. Those of you who knew the late Senator Dirksen, whether you agreed with his political philosophy or not, I'm sure all agree that he was a very human person. And he had a dream that he wanted to humanize the history of the legislative process, and this is the beginning of his dream. Through your attendance, your participation, and your input, we hope as Board members to become better acquainted with this subject and implement his dream.

A little bit about our organization—We are a Board consisting of lay people, a rather heterogeneous group. We have an assistant to the president of a large insurance company as a member, a practicing attorney, a corporate executive, an architect, a home builder, a public relations consultant, two owners of insurance agencies, the widow of the late Senator, the chairman of the United Jewish Appeal of the United States, a housewife and civic leader, a retired corporate executive, and a United States Senator. We are going to broaden our base of individuals; we need additional talent. We want this to be non-partisan. It was not the Senator's desire nor that of anyone connected with the Dirksen family that this be a partisan Republican operation, and so we are going to continue to work in that regard.

We have one full-time employee, Mrs. Marie White, who has some archival background and has her master's degree in history.... We have several part-time employees whom we use as guides in the Exhibition Hall. We've had about 6000 people through this Exhibition Hall in the last several months. We were not really open until late fall. We're looking forward to quite a crowd this summer when tourism hits Illinois. With the Bicentennial flavor and with some improvements we've made, we'll be on the Tourism map of the state. We hope you will browse through the Exhibition Hall. Upstairs, on the second floor of this structure, is the area where we hope we will some day have the Senator's papers classified, and it will be the home of the Research Center. Upstairs are many items of memorabilia and artifacts, and as time goes on, we'll have more of those items on display downstairs.

I have three or four messages that I would like to read to you. The first is from the Senator's widow:

DEAR JIM: You know, of course, that I deeply regret not being with all of you at the Seminar on Thursday. Please extend my best wishes to all in attendance and my thanks and appreciation for their taking time from busy schedules to visit the Dirksen Center.

Through the combined efforts of all concerned, I know that one day soon Everett's dream of a living educational Research Center will be realized.

Sincerely,

LOUELLA.

DEAR JIM: It is a matter of keen regret to me that the Senate schedule precludes my being with you at the Seminar on Congressional Archives in Pekin on May 6.

Your program and the impressive list of speakers and conferees indicate a well planned and productive meeting.

I am looking forward to a report on your deliberations and conclusions.

Please extend my best wishes to those attending the seminar and convey my sincere regret that I cannot be there.

With kind personal regards,

Sincerely,

ROMAN L. HRUSKA,
U.S. Senator.

As you could have guessed, he is the United States Senator who is a member of our Board. He is retiring from the Senate from the state of Nebraska this year and has volunteered to become quite active in this enterprise, and we're delighted.

DEAR JIM: I want you to know how impressed I am with the seminar you and your colleagues have put together for the 6th of May. This event should, in my view, mark an important step in the progress not only of the Dirksen Library, but of the science of legislative archives as well.

I am vitally interested in the concept being discussed, and want to take this opportunity to wish you a most successful day, and to express my sincere regrets that the press of Congressional business—which I suppose may be thought of as archiving—prevents me from being in Pekin myself for the seminar.

With every good wish to you and all of the seminar participants.

Sincerely,

ROBERT H. MICHEL,
Member of Congress.

The last of the telegrams, addressed to Mrs. Dirksen, has just arrived:

My thought will be with you and the other prominent citizens who will be participating in the congressional leadership seminar at the Everett M. Dirksen Center. As a longtime friend and great admirer of your husband, I am delighted that the center which bears his name is dedicating itself to the study of a skill in which he was a master. I hope that it will be a most rewarding and productive experience for all.

GERALD R. FORD.

You will recall that President Ford and the late Senator were team-mates as minority leaders in the House and in the Senate. The President has been most interested and has contributed financially to this project.

We have, we think, a very excellent program to present to you. Throughout the day we will have members of our Board introduce the speakers.

ADDRESS OF DR. JAMES B. RHOADS, ARCHIVIST OF THE UNITED STATES

I am pleased and honored to be asked to keynote this symposium on Congressional Archives here at the fine new facility of the Dirksen Center. Senator Dirksen certainly exemplified the ideal of politics as the art of the possible. Working within a consistent framework of his own political philosophy, Everett Dirksen was always available to his colleagues, be they fellow Republicans or his honorable opposition, to fashion compromise and conflict into workable national policy. It is proper and fitting that his papers are preserved for the use of historians in interpreting his era.

We have just come through a period in our national history that has been characterized

by an emphasis on Presidential politics. Arthur Schlesinger, Jr., has called it an imperial Presidency; George Reedy thinks we are in the twilight of the Presidency. But now, in the calm after the turmoil of the recent past, we see a growing interest in the Congress as a countervailing force to the executive branch. Public and scholars alike are turning their attention to the Congress, evaluating its performance, calculating its strengths and weaknesses, appraising its past and speculating upon its future.

During the last 15 years, research on American legislative behavior has turned increasingly to quantitative and statistical analyses. This important trend has produced significant new ways to look at American politics. The Midwest boasts an outstanding center for such statistical research on the political process—the Survey Research Center of the University of Michigan. Devoted to the accumulation of statistical data on various aspects of political behavior, the Michigan center has fostered a rich literature of sophisticated analysis.

Yet, as the distinguished political scientist Thomas Dye has written, "Quantification necessitates a simplification of what may be a very complex question." One of the best ways to balance a tendency toward over-simplification is to use manuscript materials—the personal papers of the Members of Congress and the records of congressional committees.

But locating such materials may prove frustrating to the researcher. The National Archives and Records Service of the General Services Administration receives the official records of the Congress, and, with the consent of the Congress, we make them available for research.

The National Archives also holds some personal papers of Members of Congress in our Presidential libraries system—the late Wright Patman, for example, left his papers to the Johnson Library; Bourke Hickenlooper and Gerald Nye have deposited theirs in the Hoover Library; Thomas P. O'Neill has announced that he intends to place his papers in the Kennedy Library. In addition, we have the papers of Presidents Truman, Kennedy, and Johnson from their years in Congress. However, we in the National Archives are not actively seeking to collect a broad range of personal papers of Members of Congress—our mission is to preserve the official records of the United States.

Many state historical societies and state archives collect papers of the Congressmen and women of the state, but to my knowledge there is no institution devoted solely to the acquisition and preservation of the papers of congressional leaders.

Recently the Senate has appointed a Senate historian among whose announced projects is the production of a directory of the locations of the papers of all past and present Senators. Such a directory will help, but the scholar will still have to travel from one manuscript repository to another seeking the pieces. Obviously, research trips will never be completely eliminated, but a center supporting a collecting and reference program such as the Dirksen center proposes will certainly eliminate some of the expensive research burden. It is somehow appropriate that, just as many of our most eminent political leaders in recent decades have come from the Middle West, important centers of statistical and documentary research on the political process are to be located here.

I am not suggesting that the Dirksen Center either solicit the papers of every Member of Congress or save every piece of paper from every collection acquired. The resources to accomplish such a project are beyond the scope of even the Federal Government. An archives should not save everything, and congressional papers are often replete with voluminous materials of at best marginal historical value. The cost of preserving this chaff is unreasonable, but in candor I must warn you that even the process of throwing away is a costly one as it must be done carefully and wisely to serve the needs of future generations as well as our own.

And yet within many congressional collections is extremely valuable material. Such documents reflect the informal structure of Congress, the demands of constituents and lobbyists, the expectations and perceptions of the Congresman himself. It is this material that the Dirksen Center archivists must identify, preserve, and make available to scholars. These papers show what makes Congress tick and what makes the Congressman tick.

But to hear these ticks and make sense of them—to get a melody out of the disconnected notes—it is important to use many sets of congressional papers at once. Woodrow Wilson made that point in his classic Congressional Government written in 1885 when he said, "Like a vast picture thronged with figures of equal prominence and crowded with elaborate and obtrusive details, Congress is hard to see satisfactorily and appreciatively in a single standpoint." The Dirksen Center can contribute to the larger understanding by acquiring and maintaining a diverse collection of materials that, used together, will illuminate the larger picture.

As a fellow archivist, I feel that I must alert the archivists here at the Center of a new development that may soon further complicate the already serious difficulties encountered in making the decisions of what to save and what to preserve. I refer to the possibility that a future Congress will pass legislation that will circumscribe the Federal official's freedom to do with his papers as he will.

Much of the controversy of recent years, from the Pentagon papers to the Watergate tapes, has focused on the ownership and control of documentation. Former President Nixon's well-publicized claim of personal property in his Presidential materials resulted in Congress passing a law seizing these materials and keeping them in Government custody. A second—and lesser known—element of that same legislation called into being a Public Documents Commission to examine the broad legal and political aspects of ownership of papers of Federal officials and to make recommendations to the Congress for a new national policy on their disposition.

It seems to me that the problem posed by the papers of public officials involves three important issues overlapping and partly in conflict.

One is the value of preservation of the historically significant material; another is the need to make the preserved documents available for research; still a third is the necessity to protect the privacy and the political liberties of the public official who created the papers and those who corresponded with him. It is imperative that in any new national policy we meet these three demands.

While it is risky to predict what the recommendations of the Public Documents Commission on the question of ownership of the papers of Federal officials will be, it is possible that in the future Federal officials will be asked to make a distinction between the portions of their papers that are public papers and the portions that are private. It is important that both papers deemed private and those deemed public are preserved, but the result of the legislation stemming from the Commission recommendations may well be that different guidelines will cover access to the public and private portions. As archivists we may be called upon to suggest to public officials a better means of filing and sorting their papers and to make certain that the distinction between private and public portions is clear when the papers are deposited in an archival institution. It is even possible that Federal officials may ask archivists to make the determination of which materials are public and which are private, a consideration that will entail a greatly different approach to processing papers than the one now commonly employed. Any institution planning to collect large quantities of the papers of Federal officials must be aware of the Commission's work and of the complex problem it is addressing.

As the Dirksen Center well knows, the enterprise upon which it has embarked is going to be exceedingly expensive. Archival processing is a slow deliberate work that includes identifying the major segments of the collection; determining and maintaining, where possible, the original filing order; arranging the material in labeled containers; undertaking necessary preservation activities, and describing the completed arrangement as accurately and intelligibly as possible. The jargon of the archival profession calls all of this activity "processing," but that simple word requires the archivist to be part detective (how was the Senator's office file arranged?), part chemist (is this paper with a high acid content that needs deacidification?), and part patient laborer (how many newspaper clippings are there to mount?)

The tools of the trade are relatively simple and inexpensive—archival boxes, brass staplers, and the like—but the time required to complete processing makes the activity a very costly one.

Not only is archival processing an expensive business, but so, too, is the procedure of making holdings known and available to the user. A comprehensive list of holdings should be produced, published, and distributed; entries for such standard sources guides as the National Union Catalog of Manuscript Collections or the so-called Hamer Guide must be prepared; detailed finding aids for each collection of papers must be produced for use in the research room. Eventually a depository might undertake documentary publication, but whether in letterpress or microform, cost must be very carefully considered before plunging into such a major project. So, too, should the use of computerized retrieval and transmittal be prudently considered before investing great sums—computer programs can try both men's souls and men's pocketbooks. Finally, personal contact cannot be surpassed as a way to make holdings more widely known. Participating in the Society of American Archivists, attending meetings of various national historical organizations, sponsoring conferences at the Center, perhaps even giving modest prizes for publications utilizing the Center holdings are all important necessary public relations techniques to publicize Center services.

While short term funds for archival projects may be available from foundations and other eleemosynary institutions, it is very difficult to find long term sources of support. At the risk of confusing you with the names and activities of two different Federal commissions, I do want to call your attention to a second commission important to the fate of the historical materials of our country. This is the National Historical Publications and Records Commission, a standing commission established by Congress of which the Archivist of the United States is Chairman. This Commission is charged with the preservation and publication of important historical materials throughout the nation. Over the past several decades, the Commission has sponsored

numerous publication projects—you may have heard of the publication project on the papers of the illustrious Adams family, the product of which formed the basis of the recent educational television production on the Adams family.

Originally established to support documentary publication projects, the Commission's responsibilities were greatly enlarged in 1974 when Congress passed legislation enabling the Commission to make grants to support the full range of activities relating to the preservation and use of historical materials—archival processing, if you will. No funds, however, have been requested by the administration or appropriated by the Congress specifically for these new preservation grants. Currently such grants as are made come out of the Commission's regular budget. If the experience of the earlier publications program holds true, at least $2 of non-Federal funds will be generated by every dollar of Federal grant money. Yet even so, the amount appropriated for the Commission is simply inadequate to support a major archival program such as the one envisioned by the Dirksen Center.

Putting aside the problems of funding, the National Historical Publications and Records Commission is justly proud of its role in creative federalism. At the Commission's request, the Governors of nearly 40 states have appointed State Historical Records Coordinators, and in nearly 30 states State Historical Records Advisory Boards have been nominated by Governors and approved by the Commission. These boards provide a state-level mechanism to evaluate grant applications and to set priorities to see that the most critical needs are identified and funded The records program is not another case of the Federal Government telling states, local governments, and non-profit institutions what to do and how to do it. Instead, the Commission relies heavily upon the advice of professionals and other interested citizens at the state and local level to do that. I regret to report that the State of Illinois has not yet chosen to participate in this program. Those of you here today may want to investigate the possibility of Illinois joining the Commission family and then to support its work in the public interest of the citizens of your state. It would be an appropriate activity for all those interested in history in this bicentennial year.

In conclusion, I would like to voice my support for the collecting program of the Dirksen Center. We in the National Archives do not believe that all papers of Federal officials must be deposited in the National Archives system. Many non-Federal institutions have repeatedly demonstrated their ability to preserve, protect, and make available just such material. We do seek to assure the public that this material will be preserved and that it will be made available in a timely and orderly fashion. If the Congress at some time in the future decides that the National Archives should have hegemony over the papers of Federal officials, we would gladly undertake an advisory oversight role, but we have no wish to hold all of them in our buildings in Washington. We believe that a cooperative Federalism to preserve the past will be our most effective instrument. Somehow, I believe that Everett McKinley Dirksen would have agreed.

SEMINAR ON CONGRESSIONAL ARCHIVES

GENERAL

This day-long conference was called to discuss the feasibility of developing a "regional Congressional Leadership Research Center" at the Dirksen Library. Approximately 60 archivists, historians and librarians attended. Most were from the Illinois area. Seven papers were presented. The proceedings were recorded and may be published at some future date.

SUMMARY OF PREPARED REMARKS

James Unland, President, Dirksen Endowment Fund

The Center's primary objective is to "humanize the history of the legislative process."

6,000 person have visited since the fall of 1975.

It strives to be non-partisan.

John Velde, Member, National Commission on Libraries and Information Science (NCLIS)

There are major barriers to institutional cooperation among libraries. They include unstable funding, lack of clear and universal guidelines for service, negative public attitude toward changes in library service patterns and institutional jealousies.

These barriers can be overcome. NCLIS is leading the drive for cooperation and standardization.

Robert Jones, Librarian, Bradley University, Peoria, Illinois

Proliferation of information has created severe problems of access and control.

The Dirksen Center needs to tie into the information networks and professional staffs of academic libraries.

Philip Weinberg, Center for Learning Resources, Bradley University

At present congressional papers tend to be left unprocessed, isolated and randomly located.

Need a centralized agency to integrate collections bibliographically.

The midwest has many valuable collections of papers of legislative leaders. Perhaps a trend could start here.

Discussion of central Illinois' "Electronic Highway" that offers high-volume, high-speed, low cost transmission of documentary source material.

Yet much remains to be done. The time-frame for arrival of this electronic information transfer capacity is uncertain.

Initial processing of the Dirksen (and similar) collections is labor-intensive and costly. However, subsequent distribution and processing can be achieved at low cost.

James B. Rhoads, Archivist of the United States

In recent years there is a greater emphasis on Congress as a countervailing force to the Executive Branch. Scholars are appraising and evaluating Congress in great detail.

Need to have manuscript materials available to balance the tendency to oversimplification resulting from recent trend toward quantitative analysis of legislative behavior.

Congressional papers contain much valuable material for evaluation of how Congress and its individual members operate. The problem is that an effective evaluation results only when scholars can make use of many sets of congressional papers at the same time.

Public Documents Commission—its recommendations may mean that "some future Congress will pass legislation that will circumscribe the federal official's freedom to do with his papers as he will."

The papers of public officials raise "three important issues, overlapping and partly in conflict."

"The value of preservation of historically significant material."

"The need to make the preserved documents available for research."

"The necessity to protect the privacy and political liberties of the public official who created the papers and those who corresponded with him."

Any new national policy must meet these three demands.

Thoughts on the Dirksen Center.

Processing of Dirksen papers will be exceedingly expensive and time consuming.

Must give careful consideration to methods of making holdings known and available to the user. Letterpress or microfilm reproduction of documents is expensive and requires careful deliberation. Use of computers is also tricky and expensive in terms of cost-benefit ratio.

Personal contact is a good way to publicize collections. Give prizes for publications utilizing the Center's holdings and sponsor conferences.

Discussion of National Historical Publications and Records Commission.

Sylvia Faibisoff, Professor, Graduate School of Library Science, University of Illinois

The anticipations of the Center are "ambitious". To establish a computer network, you must consider the parameters of the situation. How does one organize the material found in the 1300 boxes? Material is mixed in nature and does not lend itself to easy classification and description.

There are different types of data bases. What are the characteristics of the Center's? What will it contain? Must interpret what is going into the data base. How complete? Will it grow? What data elements should be included? What type of access is desired? Who will be using it? What do you want it to produce? Does the Center have the personnel to organize, compile and update the data base?

Problem of compaibility with other data bases in U.S. Need to be able to search many files simultaneously. As papers of Dirksen's colleagues become available, they will shed much light on Dirksen's career, as his will on theirs. Thus, coordinate indexing, in depth, will allow a researcher to compare views of a number of congressional leaders at the same time on the same subject. This would put the researcher and congressional scholarship far ahead of their present situation.

The cost of "human intervention" or in-depth indexing of papers is very great. Information storage and retrieval presents many problems but they are not insurmountable.

The Dirksen Center should examine existing data bases, for much has been done. The Center is not starting fresh.

How much is the Center prepared to spend for indexing? Is a computer available? How much will computer access cost? Does the Center have funds for experimentation?

Charles Jones, Professor, Department of Political Science, University of Pittsburgh

Political scientists use congressional archives for three basic purposes.

Analysis of individual behavior. How did members of Congress relate to their districts and to their Washington responsibilities?

Analysis of leadership. There is a need for more comparative analysis of leadership (House v. Senate). What are the elements of congressional leadership?

Analysis of public policy. How is a problem recognized, studied and resolved legislatively? Is the process haphazard?

The Dirksen Center should keep these uses in mind as it considers the organization of its collections. At all costs, the Center must beware of uncontrolled development. It must think beyond its current collection to what and how the material might be used.

Archivists must strive for the establishment of codes and classifications governing how and when material is to be made available. He cautioned that we are now in a "test period". The liberality influenced by a climate of "moral fervor" may be subject to questioning and possible "backlash" in the future.

He discussed the desirability of affiliation with the University of Michigan's Inter-university Consortium on Political Research. They have many good data collections. The **Dirksen** Center should consider using them in its work.

ENERGY ACTION NO. 2

Mr. JOHNSTON. Mr. President, on May 24 the Senate Committee on Interior and Insular Affairs held a hearing on the Federal Energy Administration proposal—Energy Action No. 2—to modify the exemption for small refiners from the requirement to purchase crude oil entitlements. At that hearing I asked that the FEA supply for the Record the answers to a number of questions relating to this issue. Late this afternoon most of the FEA responses to these questions were received in the offices of the Interior Committee. Because of the substantial interest among members on this issue, I asked unanimous consent that a copy of the responses received be printed in the RECORD for the use and information of my colleagues.

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

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 25, 1976.

Hon. J. BENNETT JOHNSTON, Jr.,
Acting Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The enclosed material is transmitted for the record in response to the written questions submitted following the hearing on May 24, 1976, regarding Energy Action No. 2. Several of the questions are still being answered and will be handcarried as soon as they are completed.

If I may be of further assistance, please let me know.

Sincerely,

GORMAN C. SMITH,
Assistant Administrator, Regulatory Programs.

Enclosures.

I–1. Does FEA have any data to support the contention that some small refiners received, under the exemption, benefits "disproportionate to their actual needs"? Who? How much?

FEA has given ample opportunity to all small refiners to make a case of serious financial hardship resulting from entitlement purchase obligations. We consider that any small refiner who failed to have such a hardship claim examined by the FEA clearly does not require exemption benefits. A substantial group of refiners receiving greater than 5 cents per gallon benefit from the exemption in a given month had either never filed for exception relief or had exception requests denied because they could not make a showing of financial hardship.

The following list identifies those refiners receiving exemption benefits greater than 5 cents per gallon who had not filed for exception relief or who had exception requests denied during April through September, 1975:

OCTOBER

No exception application filed	¢/Gal *Benefit*
Dow	7.9
Fletcher	6.3
Little America	5.4
Saber (Texas)	10.8

Exception denied:	¢/Gal. *Benefit*
Evangeline	5.6
Howell	8.0

In total, 16 refiners received exemption benefits in October greater than 5 cents per gallon.

NOVEMBER

No exception application filed	¢/Gal *Benefit*
Caribou	5.1
Fletcher	7.0
Little America	5.3
Placid	7.6

Exception denied:	¢/Gal. *Benefit*
Evangeline	13.8
Howell	11.5
LaGloria	7.4
West Coast	8.6

In total, 20 refiners received exemption benefits greater than 5 cents per gallon.

DECEMBER

No exception application filed	¢/Gal *Benefit*
Golden Eagle	19.8
Southwestern	14.1

Exception denied:	¢/Gal. *Benefit*
Howell	11.3
Evangeline	6.8
LaGloria	5.2
West Coast	9.6

In total, 18 refiners received exemption benefits greater than 5 cents per gallon.

JANUARY

No exception application filed	¢/Gal *Benefit*
Caribou	6.4
Mountaineer	7.3
Union Texas	7.7

Exception denied:	¢/Gal. *Benefit*
Evangeline	5.1
Howell	9.0
LaGloria	6.5

In total, 19 refiners received exemption benefits greater than 5 cents per gallon.

FEBRUARY

No exception application filed	¢/Gal *Benefit*
Canal	6.1
Giant	12.9
Little America	12.7
Southwestern	7.1

Exception denied:	¢/Gal. *Benefit*
Evangeline	10.8
Howell	7.0

In total, 16 refiners received exemption benefits greater than 5 cents per gallon.

I–2. In deciding this, did the FEA consider fully diseconomies of scale, tax benefits available or not available, and any other factors beside the price paid for crude oil?

ANSWER

The FEA received considerable evidence concerning economies of scale in its proceedings on the issue. The modification before the Congress reflects industry statements that, although small refiners' costs are greater than large refiners', as refining capacity increases diseconomies of scale decrease. In our examination, we concluded that those refiners benefiting from the EPCA exemption are, as a class, no more in need of subsidies than small refiners not benefiting from the rule when diseconomies of scale alone are considered. Tax benefits were not considered, and the various other benefits available to small refiners through other government programs—such as preference in sales of government royalty oil—were not discounted in formulating the modification. The FEA cannot form rules to protect the most needy member of a class because, if that were done, less needy members would be unduly advantaged by the same rule. Certain small refiners who will realize decreased benefits under the FEA modification (as compared to the EPCA exemption) will be eligible for additional relief through the exceptions process if their circumstances warrant.

I–3. Does FEA have any data which supports a market shift toward marketers supplied by independent refiners, which shift is due to Special Rule No. 6?

ANSWER

The FEA does not collect data detailed enough to allow a close analysis of this question. However, we believe that changes in market shares have limited value in measuring the effect of Special Rule No. 6. A change in relative price between competitors frequently has the effect of causing the marketer whose price competitiveness has deteriorated to respond to his weakened competitive position by sacrificing a part of his profit margin in an attempt to minimize his volume loss. Under this case, the marketer suffers financial injury, but the loss of sales dollar volume will not be reflected in market share information.

I–4. Does FEA have any data to suggest that an exempt small refiner has increased its refining capacity or normal refining runs due to the benefits it has received under Special Rule 6?

ANSWER

FEA has aggregated data on all exempt refiners as to possible increases in receipts of old oil. The question you asked is phrased in terms of increases in runs, while benefits from Special Rule 6 actually increase only as a result of greater quantities of old oil as a portion of total receipts and runs. There have been unusual increases in old oil receipts of 10 exempted refiners, and compliance action has been initiated. Because compliance investigations have not been completed, we are not providing the names of the specific firms. Of these ten firms, eight have received benefits in excess of five cents per gallon in one or more months of the exemption.

I–5. Does FEA have any data to support the assertion that Special Rule 6 has provided an incentive to small refiners to curtail their refining runs? Have any small refiners curtailed their runs due to this exemption?

I–6. Does FEA have any evidence or data to support the assertion that the exemption has acted as a disincentive for small refiners to expand their refining capacity? Since December 22, 1975, have any refiners failed to expand their refining capacity due to this exemption?

ANSWER

It should be noted that the FEA's proposal did not state that the entitlements exemption under Special Rule 6 is causing a net reduction in such refiners' runs or capacity expansion, but that the exemption as structured contains inherent incentives to those ends. When considered in light of the extensive monetary benefits flowing to exempted firms, the incentives against expansion by an exempted small refiner over the 100,000 barrel per day limit are obvious. In addition, increasing crude runs above the 50,000 barrel per day level would operate to increase an exempted firm's crude oil costs for each barrel of product produced. If market conditions did not permit the recovery of these increased costs, the incentive in many cases would be to maintain crude run levels below the 50,000 barrel per day level. FEA's further consideration of such incentives led it to the conclusion that these incentives would be inconsistent with the aims and objectives of the entitlements program as well as specified objectives set forth in section 4(b)(1) of the EPAA. No data, records or documents further expanding on this analysis are available.

II–1. Is it true that as early as January 12, 1976, officials of FEA gave newspaper interviews in which they pledged their efforts to do away with this exemption? (John Hill alleged made such remarks to a New York Times reporter according to a Jan. 12 article in the New York Times.)

Answers to this question have not yet been received from FEA.

II–2. Throughout consideration of enacting a small refiner exemption, Congress was concerned that FEA implement the exemption in a manner which would not increase the *cost to small refiner sellers of entitlements*. What did FEA do to minimize this increase in cost when Special Rule 6 was issued?

ANSWER

When the small refiner exemption was issued, FEA spread the increased cost across all non-exempt refiners. This was in contrast to the method used when purchase obligations were phased in during the first several months of the entitlement program. Then, the added cost runs spread only across entitlement sellers, while entitlement purchase obligations remained fixed. The exemption method reduces the cost to small refiner sellers compared to the earlier treatment.

In the House Report on the House version of the EPCA, it states "the Committee wishes to make clear its intent that any entitlements exempted by this section (403) shall be treated just as the FEA treats entitlement purchasers which it has excepted through administrative procedures, i.e., by disregarding the old oil to which such entitlement purchases would apply when calculating the National Adjusted Old Oil Supply Ratio."[1] In the U.S. District Court decision of March 18, 1976, in Crown Central Petroleum Corporation, et al. vs Federal Energy Administration, et al., Judge Gesell concluded:

"The procedure followed by FEA here under attack is admittedly in strict conformity to the position taken in the House Report just quoted. This legislative history sequence appears the most authoritative among many scattered references and is entitled to special weight when opposed to Senate discussions of an earlier bill, ex post facto letters, or remarks of an ambiguous kind made in floor debate."

II–2A. Did Congress give FEA the authority to completely revoke the small refiner exemption?

Answers to this question have not yet been received from FEA.

II–3. Less than two months after issuing Special Rule 6, FEA issued a rulemaking proposal to modify Special Rule 6. Do you believe the small refiner exemption has been in operation long enough to accurately gauge its effects?

ANSWER

FEA's initial proposal to modify Special Rule 6 was issued on February 28, in anticipation of the fairly lengthly process of public hearing and comment, review, final rulemaking and Congressional review. It was relatively certain that the entitlement notice to be issued in June was the first month in which implementation of a modification was likely, and thus, six months under the exemption would already have been experienced in the marketplace. FEA was urged by those refiners who opposed the exemption (and those who wanted a larger small refiner bias) to initiate the rulemaking process as quickly as possible because each month of the exemption imposed marketing difficulties on them. FEA has been gathering data on the exemption and small refiner bias benefits, although it is extremely difficult to isolate marketing disparities directly caused by Special Rule 6.

II–4. What did FEA propose in its proposed rulemaking issued on February 28. How does that differ from what FEA proposed in its communication to the Congress on May 12? Does this not make a sham of FEA's public comment procedure?

The February 28 FEA proposal would have limited benefits received by a small refiner under the EPCA exemption to one cent per gallon over benefits received by a small refiner seller of entitlements of similar size. The major deficiency of this proposal was that it did not include small refiner sellers of entitlements in the benefits, so that they would have continued to be competitively disadvantaged among refiners of comparable size. The earlier proposal also did not apportion the benefits to small refiners based upon crude runs. The present proposal includes both refiner buyers and sellers of entitlements and scales benefits according to refiner size.

The FEA modification is based upon a close review of written and oral comments. These comments resulted in the development of the two changes noted above. Without the benefit of these hearings and written comments, which highlighted the severe division of opinion among small refiners on the EPCA exemption, the FEA might have made the mistake of not proposing a modification of the exemption.

II–5. Will FEA allow sufficient time for small refiners to seek relief from this modification if they deem relief necessary immediately and retroactively to the beginning of this new role?

ANSWER

In its proposal to modify the small refiner exemption appearing in the Federal Register of March 4, FEA invited any small refiner which felt it might incur financial hardship were the modification adopted to file a request for exception by April 1, 1976. In response to requests for an extension, FEA extended verbally the deadline to April 21 at the hearings on the proposal on March 24. Subsequently, the formal notice appearing in the April 7 Federal Register further extended the date for submission of exception requests to May 3. As Assistant Administrator Gorman Smith indicated in testimony yesterday, in the event that no final action is taken on a request for exception filed by a small refiner for entitlement program hardships, he will be granted a stay on any purchase requirements until his exception decision is completed.

III–1. How many refiners are there in the United States?

ANSWER

In the month of February 1976, 140 refiners reported receipts and/or runs of crude oil for the entitlements program.

2. How many are small refiners (under 175,000 bb/d capacity)? What share of the market do they represent? What share of the gasoline market do they represent?

ANSWER

There are 116 small refiners with capacity under 175 MB/D as of January 1, 1974. Based on receipts of crude oil to their refiners, they comprise 19.2% of the petroleum products market.

3. How many are small refiners (under 100,000 bb/d capacity)? What share of the market do they represent? What share of the gasoline market do they represent?

ANSWER

There are 109 small refiners with capacity of 100 MB/D or less. Based on receipts of crude oil to their refineries, they comprise 12.4% of the petroleum products market. It is unknown at this time what share of the gasoline market is attributable to small refiners under 100,000 B/D capacity. However, Lundberg Survey, Inc. (North Hollywood, CA), using sales data collected by state taxation agencies, has stated that for the first six months of the 1975 calendar year, 5% of the gasoline market was held by refiners with less than 100,000 B/D capacity. Many small refiners do not make gasoline at all.

4. How many small refiner purchasers are there? What percentage of them are under 50,000 B/D of capacity? Under 30,000 B/D capacity? Under 10,000 B/D capacity? What share of the market do each represent? What share of the gasoline market do each represent?

For the month of February, 1976 there were 56 small refiner purchasers who had runs of 100,000 B/D or less. Of these, 82% were under 50,000 B/D of capacity; 70% had capacities under 30,000 B/D and 34% had capacities under 10,000 B/D.

FEA believes that market share data derived from product sales might be misleading because many small refiners purchase finished product from majors. Since the entitlements program and the FEA modification are based on runs to stills we have analyzed small refiners' runs as a percentage of all runs for February, 1976. On this basis, refiners with runs under 50,000 B/D represented 5.4% of the market; refiners with runs under 30,000 B/D represented 2.9%, and those with runs under 10,000 B/D represented 0.7% of the market.

We do not have data on the shares of the gasoline market held by the various categories.

III–5. What evidence and data do you have that branded gasoline dealers are being hurt by the small refiners exemption?

Basically, the evidence that FEA has concerning the adverse impacts Special Rule #6 has on branded gasoline dealers is from written and oral testimony presented at FEA's public hearings and from voluminous correspondence. For further discussion of this subject, please see answer to Question III–7.

III–6. Have you studied the allegation that the problems facing the branded dealers is based more on the pricing policies of the major refiners than on the small refiner exemption? Have you investigated the allegation that major refiners are putting the squeeze on branded dealers to convert their stations into company owned stations?

Pricing policies by the major oil companies to their branded dealers are the same as they have been for the past 30 years. They are based on a dealer tank wagon price for a particular market area. FEA investigations into major oil companies show that stations owned and operated (salaried) by the seven largest refiner/marketers numbered 2,500 in 1974 and 2,900 in 1975 out of a total of 62,300 stations supplied by these majors in 1974 and 56,800 in 1975. On the other hand, stations owned and operated by all other refiner/marketers numbered 10,700 in 1974 and 11,500 in 1975. The total number of stations supplied by these refiner/marketers was 123,400 in 1974 and 112,000 in 1975. We have not found major oil companies pressuring their dealers to change to salaried operations.

III–7. Does FEA have data to indicate that gasoline marketed at independent refinery stations has been markedly reduced in price due to the small refiner exemption?

Although FEA does not have definitive studies showing that the small refiner exemption has resulted in drastically lower prices at stations supplied by exempt small refiners, there is a definite indication that small refiner/marketers have increased their share of the market generally during FEA controls. A study of five major cities shows that the independent share of the gasoline market went from 13.6% in 1973 to 23.6% in 1975, an increase of over 58%. Average prices for these five cities show major branded independent dealers' prices for regular leaded gasoline at 58.6 cents per gallon, while independent marketer-controlled stations had an average price of 53.5 cents per gallon. This 5.1 cents per gallon price differential would give the independent marketer a distinct price advantage over the branded independent dealer and would seem to mitigate against providing large added advantages to select small refiners. We have no means of correlating existing differences with the exemption. (Figures above are from the Lundberg Survey for May 7, 1976.)

IV–1. Under the FEA modification, how much money will be transferred from small refiner purchasers to sellers of entitlements?

IV–2. Which refiners will receive the majority of this money?

[1] House Report No. 94–340, 94th Congress 1st Session 48 (1975).

IV-3. How much will the major refiners receive?

ANSWER

Under the FEA modification, the net effect of the redistribution of benefits through revocation of the exemption and increase of the bias is to spread approximately an additional $275 million among all refiners. Because this redistribution serves to increase the national ratio upon which entitlements are issued, those refiners with the greatest crude runs receive the greatest amount of cost reduction, however, the per barrel benefit of this redistribution is identical for *all* refiners.

The attached table elaborates the breakdown of the redistributed benefits.

Estimated distribution of annual reduction in benefits to currently exempt refiners

[Dollars in millions]

	Dollars	Percent
1. Small, previously exempt refiners, 0–50 MBD runs	$14.6	5.3
2. Small refiner sellers, 0–50 MBD runs	8.0	2.9
3. Small, previously partially exempt refiners, 50–100 MBD runs	11.6	4.2
4. Small refiner sellers, 50–100 MBD runs	4.4	1.6
5. Other small refiners, 100–175 MBD runs	14.3	5.2
6. Large independent refiners, 175 MBD and more runs	30.7	11.2
7. Major refiners	191.4	69.6
Total amount	275.0	100.0

Most of redistributed benefits will go to:
Branded independent jobbers.
Branded independent dealers.
Customers.
Who are supplied by:
Major refiners.
Large independent refiners.
Small refiners who are entitlement sellers because their crude oil costs are high.

IV. 4. Does FEA have any assurances that the benefits received by the sellers of entitlements will be reflected in lower prices paid by the ultimate consumer? How?

FEA has exactly the same assurances regarding sellers of entitlements that Congress had regarding purchasers of entitlements when Section 403(a) of the EPCA was enacted. The EPCA Exemption provided added benefits to many purchasers who had not requested exceptions relief from the purchase of entitlements and who would therefore be obtaining benefits for which no justification had been provided.

Under FEA price regulations the cost of entitlements purchases is treated as product cost, and the revenue from entitlements sales is treated as an offset against product costs. Refiners must reflect product cost increases or decreases either by increasing or reducing banked costs or by increasing or reducing their product prices (all other costs being equal). These rules provide assurances that entitlement benefits will be passed on to the consumer in the form of price decreases eventually. FEA audits refiners as budget limitations permit to ensure that cost decreases are appropriately passed through.

FEA does not propose exemption of products from controls unless it finds that supplies are ample and that competition exists in the market for these products. The existence of these two conditions exercises downward pressure on prices and assures that benefits over and above those needed for reasonable profitability are passed on to consumers.

IV. 5. Does the present small refiner exemption favor historic refiners over firms which have gotten into the refining business more recently?

ANSWER

Because of the December 1, 1973 freeze on crude oil supplier/purchaser relationships, almost all old oil is controlled by refiners who were in existence on that date. New or substantially expanded refiners, who have come into operation since that date, have little if any old oil. Because entitlement purchase obligations arise primarily from old oil receipts, the historic refiners receive benefits under the exemption that are not available to new refiners.

IV-6. Will the small refiner bias you propose satisfy most of the economic problems which will be faced by small refiner purchasers?

ANSWER

The proposed added small refiner bias is more than adequate to compensate for the economic disadvantages faced by small refiners by virtue of their size. For those specific refiners whose unique circumstances cause severe financial hardship attributable to FEA regulations, FEA grants exceptions taking the particular circumstances into account.

IV-7. Do you anticipate a surge in requests for exceptions by small refiner purchasers? Isn't this the situation FEA faced before Congress enacted the small refiner exemption?

ANSWER

Please refer to the answer to II-5 and Administrator Zarb's letter of May 25, 1976, to Chairman Johnston. The text of the letter follows.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 25, 1976.

Hon. J. BENNETT JOHNSTON, Jr.,
Acting Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to set out FEA's policy with respect to requests for exception from entitlement purchase requirements by those refiners now benefiting from Special Rule No. 6 in the event FEA's proposed modification becomes effective.

As you may be aware, those small refiners who would incur purchase obligations by the adoption of the FEA proposed modification were put on notice by publication in the *Federal Register* of March 4, 1976, that they should file a request for exception with FEA not later than April 1, 1976, if the FEA proposed modification would, in their judgment, impose on them either a serious financial hardship or a gross inequity. One extension to April 21 was granted verbally in late March, and by *Federal Register* notice on April 7 the deadline for submission was extended to May 3, 1976. Twenty-five refiners filed under this provision by the due date and four submissions were received subsequently. It is our objective to have the decisions on all 29 applications made in time to be reflected in the entitlements list that will be issued in June 1976.

However, to avoid the possibility of imposing any undue financial hardship on any small refiner whose application may not have been decided in time for the June entitlements list, any refiner whose application is now on file with FEA and who complies in a timely manner with FEA's request for supplementary information will be granted a stay of any purchase requirements until its application has been decided, if that decision is not made in time to be reflected in the entitlements list issued in June 1976.

FEA will also assure that having received benefits under Special Rule No. 6 will not prejudice either a recipient's qualification for future exception relief or the amount of exception relief for which it qualifies in the future.

At present, exceptions decisions are made based on an extensive analysis of annual earnings projections submitted by applicants. Applicants who received benefits under Special Rule No. 6 will be afforded the opportunity of requesting exception relief from entitlement purchase obligations on the basis of either annual earnings projections or projections for that portion of their fiscal year exclusive of the period during which Special Rule No. 6 was effective, whichever the firm chooses.

I trust this is responsive to the concerns you expressed at the hearings and confirms the Agency's position as set out in Mr. Gorman C. Smith's testimony this morning.

Thank you for your consideration.

Sincerely,

FRANK G. ZARB,
Administrator.

IV—8. Does FEA have sufficient manpower to quickly and properly decide the merits of requests for exceptions on this subject?

IV—9. Is there any truth to the assertion that your modification forces those who are least equipped financially and manpower-wise to enter the costly and time consumming exceptions and appeal process of your agency?

Answers to these questions have not yet been received from FEA.

V—1. Explain the range in benefits per gallon to small refiner purchasers under Special Rule No. 6. Who receives the reported 21.4 cent per gallon benefits? What does this refiner produce? How big is it? With whom does it compete?

ANSWER

The data on each refiner's exemption identifies the range of benefits to exempted purchasers. In February, West Coast Oil Company had exemption benefits of 21.4 cents per gallon of runs.

This refiner produces residual fuel oil and middle distillates for sale in the southern California market.

V—2. Does the three-tier pricing program actually result in a decrease in the small refiner bias as alleged by at least one small refiner?

ANSWER

The three-tier pricing program does not affect the small refiner bias. Very simply, the bias is a direct function of crude runs to stills. The impact the three-tier program will have on refiners with receipts of upper tier crude oil is to slightly increase their entitlement costs, reflecting the lower cost of price-controlled upper tier crude oil since the February rollback.

V-3. What did small refiner purchasers who benefited under the present small refiner exemption do with their benefits?

FEA does not have sufficient time to attempt to answer specifically for each benefiting small refiner purchaser. Under the price rules, these benefits must be applied to reduce product costs. The reduction in product costs could then have been used:

a. To reduce banked costs, if they existed, while keeping product prices constant; or

b. To reduce prices.

V-4. Q. Who testified at your hearings? How many could be said to be major refiners or controlled by major refiners?

A. At the public hearings held on March 23 and 24 of this year, 30 groups testified. These groups included 7 major refiners, 19 small refiners, and 4 trade associations (none of which were controlled by major refiners).

VI-1. The FEA proposal relating to Special Rule No. 6—the Small Refiners' exemption—was transmitted to the Congress on May 12, 1976. However, this proposal was not printed in the Federal Register until May 18. What was the reason for this delay?

ANSWER

The Special Rule 6 proposal to Congress was issued on the evening of May 12. It was transmitted to the Federal Register the next morning. The normal publication lag is approximately four days; thus, the delay in publishing this notice was not unusual.

VI–2. What analysis has FEA made which justifies the size of the change in the small refiners' bias which is an integral part of this proposal? You increased the bias for refiners at 10,000 B/D from 2 cents per gallon to 4 cents per gallon. Is this increase enough? Is it too much? How did you arrive at this value for the increase?

ANSWER

FEA received considerable testimony regarding diseconomies of scale and refining costs at varying levels of refiner size. The rationale for increasing the bias to more than 4 cents for refiners having runs of 10,000 B/D or less is that this level gives these refiners the benefit of the doubt resulting from substantially competing testimony. The FEA received some allegations that cost differences at this size justified this additional benefit, and also received some data indicating that cost differences did not justify benefits of this magnitude. In giving these smallest refiners the added benefit, FEA recognizes that even if this added benefit is slightly higher than necessary to offset added costs, it will not result in significant competitive distortions.

VI–3. Do you feel that the Congress and the oil industry have been given sufficient time to consider the merits of the proposal, which was only published for the first time in the *Federal Register* on May 18, 1976?

VI–4. Do you think that the financial consequences of this proposal on small refiners are different from those of your previous proposal which was published in February of this year?

VI–5. Wouldn't a new comment period and hearing be appropriate before coming to the Congress with this?

ANSWER

The exemption has now been in effect since December 1975 for entitlements from October 1975 forward. FEA held two sets of hearings on the issue (January 22 and March 23 and 24 of this year) and also solicited written comments at both these times. In the March hearings alone, the agency received 126 comments (30 oral and 96 written) from 117 organizations. Many comments were also directed to the issue at FEA hearings on February 17 and 18 concerning the reevaluations of the regulation, and the agency has received voluminous correspondence on the topic, much of it from Members of Congress. FEA does not believe that it would receive additional information of substantial value by delaying further.

The FEA modification proposal on small refiners will have different financial results than the previous proposal because it redistributes the benefits on a sliding scale considering refiner size and is weighted toward providing the greater benefits for the smaller refiners. The previous proposal would not have accomplished this. The modification before the Congress also provides benefits to refiner sellers of entitlements whereas the March proposal and Section 403(a) of the EPCA only provides benefits to purchasers of entitlements. These two features result from public comments at previous hearings.

Because we have analyzed the effects of the EPCA exemption, the previous FEA proposal, and the FEA modification as thoroughly as we believe essential, held public hearings and solicited written comments twice, received further comments at other hearings, and received large volumes of correspondence on the matter, FEA believes it would be unnecessary and dilatory to hold additional hearings on this issue.

VI–6. What studies or research has FEA conducted indicating that the small refiners exemption is causing small refiners to increase market share at the expense of other small refiners?

ANSWER

FEA believes that a market share analysis would not provide any conclusive evidence that the small refiners exemption has caused some small refiners to increase their market share at the expense of other small refiners. Furthermore, due to the apparent crude oil cost disparities and competitive inequities caused by Special Rule #6, FEA did not deem it appropriate to wait until the market had been distorted by the exemption before proposing corrective action. Timely action to correct the inequities caused by Special Rule #6 was considered essential in view of the evidence of inequity already available.

VI–7. When Congress enacted the Small Refiner Entitlement Purchase Exemptions, it provided equal benefits for all small refiners up to 50,000 B/D capacity. Why is this proposal does FEA sharply curtail benefits to refiners beginning at the 30,000 B/D level?

ANSWER

The exemption does not do what the question states that it does. It provides benefits to 56 of 112 refiners having runs of 100,000 B/D or less, and to 42 of 88 refiners having up to 50,000 B/D capacity. Why in this pro-treatment is the point of the FEA modification. The modification curtails benefits to refiners having runs of more than 30,000 B/D in order to follow the logic of the small refiner bias—the idea that there is an inversely proportionate relationship between economy of scale and refiner size.

VI–8. Is it true that FEA's proposal will reduce the overall monthly benefits to small refiners as a group from approximately $58 million per month to $38 million per month? This amounts to nearly one-quarter billion dollars a year being transferred from small refiners to large refiners. How do you justify adding income to large refiners who are recording record or near-record profits?

VI–9. Hasn't FEA decontrolled residual fuel oil, and have you not proposed to decontrol middle distillates soon, and gasoline thereafter? If refined products are decontrolled, won't the majors be able to keep all of this quarter billion dollars as profits?

ANSWER

The benefits transferred to 56 of 112 refiners having runs of 100,000 B/D or less from refiners having runs greater than this would have been about $22.3 million less in February 1976 under the FEA modification than under the EPCA exemption. Annualized, the difference would be about $275.0 million. This reduction in the transfer to refiners having runs of 100,000 B/D or less from the larger small and independent refiners (as that term is defined in the EPAA) and from major integrated refiners reflects a lack of justification for the higher level of benefits. In February, refiners having runs of 100,000 B/D or less had combined runs of 58,832,130 barrels or about 2,028,694 B/D. The total per barrel benefit transferred at the value level represented by the exemption was about $1.06. Under the FEA modification the per barrel benefit transferred would have been about $0.69. By refiner size categories the differences are:

Refiner category [1]	Runs (barrels)	Added benefits: Exemption: Total	Exemption: Per barrel	Modification: Total	Modification: Per barrel
0 to 10	5,630,727	12,544,505	2.23	10,064,739	1.79
10 to 30	15,945,909	22,581,269	1.42	18,000,652	1.13
30 to 50	13,130,460	17,357,599	1.32	7,428,939	.57
50 to 100	24,125,034	10,145,391	.42	4,812,585	.20

[1] In million barrels per day.

The FEA modification does not add income to larger refiners—it merely proposes to take less away and reflects the fact that many of these larger refiners are small and independent refiners whose competitive interests the FEA is obliged to consider.

The existence of a highly competitive marketplace and the entitlements bias for small refiners will provide an incentive for majors to keep product prices competitively low even for decontrolled products.

VI–10. In evaluating the impact of the small refiners exemption, has FEA calculated the total effects of all other FEA programs? For example, has the agency considered the counteractive effects of the recent change in pricing under the mandatory buy/sell program, which helps majors and entitlement sellers rather than exempted buyers? The FEA received testimony on March 24, 1976 that this FEA program, among others, would diminish the actual effect of the small refiners entitlement exemption. What action has the agency taken to follow-up on this testimony?

ANSWER

In evaluating the impact of the small refiner exemption, FEA has considered the impact of all other FEA programs. Because the calculation of the complete effect of all FEA programs on all refiners is an extremely complex problem, this has not been done.

The purpose of the Crude Oil Buy/Sell Program has always been to allow access to crude oil for small refiners at reasonable prices, rather than to provide a direct economy benefit such as the small refiner bias in the Entitlements Program. The recent changes in buy/sell pricing were designed to accomplish this and to avoid a complex certification process in the Entitlements Program for this oil. In March, the first month the new pricing took effect, the average costs of receipts of crude oil for sellers in the buy/sell program were as follows:

Crude oil sellers (Major oil companies)

Approximate Buy/Sell Pricing Impact prior to March 1, 1976:	*Barrel*
Average cost of crude oil receipts	$10.04
Entitlement effect on buyer	+.50
Net cost to buyer	10.54
Approximate buy/sell pricing impact from March 1, 1976:	
Average cost of imported crude oil receipts	13.55
Entitlement effect on buyer	2.82
Net cost to buyer	10.73

The difference of 19¢ per barrel arises from the 21¢ advantage provided in the entitlement program for domestic crude oil. Without this the Buy/Sell Program would, since the marginal barrel is imported, encourage the use of imported crude oil instead of domestic.

Entitlement Effects for Buyers on Crude Oil Receipts:	Total
	Barrel
37.25% Old × $5.067	$1.88
25.77% Upper tier × $1.332	−.34
36.98% Imported × −$2.824	−1.04
	+.50
On Imported Crude Oil Receipts	−2.82
March 1976 Entitlement Effects on Crude Oil:	
On Old Oil:	
Purchase 1 entitlement when received	7.89
Credit when run (DOSR+Entitlement Price) $7.89 × .3578	2.823
	+5.607
On Upper Tier Oil:	
Purchase .1890 entitlement when received	1.491
Credit when run	−2.823
	1.332
On Imported Oil:	
Credit when run	−2.823

VI–11. In your comparison of crude oil costs of small refiners, do you take into account the wide disparity in the quality of crude oil purchased? How can you calculate a true cost comparison without considering this factor?

ANSWER

We did not consider this factor because low gravity, high sulfur crude oil results in low-quality, low-priced product; and high-gravity, low-sulfur crude oil produces high-quality, high-priced product. The equalization factor is a matter of refining and marketing economics which does not require FEA intervention. However, even on the basis of very large quality differential factors such as 5 cents per degree API gravity and 5 cents per 0.1% sulfur, we could probably find cost differences as great as $3.50 per barrel. This is far less than the difference of over $10.00 per barrel the FEA has identified as resulting from the small refiner exemption.

VI–12. Has FEA included in its calculations of how much relief per gallon its proposal would supposedly provide given the fact that increasing the Small Refiner Bias has the effect of reducing the National Adjusted Domestic Oil Supply Ratio? One rough calculation suggests that as much as 25% of the projected increase in benefits you predict will be lost because of this impact.

ANSWER

The FEA calculations include only the direct effect of the benefits under the entitlements bias and exemption. Because the increase in the bias is coupled with a reduction in the exemption, the total effect of these is to reduce crude oil costs by 5.5¢ per barrel or .13¢/gal. for all refiners. This increases the benefit by approximately $1 million to refiners under 100,000 barrels per day capacity who previously did not have the exemption and reduces the lost benefits by approximately $2.1 million for those refiners who previously had the benefit of the exemption.

VI–13. Why, at a time when we should be doing everything we can to encourage energy independence, would the FEA propose an act that clearly discourages small refiners from doing anything to increase their production above the 30,000 B/D level?

ANSWER

The FEA modification does not contain the clear disincentive to increase runs over 30,000 B/D that the question infers. Refiner choices as to run levels are a function of many factors—bias benefits among them. The question suggests that all decisions as to run levels are a function of per barrel gross profits, which is clearly not the case. Per barrel net profit, total gross profit, total net profit, crude oil availability, refinery maintenance needs, product marketability and a host of other considerations enter into the decision. For example, a refiner would not necessarily choose a run level which would produce a net profit of 10 cents per barrel and a total net profit of $100,000 over a run level which would produce a net profit of 9 cents per barrel and a total net profit of $110,000.

VI–14. More than a year ago, the FEA admittedly recognized the inadequacy of the small, independent refiner bias, but failed to act promptly when the need was apparent. How can the small, independent refiner be assured the FEA will respond timely to the competitive requirements of their particular segment of the industry as directed by Congress?

ANSWER

We believe the question refers to the issuance of Special Rule #3 and the emergency amendment to this rule. In adopting this rule, FEA recognized that the immediate imposition of the full entitlements purchase requirements of the program might have a severe short-term economic impact on certain small refiners whose runs contain a higher percentage of old oil than the national average and that serious cash flow problems might be posed for small refiners required to purchase entitlements. The Special Rule was intended to assist small refiners in arranging any necessary financing and in structuring their marketing operations for compliance with the requirements. While FEA realized the short-term economic impact of the program on certain small refiners, it believed the small refiner bias would be adequate to preserve the competitive viability of small refiners over the long run.

VI–15. When Congress enacted the Small Refiner Entitlement Purchase Exemptions it provided equal benefits for all small refiners up to 50,000 b/d capacity. Why in this proposal does the FEA sharply curtail benefits to refiners beginning at the 30,000 b/d level?

Answers to this question have not yet been received from FEA.

ISRAELI SETTLEMENTS IN OCCUPIED ARAB TERRITORY

Mr. STEVENSON. Mr. President, the Israeli settlements in the occupied Arab territory have been justified by some on military grounds. But for reasons explained in an article, "Israel: Borders and Security" by Col. Merrill A. McPeak in the current issue of Foreign Affairs, the post 1967 boundaries may aggrevate the dangers to Israel's security. I invite the attention of my colleagues to this article and 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:

ISRAEL: BORDERS AND SECURITY

(By Col. Merrill A. McPeak)

"Israel," as Mrs. Meir put, it "is entitled to defensible borders." But where might such borders be drawn? The lines on which Israel's army stood at the end of the war of June 1967 seemed formidable, but have disappeared into history. The U.N. Security Council, in its celebrated Resolution 242 of November 1967, visualized that "secure and recognized boundaries" might be placed essentially along the lines obtained before the outbreak of the June hostilities. Although it has refused to "draw maps," Israel has made it plain that the old lines will not do, in part owing to security concerns. But genuine security depends on regional accommodation, which the Arab states say cannot occur until all of the occupied territory is returned. All parties agree that some kind of demilitarization arrangement in returned territory would be needed in any overall settlement, but little serious public attention has been given to ways in which comprehensive demilitarization might be useful as a security safeguard in the context of comprehensive territorial return.

Today, Israel continues to hold something like 90 percent of the territory taken in 1967; that it has evacuated as much as 10 percent is one of the concrete achievements of the current "step-by-step" diplomacy. But this diplomacy seems to have lost momentum, and, in any case, has produced harmful side effects, including a new, and perhaps shortsighted, kind of demilitarization. Israel's borders are now anything but "secure and recognized"; defense of the present lines seems to require the attainment of new levels of sophistication in an arms race, the cost of which Israel can no longer shoulder alone. We even hear claims that Israel's security may soon require that it move to the stage of nuclear confrontation with its Arab adversaries.

II

Things looked a great deal different as the dust of the June War settled, for it seemed that Israel had solved its security problem by creating a new geography. To review the changes briefly, the total land area under Israeli control had grown about four times, but the length of demarcation lines had actually shortened and, in general, the new lines were based on natural features. At the Suez Canal, Israel had the best "tank ditch" in the Middle East. The Gaza Strip, long a nursery for Egyptian-supported terrorism reaching to within a few miles of Tel Aviv, had come under Israeli administration. On the Golan, Israel at last held the high ground. The bulge of the West Bank, an implicit threat that Israel would be cut in two, had been superseded by the line of the Jordan River. More important, the air threat to Israel had disappeared, at least for the moment. Tel Aviv had been 12 minutes flying time from Egyptian bases in the northern Sinai. Now, launched from the most forward bases in Egypt, many Soviet-supplied aircraft either could not reach Tel Aviv, or could do so only with reduced bomb loads or by using flight profiles which would make them easy targets for Israeli interceptors. Moreover, with radars in the Sinai, Israel could rely on 30 minutes warning of Egyptian air attack. As the International Institute for Strategic Studies summed up the new situation: "The six-day war left Israel with a degree of security she had never known before, and one that required no external guarantee."

However, within a week of the June 11 ceasefire, Israeli and Syrian ground forces were skirmishing on the Golan Heights; by July 1, fighting had erupted along the Canal. On October 21, after just four and a half months of "ceasefire," Israel's largest warship, the destroyer *Eilat*, was hit by Egyptian missiles and sunk near Port Said with great loss of life. Artillery duels, commando raids and terrorist attacks all along the new frontiers escalated to the full-scale war of attrition in 1969–70. Israel's casualties during the roughly three-year period from the end of the June War to the renewed, United States-sponsored ceasefire of August 1970 were at least 700 killed and 2,600 wounded, about the same as for the June War itself.

Perhaps, however, the new lines, so much more easily defended, would permit a reduc-

tion in the heavy burden of Israel's defense expenditures. Not so. In both absolute and relative terms, Israel's defense burden increased between 1965 and 1972, and increased dramatically, as the following figures indicate:[1]

Defense spending
[In millions of dollars]

1965	288
1966	365
1967	562
1968	730
1969	955
1970	1,278
1971	1,370
1972	1,375

Defense spending
[Percent of GDP]

1965	7.9
1966	9.8
1967	14.7
1968	17.0
1969	19.7
1970	23.6
1971	22.6
1972	20.6

Israel's standing military establishment, cadre and conscript, also expanded during this period. Total, full-time forces numbered 71,000 at the end of the June War, increased to 75,000 by mid-1970 and to 115,000 by mid-1973, with each component growing and the Air Force roughly doubling.

These trends might have been even more adverse for Israel had it simply withdrawn from the occupied territories without obtaining suitable security arrangements. However, in view of the importance attached to human loss, and considering national requirements for development funds and skilled manpower, these indexes—casualties, defense spending, men under arms—have the highest significance for Israel. And none of them signaled improved security.

III

In retrospect it seems clear that Israel's larger security interests were not well served by a unilateral redrawing of its boundaries in conformance with perceived defense requirements. But it remained for the war of October 1973 to demolish this notion entirely. It fades from memory, now, how impressively the Israelis "won" what is sometimes called the Yom Kippur War. The sights and sounds of Egypt's stranded Third Army have somehow been erased in the aftermath of a strategic setback which Israelis, most of all, recognize.

But it is also clear that Israel has a legitimate security interest in what happens in the occupied territories. Israelis wonder how much worse it might have been in October 1973 had the Arab attack been launched from the old lines. Perhaps, then, it may be in order to try to describe the character of Israel's security interests in each of the territories, and to ask how these interests might be protected.

Taking the territories one at a time, two practical invasion corridors lead through the Sinai from Egypt to Israel. The traditional route is a relatively narrow coastal passageway through El Arish and Gaza. Alternately, Egypt has access through the Mitla and Gidi Passes to the central Sinai and thence to the Negev. Military leaders naturally prefer to cut hostile invasion routes as far forward as possible and the Suez Canal seems ideally suited to this purpose. But the Canal line was first breached by Egypt in the October War and then abandoned when Israel accepted withdrawal in the "first step" Disengagement Agreement of January 1974. The next best line, which would include physical occupation of the Sinai passes, was relinquished by Israel in the "second step" agreement of September 1975.

In any case, severing the invasion routes has never been the real test for Israel. Control of the air makes it possible to cut these lines at any desired point. The problem has been to prevent a concentration of Egyptian forces near Israel's borders. A forward build-up of men and matériel would theoretically enable Egypt, acting in concert with other Arab states, to defeat Israel in a lightning stroke even with its rear communications disrupted by Israeli air attack. But for the purpose of preventing military concentration close to Israel, what matters most is not how much of the Sinai is handed back to Egypt, but whether what is handed back is effectively demilitarized or not.

Incidentally, further disengagement "steps" in the Sinai would seem to require that Israel give up its forward operating base at Bir Gifgaga. Here, Israel has a heavy investment in facilities which, while not absolutely necessary for defensive purposes, do greatly enhance Israel's capability to conduct air opeartions against interior Egypt. Evidence of Israeli reluctance to part with this base may be seen in the way the lines were drawn in the September agreement. North of the passes, Israel's line runs due west, back toward the Canal for nearly 20 kilometers, then curves around again to the north, leaving space for operations at Bir Gifgaga.

Finally, with respect to the Sinai, there is the problem of Sharm-el-Sheikh. That Israel must control the southern tip of the Sinai Peninsula has become an article of faith among Israeli political and military leaders because Arab closure of the Gulf of Aqaba played a key role in the wars of 1956 and 1967. However, Sharm-el-Sheikh itself has little more than symbolic significance. The Gulf of Aqaba, nowhere more than about 15 miles wide, can be closed by modern artillery posted at any point along its shoreline. Accordingly, some argue that Israel must retain not just Sharm-el-Sheikh but also a land corridor south from Elath to the tip of the Peninsula. It is as logical to argue that Israel should control both shorelines, since the Gulf can be closed from either side, but this would require that Jordan and Saudi Arabia give up territory, as well as Egypt. And there is no end to aspirations which might be based on such an argument. The Gulf of Aqaba is itself bottled up by the Red Sea, making Israel's maritime access to the Indian Ocean dependent on the situation at the Strait of Bab el Mandeb. But, for the moment, Israel must rely on the threat of retaliatory action and such international support as can be mustered to deter hostile occupation of the Red Sea exit. If this course of action is sensible and reliable farther south, there is no reason why it cannot be applied to Sharm-el-Sheikh. Again, Israel's security requirement is not so much to retain control as that control not be passed under conditions of active hostility to another power; in brief, that there be peace, or barring that, effective demilitarization.

Atop the Golan Heights the situation can be viewed in at least two different ways, leading to opposed conclusions. According to one view, Israeli dispositions are a source of *strength* because Israel now commands the ridge line. The resulting ability to see from the ground into Syria is obviously a net advantage. In addition, the sporadic shelling of Israeli settlements in the Hula Valley has been ended. However, events of the October War call into question the value of these advantages. Israeli observation did not prevent the Syrians from achieving a degree of strategic surprise. Syrian possession and use of short range missiles showed that it is not necessary to hold the Heights in order to bombard northern Israel.

The principal strategic justification for retaining the Golan has been that it constitutes a geographic cushion, outside Israel, in which a Syrian attack could be dealt with—absorbed and contained if not stopped completely—until Israel mobilizes. The logic of this strategy has been fatally undercut by the decision to permit Jewish settlement of the Heights. The Golan long ago ceased to be a strategic buffer in which the Israeli Army was free to trade space for time. As this is written, the number of farming settlements established has climbed into the mid-twenties and, despite the disruption of the October War, Israel has pushed through a Five Year Plan for the Golan which includes development of rural centers and tourist facilities and the opening of a number of small plants and mines. These assets must now be defended just as any part of Israel, and the Golan itself requires a protective buffer.

Thus the second view of Israel's Golan position—that the settlements and forces assembled there are terribly exposed, their backs not to a wall but to an abyss. Reinforcement is difficult and time-consuming; the roads up which reinforcements must come are exposed and vulnerable. The requirement to evacuate civilians from the settlements adds a demanding mission just when the army is bound to be most heavily committed. The opportunity for the kind of fluid warfare at which Israel excels seems reduced; Israel's forces must stand and fight in place, as they did with great gallantry during the October War. Nevertheless it was a near thing. The Syrians came quite close to breaking through and creating the possibility of a disaster before they were held and then pushed back. It is no surprise that in the October War Israel had first to deal with the situation on the Golan before turning to the problem along the Canal, a reversal of the 1967 priorities. In present circumstances, the Golan will continue to receive top priority.

Lately there has been speculation that, should Syria attack again, Israel might regain the military initiative by moving through northern Jordan to envelop Syria's south flank. (Jordanian force deployments seem to take account of this danger.) Nor should the possibility of a move against Syria through Lebanon be overlooked. Of course, implementing such measures would more or less automatically widen and complicate any future war with Syria. If such plans exist they constitute further evidence of the strategic shortcomings of Israel's Golan position.

Thus, from a military point of view, Israel's holdings in the Golan can be seen as either an asset or a liability. Assuming that the territory under Israel's direct control is not forcibly enlarged to provide room for maneuver, it is at least arguable that Israel would be better off withdrawing from this exposed position. Moreover, the situation is made worse rather than better if Israel withdraws from some rather than all of the territory. As Prime Minister Rabin reportedly declared regarding further "steps" with Syria, there is room on the Heights for no more than "cosmetic" adjustment. Again, Israel's security would seem to dictate not occupation of the Golan, but its demilitarization.

IV

In the extraordinarily complex problem of the West Bank, emotion and history are more important determinants than security. To the extent that security aspects can be isolated, it is clear that demography is of far greater significance than geography. That is, Israel's security problems center on returning the population, not the territory, to Arab

[1] *World Armaments and Disarmament SIPRI Yearbook 1975*, Stockholm International Peace Research Institute. Figures are based on constant 1970 prices and exchange rates.

control. The Gaza Strip presents a similar problem, and these areas may be lumped together for purposes of analysis.

One can imagine three possible outcomes for the West Bank and Gaza Strip. Israel can return all, some or none of these territories to Arab control. Each of these alternatives poses challenges which are, for the most part, variations on the theme of *internal* security. This is so because consideration of these territories approaches the heart of the matter: How may Jews and Arabs live together?

Suppose Israel determines to incorporate all of the West Bank and Gaza Strip, either through outright annexation, as is already the case in East Jerusalem, or through continued military occupation which has a provisional veneer but de facto permanence. Assuming that a large number of Arabs are not simply expelled, this action would add about a million people to the already sizable Arab minority in Israel. Moreover, the natural rate of increase of the Arab population is about double that of the Jews. Thus, while there is little near-term likelihood that the Arabs can "drive Israel into the sea," there is a real possibility that they might submerge it demographically within present defense perimeters.

Already the "Right of Return" does not extend to non-Jews; Arab Israelis may not serve in the armed forces; and Arabs in the occupied territories are denied effective political organization and participation in government. No doubt these measures embarass many Israelis, but they are necessary. In an Israel where Arabs constitute an increasingly large fraction of population, there can be no doubt that to accord Arabs full rights of citizenship would mean the eventual end of Israel as a Zionist state. On the other hand, institutionalizing a set of repressive measures designed to control a growing Arab population means the end of Israel as a democracy. Those who define Israel's security as requiring the preservation of both the Jewish and the democratic character of the state understand that at least some of the West Bank/Gaza Strip must be returned.

How is this to be done? One possibility is to find a formula for returning as much of the population and as little of the territory as possible. If, say, Israel were to retain the Gaza Strip, and in the West Bank to return only the string of Arab towns—Nablus, Ramallah, Hebron—along the Judean/Samarian hilltops, together with a link to Jordan at Jericho, Israel might take in upwards of half a million fewer Arabs, and population dynamics would be manageable, at least for a long time. (With an additional provision for a chain of Israeli strongpoints along the Jordan River, this plan looks something like the one offered in 1968 by Yigal Allon.)

Israel might be able to find someone to whom control could be handed on such terms. But, regardless of the extent of territory returned, or to whom it is handed over, terrorist attacks on Israel originating from the returned area would certainly occur. The record shows that such attacks have been stopped neither by Israeli administration of captured territories nor by Israel's reprisal policy (which therefore clearly requires review). Thus, for Israel, the relevant security problem is how to reduce terrorism in circumstances of renewed Arab control of the population.

Two aspects of this matter make it particularly troublesome. First, a feature of Israel's rather enlightened occupation policy has been to encourage Arabs and Jews to cross the old lines for economic and cultural purposes. For Israel to reverse this policy following restoration of Arab control would be wrongheaded and, in the degree to which Israel has become dependent on Arab labor, economically unsound. But, if relative freedom of movement is continued, terrorist infiltration is bound to be difficult to manage, no matter whether all, or only some, of the West Bank/Gaza Strip territories are returned.

Second, Israel has made clear its expectation that Jews are settled permanently in the occupied territories. This holds true with special force for Jewish holy places like Hebron and in Jerusalem itself and may also be the case with the settlements around Gaza and on the Golan. No one knows how many Jews actually would stay behind to live under Arab rule, but if a considerable number were to do so, then we would have a situation rather like an exchange of hostages, or the ancient practice of enemies drinking wine from the same glass. Under such conditions, each side has an interest in making its actions acceptable to the other and the key question is the degree of control exercised by the respective authorities. In brief, can the parties keep someone from poisoning the wine?

These considerations argue that, in any case, but especially if a Jewish population of any size is left behind, Israel has an interest in passing control to an authoritative Arab administration. The best, perhaps the only, way to control Arab terrorism is for Arabs to do the controlling. However, by retaining portions of the occupied territories, Israel would bequeath a legacy of political weakness. The cry would arise immediately for further, complete return—"every inch"—creating an inflammatory issue, diminishing the authority of any Arab government cooperating in partial return, and threatening Jews left behind. Terrorism would receive an additional stimulus while at the same time Arab ability to deal with it would be reduced.

Thus, Israel's security may well require the return of all, or substantially all, of the West Bank and Gaza Strip in order to confer legitimacy on the restored Arab government and enable it to exercise real control. Even so, the prognosis for curtailing terrorism remains bleak. Around the world, none of the most vulnerable targets—the industrial democracies—has a ready answer. Israel's special problem in this regard may gradually subside as the Palestinians come to accept whatever political arrangements are worked out in their behalf. Until such reconciliation occurs, Israel's best prospect of controlling terrorism is that strong Arab governments materialize in the returned territories.

Strong government in the returned territories also means that Israel must accept the presence there of Arab forces: regular Jordanian forces (and possibly Egyptian forces in the Gaza Strip) if control reverts to former Arab authorities; regular Palestinian forces if a separate Palestinian entity is established. However, such forces need not constitute a threat to Israel if they are limited in size and equipage. Here again the security problem focuses not on the extent of territory returned but on the nature and degree of demilitarization.

V

If this analysis is correct, Israel does not have a strong case, on the narrow argument of its own physical security requirements, for retaining any of the territory occupied after June 1967. All things considered, no set of borders seems a great deal better from a security standpoint than the armistice lines established in 1949—that is, the pre-June 5, 1967 borders. Indeed, if complete return of the occupied territories opened the prospect of peace, Israel's security interest, broadly defined, would require this step. However, Israel cannot be sure that peace would accompany withdrawal. Its experience leads to the contrary expectation. There is much truth in the Israeli contention that each of the five wars of Israel's modern history was thrust upon it.

In these wars the performance of Israeli's armed forces has been remarkable. However, if the purposes of armed strength are first to deter conflict and only second to end such conflict as does occur on terms favorable to the nation, then Israel's impressive success must be laid alongside impressive failure. Reserving consideration of nuclear weapons for a moment, we have no reason to believe that the Arabs will ever be deterred by Israel's military power, even if its record and reputation are reinforced by a succession of new victories. The question of how to defeat the Arabs has been answered five times; the question of how to deter them awaits an answer.

This is not to say that the strength and competence of Israel's armed forces are unimportant or have somehow become irrelevant. On the contrary, Israel's security will continued to be linked with its military capabilities relative to the Arab states; these capabilities must be preserved to ensure its survival. Note, however, that none of the qualities which the world who come to associate wtih Israeli arms—movement, flexibility, imagination—relies on the possession of specific territory. To discover the true composition of Israel's security, ask an Israeli general whether he would trade these fighting qualities for the chance to occupy a strong position.

Generals rightly resist such choices. Indeed, no general worth his stars is likely to think of these as exclusive alternatives; he will want both a fine fighting force and a strong opening position, as well as any other advantage available. But maintaining or increasing military advantage relative to Arab countries which now have access to growing technical and financial resources is a cruel task for a state as small as Israel. For this reason, and to avoid the risks seen in a condition of increasing dependence on the United States, Professor Robert W. Tucker has argued that Israel is likely soon to reconsider its stance on nuclear weapons—and indeed that it should do so.[2]

While official statements have understandably avoided unnecessary precision, Israel's policy on nuclear arms seems to rest now on two elements: a commitment not to be the "first to introduce" nuclear weapons into the Middle East and the avowed intention to retain the "option" to develop such weapons, should they be required. Each of these policy elements is essentially meaningless. In a crisis Israel could claim that nuclear-capable systems had already made an appearance in the region—that no chastity remained for Israel to protect. Moreover, the circumstances in which Israel might require nuclear arms are not those which would allow an elaborate development program to be undertaken at the time. If an "option" is indeed to be possessed, it means that development must take place in advance, with only final loading and arming steps, at best, postponed.

To date, Israel has seen the advantage of a strong conventional posture backed up by the deliberate ambiguity of a nuclear "option." Professor Tucker suggests that, for Israel, the attractions of a declaratory strategy of nuclear deterrence may soon become irresistible. Among other claimed benefits, Tucker argues that such a strategy would permit de-emphasis of conventional force, thereby reducing defense spending, and would markedly diminish preoccupation with secure borders, thereby creating more flexibility on return of occupied territory.

There are a number of both theoretical and

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[2] Robert W. Tucker, "Israel and the United States: From Dependence to Nuclear Weapons?" *Commentary*, November 1975.

practical reasons, which can be mentioned here in summary form only, why Israel should not adopt such a policy. On the level of theory, the first problem is stability. Whereas so far the Arab states seem able to ignore Israel's nuclear "option," no one should doubt that they will be obliged to follow suit if Israel declares a policy of nuclear deterrence. We should not assume that both sides will move immediately to secure, second-strike systems; more likely they will retrace the path taken by every nascent nuclear power. Accordingly, we should expect a gradual evolution from exposed, first-strike, to survivable, second-strike systems. Survivability is always relative and, in general, the more survivable a system is the more it costs. As the parties move closer to true second-strike postures, they are likely to see postulated defense savings evaporate. In view of resource limitations, the evolution to second-strike posture will be fitful, with extended periods during which capabilities are grossly asymmetrical and in which there is a fair measure of uncertainty about opposing capabilities. There will be powerful voices on each side urging that the other's resolve be tested, and on each side urging that resolve be shown. These conditions—asymmetry, uncertainty, provocation—provide a textbook definition of instability.

Nor should we assume that the eventual existence of balanced, second-strike postures will automatically produce stable deterrence. Such stability as exists in the U.S.-Soviet relationship has been a product of rational and conservative behavior, with each side accepting limitations on objectives as well as means. Some may claim that it is characteristic of nuclear balance to produce rational and conservative behavior, but this is not a hypothesis we should wish to see tested in the Middle East. What is immediately at stake in the Middle East—territorial integrity, physical security, cultural identity—are survival values par excellence. Values of similar magnitude have not been a day-to-day issue between powers possessing balanced nuclear strength. On those rare occasions when the stakes were raised—e.g., the Cuban missile crisis—the world reached points of maximum danger. Moreover, the Arab-Israeli conflict displays some aspects of a fight between brothers. That this is so offers a hope of reconciliation, but it also means that emotions are likely to outrun careful calculation. It is the family arguments—Greek versus Turkish Cypriot, Catholic versus Protestant Irish, North versus South Korean—that we should least like to see nuclear-armed.

Even if the sides were to settle into stable deterrent conditions, this might provide cold comfort for Israel. To attain such conditions, each side must prepare protected, essentially symmetrical second-strike capabilities. That is, stability requires that each side stand wholly exposed to the destructive power of the other. It is an interesting question whether Israel would find such "equivalence" agreeable. Though they have threatened Israel's extinction, the Arab states have never had a reasonable prospect of making good the threat. This would change if the term "military balance" in the Middle East acquired a literal meaning in lieu of its current usage as a euphemism for Israeli superiority.

In addition, it is by no means proven that in conditions of approximate equivalence, nuclear weapons deter all levels of conflict. If the Arab states were to opt for a strategy of territorial recovery in small increments by conventional means, Israel's dilemma would be whether to risk certain national destruction by immediate resort to nuclear weapons, or to fall back on a conventional defense. Now, however, Israel would find its conventional forces weakened by the previous decision to adopt a "new look" in defense, and its conventional options constrained by the Arab nuclear deterrent.

As for practical difficulties, no acknowledged nuclear power has had to solve the problems associated with very small territorial etxent. Israel's impact is such that we sometimes forget that it is about the size of New Jersey. The smallest nuclear power, the United Kingdom, is more than ten times as large, not including its overseas possessions, and the United Kingdom is itself smaller than Oregon. Configuring a survivable nuclear strike force requires considerable ingenuity in any case, but such small size creates enormous additional difficulty. For example, basing considerations probably rule out missile-firing submarines of the type we are used to thinking about. Only one Israeli port from which modern strike submarines might operate springs readily to mind, and even if others were to be developed the number would always be small. It would be altogether too easy for Arab attack submarines to shadow Israeli boats as they left home port; unexplained "accidents" at sea could too quickly claim a major portion of Israel's deterrent force.

If, through mobility, concealment and hardening, strike-force survivability could be reasonably assured, Israel would still confront the problem of locating nuclear weapon manufacture and storage sites. There are few locations in Israel where these tasks can be accomplished with some assurance of security. None of the locations is far removed from Arab territory, and the Arabs can probably make some plausible guesses about likely hiding places. Mobility is not much help with this problem, and concealment and hardening are in some respects mutually incompatible. In another round of fighting which opens conventionally, Israel would be obliged to consider nuclear production and storage facilities threatened at the outset. This would be doubly so if Israel's conventional capabilities were neglected. Ironically, a nuclear strategy would seem to require retention of occupied territory in order to protect nuclear facilities in the context of reduced conventional strength.

All of these arguments may be swept aside if, as Tucker asserts, historic and technological imperatives must in any case drive the sides to nuclear confrontation. Perhaps Israel and the Arab states cannot be persuaded that their own interests are best served by avoiding nuclear strategies, but the United States need not encourage such a development. As a matter of policy, we should continue to design military and economic aid programs which promote conventional military postures in the region. Moreover, our assistance actions should not be open to misunderstanding; the parties must make no mistake about our intentions in this regard. If this has the ring of free advice, recall the recent flap over the Pershing missile, or the promise of a nuclear power station for Egypt.

VI

But deterrence need not rely solely on military strength, nuclear or conventional. Any combination of factors making attack repugnant can deter. For the Middle East, the best deterrent measure at hand is the establishment of demilitarized zones, manned by neutral observers, through which either side would be extremely reluctant to attack.

U.N. Security Council Resolution 242, the consensus framework for overall settlement, acknowledges the requirement for demilitarization. Moreover, there seems to be widespread agreement that demilitarization provisions might endure if placed in an international peacekeeping context and backed by appropriate guarantees. For example, writing in these pages more than five years ago, John C. Campbell offered an outline proposal, based on Resolution 242, calling in part for demilitarized zones on both sides of future frontiers and for total demilitarization of the Gaza Strip, the Golan Heights and Sharm-el-Sheikh, all with international peacekeeping and guarantees.[8]

Campbell's proposal has stood up well over the years but, in common with many peace plans, it says too little about functional arrangements for demilitarization. Naturally, final technical details would have to be worked out by the parties in direct negotiations, but as things now stand such negotiations would quickly break down. On the technical details of size of demilitarized zones and strength and composition of Arab forces permitted to return, we may expect directly opposed views, with compromise carrying nearly as much danger for Israel as no agreement at all. On the issue of offsetting demilitarization, for example, there is room in Israel for little more than symbolic demilitarized zones. But if the Arabs match only the small size of postulated Israeli demilitarized zones, the shield erected would be too thin to permit relaxation of Israeli fears.

The way out of these difficulties is for the parties to accept in advance a formula of total return and total demilitarization. By agreeing to total return, Israel would accept the reassertion of authority by Arab governments in all of the occupied territories; by consenting to total demilitarization, Arab governments would accept limitations on their authority in the returned areas, limitations aimed at safeguarding Israel's security.

If such a formula were accepted, operational details of demilitarization could be worked out without difficulty, perhaps along lines such as the following:

(a) A ceiling would be set on Arab military forces allowed to reenter each of the territories. Very small forces, perhaps as few as 1,000 men each, would be allowed in the Sinai and on the Golan Heights, where their main purpose would be to show the flag. Larger but still quite modest forces would be needed in the West Bank and Gaza Strip to ensure public order.

(b) No heavy weapons or combat aircraft would be permitted to re-enter. Equipment for returning Arab forces would be restricted to small arms and automatic weapons below .50 caliber, but no mortars, artillery or missiles, trucks and armored personnel carriers, but no tanks; helicopters, liaison and cargo aircraft, but no overflight or basing of fighters or bombers.

(c) No intrusion of armed ships into waters adjacent to returned territories would be permitted.

(d) Both sides would accept international verification and inspection of the limits established. If Israel were unwilling to accept international, U.N.-sponsored inspection, the United States should be willing to assist with this function for a limited time. Inspection and verification by "national means"—that is, reconnaissance flights by the parties over the demilitarized zones—would not be permitted.

(e) The limitations outlined above would apply to the entire West Bank and Gaza Strip. On the Golan Heights, they would apply to all the ground still under Israeli control. They would apply to the entire Sinai, including areas from which Israel has withdrawn or been expelled already and the small salient near Port Fuad not captured by Israel in 1967. Demilitarization provisions should not apply inside Israel's pre-June 5 borders. However, if this were to constitute a final stumbling block, Israel should agree

[8] John C. Campbell, "The Arab-Israeli Conflict: An American Policy," *Foreign Affairs*, October 1970.

to face-saving provisions involving token demilitarization inside its borders.

Such a proposal aims at removing strategic obstacles to an overall settlement by creating the possibility of an effective deterrent to war. Egypt is the key; without Egyptian participation, other Arab governments would likely be deterred from major attack. And Egypt could not attack Israel because it could not concentrate forces east of the Canal. To be foolproof, however, the checkpoint for Egyptian personnel and equipment would have to be at the Canal. Once into the Sinai, it is just conceivable that equipment could be hidden and forces prepared for a surprise build-up. That is why demilitarization of areas already returned is an important consideration in the Sinai and less so on the Golan. With total demilitarization, no Egyptian demand for removal of observer forces could produce a sudden crisis, as was the case in 1967. Moving Egyptian forces across the full expanse of the Sinai would require time in which Israel could mobilize and international pressures could come into play. Even so, the sides should be urged to accept the sensible provision that neither be able to dictate removal of observer forces.

Since it is acknowledged that Israel's security ultimately rests on the strength of its armed forces, it is of more than passing interest that the proposal outlined here would have the effect of perpetuating Israel's local military superiority. Israel would be able to defeat quickly Arab forces of the kind permitted to return and would be able to do so without major new, and potentially destabilizing, developments in the arms race. The Arabs understand this fact, which is at the bottom of their stated unwillingness to demilitarized returned territory without offsetting demilitarization in Israel. An outsider cannot know whether this is a serious, as opposed to a negotiating, position. Israel could counted by pointing out that most of the demilitarization would take place on territory it now, in fact, controls. If military forces of the sides were to draw back in step from present positions until Israel's Army was camped on the pre-June 5 lines, Cairo and Amman would be demilitarized, and Damascus nearly so.

But it is the enormous appeal of total return which must be relied upon to produce an Arab concession on demilitarization. Thus, each milestone passed in an extended step-by-step diplomacy successively reduces the incentive to demilitarize. For the years ahead, we should like to help create a situation in which Arab leaders would be able to stress to their domestic audiences that, no matter how much all would enjoy another round with Israel, it is just not possible, and that this situation arose necessarily out of the requirement to regain territory. This line will be credible only if territorial return is more or less sudden and total.

This is not to say that total return is a straightforward proposition. Like demilitarization, the concept needs to be fleshed out. At Latrun and elsewhere the old lines require mutually agreed modification—"minor rectification" is a term often used. Minor rectification of the borders contains in itself a network of problems, each dauntingly complicated. But, with demilitarization of returned territory, these problems could be seen for what they are: a variety of disputes involving history, emotion, religious belief and property rights, not security.

In addition to calling for a change of focus from incremental to overall settlement, this analysis suggests the possibility of a defect in the specifics of the step-by-step procedure as executed to date. "Step diplomacy" has been attacked cogently on a number of grounds, notably by George Ball.[4] But the possible impact of the steps on prospects for eventual demilitarization has not drawn widespread comment. The first Egypt-Israel Disengagement Agreement (January 18, 1974) reportedly authorized Egypt to leave 7,000 troops, 36 artillery pieces and 30 tanks on the Sinai side of the Canal. The Second Agreement (September 4, 1975), in addition to enlarging the area under Egyption control, specified that Egypt could station eight standard infantry battalions, 75 tanks and 72 artillery pieces east of the Canal, with total manpower limited to 8,000 men. Reconnaissance aircraft of either side may fly up to the midpoint of the buffer zone between their forward positions. The Israel-Syria Disengagement Agreement (May 31, 1974) also reportedly permits the limited reintroduction of tanks and artillery into Golan areas evacuated by Israel.

All this is the stuff of which renewed tension is made. But the greater danger is that such a process, if continued in future steps, will lead to the "remilitarization" of the territories. Moreover, if, as seems likely, demilitarization arrangements are a desired element in any future overall settlement, then the situation is complicated rather than simplified by the steps already taken. For example, for the Arabs to agree to the type of total demilitarization proposed here would mean that they must withdraw heavy equipment already in place. Psychologically, at least, this is a more painful step than simple agreement not to reintroduce such equipment. For this reason, even if the United States is unable to move the parties toward an overall settlement now, it is essential that we have some vision of the final settlement we hope to help construct. Otherwise, we may unwittingly create impediments to an overall settlement during the step-by-step process.

VII

It has not been the purpose of this analysis to offer yet another comprehensive Arab-Israeli peace plan, but rather to deal with security-related territorial concerns. Regarding this limited aspect of the problem, it should be understood that Israel must make the important concessions. It is Israel that is being asked to depart East Jerusalem, the Golan Heights, the Gaza Strip and Sharm-el-Sheikh. Israel has vowed never to leave any of these places and it is by no means certain that it can be induced to forsake this vow. For it to do so would require at a minimum both great statesmanship in Israel and considerable pressure from the United States.

On the other hand, a comprehensive settlement would call for the Arabs to make far-reaching, but largely intangible, concessions—in particular, to recognize Israel and normalize relations. In extracting these concessions, it is territorial return which constitutes Israel's chief bargaining counter. But the suggestion here is that, insofar as security is concerned, what Israel requires in exchange for territory is demilitarization. Following an overall settlement in which Israel trades territory for Arab pledges to end belligerency, obstacles to normalization are sure to crop up; renewed tension is a believable forecast. Having giving up cash for credit, Israel is likely to feel betrayed if relations subsequently deteriorate. But it need not feel threatened, provided only that returned territories are demilitarized.

NOTE.—Neither the Department of Defense nor any agency of the U.S. government bears any responsibility for the opinions expressed herein, which are entirely those of the author.

[4] Mr. Ball's fullest and most recent discussion is in "Kissinger's Paper Peace: How Not to Handle the Middle East," *The Atlantic*, February 1976.

THE ADMINISTRATION'S FULL EMPLOYMENT GOAL: AN EXPENSIVE STANDARD FOR UNDERACHIEVEMENT

Mr. HUMPHREY. Mr. President, the failure of the Ford administration to achieve its own unpublicized standard for a full employment economy will cost the Federal Government and the taxpayers of the Nation at least $112.4 billion during the next 4 years.

That total is tens of billions more than the estimated cost of achieving a real full employment economy under provisions of H.R. 50 and S. 50, as amended, the Full Employment and Balanced Growth Act of 1976 during the same period.

While testifying in support of H.R. 50 and S. 50, Jacob Clayman, Secretary-Treasurer of the Industrial Union Department of the AFL–CIO, revealed that the Department of Health, Education, and Welfare last year established a 5-percent jobless rate as its full employment—no recession—standard and proceeded to determine the cost of failing to achieve that objective in terms of welfare and unemployment insurance program expenditures.

Mr. President, H.R. 50 and S. 50, introduced by Representative AUGUSTUS HAWKINS and myself, is designed to establish the framework for coordinated and comprehensive economic policy and program planning by Congress and the administration to attain a mandatory adult unemployment rate of no more than 3 percent by the end of 1980.

The savings that would result from reductions in welfare and unemployment insurance program expenditures and the increase that would occur in tax revenues following enactment of H.R. 50 and S. 50 are far greater than those that would be reached by the limited goal of the HEW study. In my judgment, a 5-percent unemployment rate is totally unacceptable.

Mr. Clayman testified that the HEW study indicated that with the current unemployment rate of 7.5-percent, expenditures made under aid for dependent children, food stamps, general welfare assistance, medicaid, and unemployment insurance programs would be $26.1 billion higher than would otherwise be the case if the unemployment rate was at the Ford administration's own 5 percent full employment standard during all of 1976.

If the administration's own unemployment projections for the next 4 years are applied to these expenditures, the total cost of failing to meet the 5-percent standard is $48 billion during that time span.

Moreover, the failure to meet its own full employment standard during the next 4 years will mean a loss of $64.4 billion in tax revenues, a conclusion based on the fact that each percentage point in the jobless rate results in a reduction of $14 billion in tax payments.

The two sums, $48 billion in additional welfare and unemployment insurance ex-

penditures, and $64.4 billion in lost tax revenue, add up to a total of $112.4 billion for the 4-year period, 1977–80.

Data presented by Mr. Clayman indicates the following expenditures for welfare and unemployment insurance programs would be made under a 7.5-percent jobless rate as compared to a 5-percent rate during 1976, according to the unpublicized HEW study—billions of dollars:

Unemployment rate	Program cost
AFDC	
7.5 percent	$14.211
5.0 percent	8.996
Total	5.215
AFDC–UF	
7.5 percent	.742
5.0 percent	.312
Total	.430
FOOD STAMPS	
7.5 percent	5.516
5.0 percent	4.552
Total	.864
GENERAL ASSISTANCE	
7.5 percent	1.523
5.0 percent	1.029
Total	.494
MEDICAID	
7.5 percent	15.468
5.0 percent	12.128
Total	3.540
UNEMPLOYMENT INSURANCE	
7.5 percent	20.632
5.0 percent	4.904
Total	15.728
TOTAL COST OF PROGRAMS IN 1978	
7.5 percent	58.092
5.0 percent	31.921
Total	26.171

The administration's own projections for unemployment during the next 4 years are as follows:

	Percent
1977	7.2
1978	6.5
1979	5.8
1980	5.1

On the basis of HEW data presented by Mr. Clayman, each additional percentage point of unemployment will result in expenditures totaling $10.4 billion for welfare and unemployment insurance programs. Application of the administration's unemployment projections to the 1976 HEW data produces the following increases in total expenditures for these programs above the levels that would otherwise be the case if the administration met its own full employment standard—billions of dollars:

1977	$23.1
1978	15.6
1979	8.3
1980	1.0
Total	48.0

Based on the loss of $14 billion in tax revenue for each percentage point of the unemployment rate, the following reductions in tax revenue would occur during each of the following 4 years as a result of the administration's failure to meet its own full employment standard—billions of dollars:

1977	$30.8
1978	21.0
1979	11.2
1980	1.4
Total	64.4

MORE ON EQUITABLE'S INEQUITY

Mr. METCALF. Mr. President, on April 26, 1976, I placed in the RECORD, at pages 11177, an article from the Insurance Forum on a plan by the Equitable Life Assurance Society of the United States to institute a new dividend policy which would favor newer policyholders over old policyholders. This May 1976 issue of the Insurance Forum contains a further explanation of Equitable's disturbing and discriminatory new dividend policy.

I ask that this article be printed in the RECORD for the benefit of concerned Members of Congress and the public.

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

MORE ON EQUITABLE'S DIVIDENDS

In the April 1975 issue of The Insurance Forum, in an article entitled "Great News—Except for Equitable's Old Policyholders," we discussed the use by The Equitable Life Assurance Society of the United States of an investment year method in its 1976 dividend scale. To place this development in perspective, consider the following analogy:

In 1960, Mr. A deposited $1,000 in a regular savings account in The Hypothetical Mutual Savings Bank, and he has left it there to compound. In 1970, Mr. B deposited $1,000 in a regular savings account in the same bank, and he has left it there to compound. Since 1970, both accounts have been credited annually with 5 percent interest.

In 1976, because of higher interest rates being earned by the bank on its investments, the bank decided to increase the amount of interest paid on its savings accounts. At the same time, the bank introduced a new system of allocating investment income among its depositors. The system is called "the investment year method," and it gives recognition to such things as the year in which deposits are received, the interest rates earned by the bank on investments made in different years, and the rollover of the bank's investments. The net effect of the changes was that new and relatively recent deposits would be credited with a higher rate of interest, and that older deposits would receive the same rate of interest that was credited prior to 1976. As things worked out, Mr. B's account was credited with 6 percent interest in 1976, and Mr. A's account was credited with 5 percent. The explanation was that the bank has been earning a higher rate of return on funds deposited in more recent years.

Now, back to life insurance. Suppose Messrs. C and D bought participating straight life policies from the Equitable in 1960 and 1970, respectively. Since 1970, the same dividend interest rates have been credited to both policies in the company's dividend calculations. Beginning in 1976, however, Mr. D's policy is being credited with a larger dividend interest rate, while Mr. C's policy is being credited with the same dividend interest rate used in 1975. We do not know the dividend interest rates, because neither the company nor the New York Insurance Department has disclosed this information as yet.

There are major differences between accounts in mutual savings banks and policies in mutual life insurance companies. Mr. A probably would learn of the change, withdraw his funds, and redeposit them to get the benefit of the higher interest rate. Mr. C, however, is unlikely to learn of the change. Neither the company nor the New York Insurance Department has made a public announcement of the change. Indeed, one policyholder recently corresponded with the Equitable and was unable to obtain any information suggesting that such a change had been made.

Furthermore, even if he learns of the change, Mr. C may be "locked in," for several reasons. He may have an insurability problem, which would make it difficult or impossible to replace his old policy with a new one. Even if he has no insurability problem, by replacing his old policy with a new one he would incur another front-end load. Also the suicide clause in the new policy would be in effect for two years, and the new policy would be contestable for two years.

In short, it appears that a savings bank would not be able to get away with using the investment year method, but that the Equitable is in a position to carry it off. The question is whether the Equitable could succeed if the old policyholders of the company were informed of what is being done to them.

SOCIAL SECURITY LEGISLATION

Mr. BENTSEN. Mr. President, last January I introduced a bill to insure that our Nation's social security system remains fiscally sound. When I introduced that bill I claimed that it would cut the projected long-term deficit for the social security system in half without denying anyone the benefits which they had earned the right to receive.

Yesterday, the administration presented its annual report on the status of the social security trust funds to Congress. This report confirmed that my bill would indeed halve the deficit that is projected for the system under current law.

Mr. President, the bill which I introduced last January (S. 2901) corrects an unintentional side effect of the social security amendments passed in 1972. The purpose of the 1972 legislation was to assure that people already receiving social security benefits have these benefits updated to reflect increases in the cost of living. I supported this legislation because it guaranteed that there would be no delay between increases in the cost of living and increases in the social security benefit upon which over 31 million Americans depend.

However, it is now clear that the 1972 legislation has a far greater effect than was ever intended. In the long run, as a result of this legislation, a person could receive as much as two and a half times his preretirement earnings in the form of a social security benefit. Currently, people with low average monthly earnings during their working years receive a social security benefit that replaces about 62 percent of their preretirement earnings. People with very high earnings during their working years receive a social security benefit that replaces about 29 percent of their preretirement earnings. This kind of stable relationship between earnings during the working years and

the social security benefit is the cornerstone of our social security system.

Our social security system was not designed to alleviate dependency but rather to prevent dependency for those who had worked hard and contributed to our Nation's prosperity. The system was never intended to provide benefits that exceeded a person's earnings during his working years.

However, as the social security trustees' report reveals, by the year 2050, under current law a person with low earnings during his lifetime would receive a social security benefit 2½ times larger than his preretirement earnings. A person with very high earnings during his working years could receive a social security benefit that replaced fully 95 percent of his preretirement earnings.

Mr. President, with 100 million Americans contributing over $66 billion of their earnings to the social security system in a single year, I cannot stand by and let a flaw in the law, an unintentional side effect of otherwise good legislation, jeopardize the stability of the system and the confidence of people in this system. We cannot allow young workers to contribute so much of their earnings to social security without being able to assure them that upon their retirement, they will receive an equitable benefit that bears the same relation to their earnings as the benefits received by the generation which preceded them.

Therefore, I urge my colleagues to support the legislation which I introduced last January and which the trustees' report now confirms will cut the projected long term deficit in half and will stabilize the relationship between a person's preretirement earnings and the social security benefit which he eventually receives. My bill will not tamper with the automatic cost-of-living increases to social security benefits that a person receives after he has retired. It will simply assure that the relationship between a person's preretirement earnings and his social security benefit remains constant.

Mr. President, even the trustees of the social security system recognize the need for this legislation. They say:

. . . the (social security) benefits projected to materialize . . . reach unreasonably high levels for persons who first become entitled to benefits in the next century. Historically legislative action has been taken to bring projected future income to and disbursement from the trust funds into balance, and it is clearly imperative that legislative changes be made to prevent these projected benefit levels from materializing.

As I am sure my colleagues will agree, reducing the size of the social security system's long term deficit and stabilizing replacement rates—the proportion of a worker's earnings that is replaced by his social security benefit—are compelling enough reasons to amend the current law governing the old age survivors and disability insurance system. However, there is another equally vital issue to add to this list—the size of the contributions by employers and employees that will be required to keep this system solvent. Under the most pessimistic economic assumptions, fully 15.32 percent of total taxable payroll in this country will be needed by the year 2000 to finance the social security system. By the year 2050 this figure soars to an unbelievable 46.02 percent of taxable payroll. This means that nearly half of all earnings that can be taxed under social security will have to be diverted to the financing of our social security system in that year. This is clearly an intolerable and irrational direction for our country's social insurance system to be moving. Currently, social security is supported by taxes equaling 9.9 percent of taxable payroll—with half of this amount paid by the employer and half by the employee.

Mr. President, the statement I made last January when I introduced my bill, S. 2901, to make more rational and equitable the method of computing benefits under the old age, survivors and disability insurance system, has been confirmed by the social security system's actuaries. The legislation will cut the long term deficit projected for the system in half and will stabilize replacement rates without tampering with the automatic cost-of-living adjustments for people already drawing benefits. I urge my colleagues to support this legislation and act with all possible speed to restore the integrity of and confidence in our Nation's social security system. I ask unanimous consent that a copy of my bill, S. 2901, be printed in the RECORD.

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

S. 2901

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 "Social Security Amendments of 1976".

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 2. (a) Section 215(a) of the Social Security Act is amended to read as follows:

"(a) The 'initial primary insurance amount' of an insured individual shall be determined as follows:

"(1) Subject to the conditions specified in subsection (b) of this section and except as provided in paragraphs (2), (4), (5), (6), and (7) of this subsection, such initial primary insurance amount shall be computed for whichever of the following first occurs: the year in which the individual first becomes entitled to a disability insurance benefit, the year in which the individual dies, or the year in which the individual attains age 62 (or 1978, if later): *Provided,* That (A) no such initial primary insurance amount shall be determined with respect to an individual who was entitled to an old-age insurance benefit or a disability insurance benefit for December 1977 (other than such an individual whose disability insurance benefit terminated by no longer being under a disability, but then only with respect to an event of disability, death, or attainment of age 62 occurring thereafter) or who died prior to 1977 and (B) with respect to an individual whose disability insurance benefit terminates because he is no longer under a disability, a new determination of such initial primary insurance amount shall be made upon subsequent disability, death, or attainment of age 62. The amount of such initial primary insurance amount shall be determined from the following formula for individuals who first become entitled to disability insurance benefits in 1978, who die in 1978 and have not attained age 62 and were not entitled to a disability insurance benefit for the month before the month in which they died, or who attain age 62 in 1978 or had attained age 62 prior to 1978 and were not entitled to a disability insurance benefit for the month before the month of attainment of age 62 or, if later, for December 1977:

"(C) 81 percent of the first $175 of average indexed monthly earnings, plus

"(D) 29 percent of the next $865 of average indexed monthly earnings, plus

"(E) 15 percent of average indexed monthly earnings in excess of $1,040.

With respect to individuals who first become entitled to a disability insurance benefit for a month in a year after 1978, who die in a year after 1978 and have not attained age 62 and were not entitled to a disability insurance benefit for the month before the month in which they died, or who attain age 62 in a year after 1978 and were not entitled to a disability insurance benefit for the month before the month of attainment of age 62, the applicable formula shall be obtained by multiplying each of the three dollar factors in the foregoing formula by the ratio of (F) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year preceding such year to (G) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1977 (with such resulting factors being rounded to the nearest cent). On or before November 1 of each year after 1977, the Secretary shall publish in the Federal Register the applicable benefit formula for the benefit determination year (as defined in subsection (b)(5) of this section) applicable to individuals becoming disabled, dying, or attaining age 62 in the following calendar year.

"(2) Such initial primary insurance amount shall be $101.40 (as increased after application of any cost-of-living increases in benefits under subsection (i) which have occurred after such dollar amount was established as the minimum primary insurance amount and the date the individual's initial primary insurance amount is determined) in any case in which such amount is higher than the individual's initial primary insurance amount as determined under paragraph (1).

"(3) The 'primary insurance amount' of an individual whose initial primary insurance amount was determined under this subsection shall be such initial primary insurance amount for all months up to and including the May of the year for which such initial primary insurance amount is determined. For all subsequent months, the primary insurance amount shall be determined in accordance with subsection (i).

"(4) In the case of an individual who was entitled to a disability insurance benefit for the first month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, such primary insurance amount shall be the primary insurance amount to which such individual would have been entitled if he had been entitled to a disability insurance benefit for such first month.

"(5) Such primary insurance amount shall be an amount equal to $9 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under the preceding paragraphs of this subsection.

"(6) In the case of any individual who attains age 62 prior to 1987, the initial primary insurance amount of an insured individual as determined under the preceding paragraphs of this subsection shall not be less than the primary insurance amount which would have been determined under the provisions of this section as it was applicable for December 1977 (without the application of any cost-of-living increases in benefits under subsection (i) after 1977).

"(7) The initial primary insurance amount

of an insured individual who was entitled to old-age or disability insurance benefits for December 1977, or who died before 1978 shall be the primary insurance amount on which such old-age or disability insurance benefit for December 1975, was based, or in the case of deaths before 1978, the primary insurance amount for December 1977 on which an old-age or disability insurance benefit would have been based if such deceased individual had not died before 1978. Such initial primary insurance amount shall, for purposes of paragraph (3), be deemed to have been determined for January 1978.

For purposes of paragraph (5), an individual's 'years of coverage' is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by $900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(C)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year.".

(b) Section 215 of such Act is amended by striking out subsections (c) and (d).

(c) Section 215(f) of such Act is amended by striking "subsections (a)(1)(A) and (C) and (a)(3)" and inserting in lieu thereof "subsection (a)".

(d) Section 215(i) of such Act is amended by striking out "subsection (a)(3)" in subparagraph (2)(A)(ii) and inserting in lieu thereof "subsection (a)(5)" and by striking out all that follows the first sentence of subparagraph (2)(D).

(e) Such section 215(i) is further amended by adding the following new paragraph at the end thereof:

"(4) The primary insurance amount that is used to determine the monthly insurance benefits for survivors under subsections (d), (e), (f), (g), and (h) of section 202 for a month shall be the primary insurance amount which would be applicable to the insured individual for that month if he were then alive and entitled to a disability insurance benefit or to an old-age insurance benefit.".

AVERAGE INDEXED MONTHLY EARNINGS

SEC. 3. (a) Section 215(b)(1) of the Social Security Act is amended to read as follows:

"(1) For the purposes of the formula for the initial primary insurance amount contained in subsection (a), an individual's 'average indexed monthly earnings' shall be the quotient obtained by dividing—

"(A) the total of his indexed earnings (as defined in paragraph (5)) credited to his 'benefit computation years' (determined under paragraph (2)), by

"(B) the number of months in such years.".

(b) Section 215(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(5) An individual's 'indexed earnings' for any year after 1950 shall be the product of (A) the total of his wages paid in such year and self-employment income credited for such year and (B) the 'earnings index' applicable to such year to the individual's 'benefit determination year', with such product, if not a multiple of $1, being rounded to the next higher $1 where such product is a multiple of 50 cents but not of $1 and to the nearest multiple of $1 in any other case. An individual's 'benefit determination year' shall be the year before the year for which his initial primary insurance amount is to be determined (in accordance with subsection (a)). The 'earnings index' for any particular year prior to an individual's benefit determination year shall be the ratio of (C) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such benefit determination year to (D) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such particular year, with such ratio being rounded to five decimal places; the 'earnings index' for the individual's benefit determination year and for subsequent years shall be 1.00000.".

(c) Section 203(a) of such Act is amended—

(1) in the matter preceding clause (1) thereof, by striking out "the amount appearing in column V of the table in (or deemed to be in) section 215(a) on the line on which appears in column IV such individual's primary insurance amount" and inserting in lieu thereof "such insured individual's 'maximum family benefits amount' (meaning an amount equal to 150 per centum of the first $205 of such individual's primary insurance amount, plus 275 per centum of the next $95 of his primary insurance amount, plus 135 per centum of the next $85 of his primary insurance amount, plus 175 per centum of so much of his primary insurance amount as exceeds $385)", and

(2) in clause (1) thereof, by striking out "the last figure in column V of the table appearing in section 215(a)" and inserting in lieu thereof "the maximum family benefits amount (as hereinbefore defined in this subsection) for the highest primary insurance amount that would be payable for such month".

(d) Section 203(a)(5) of such Act is amended to read as follows:

"(5) during the 10-year period beginning on the date of enactment of this Act, whenever the first sentence of this subsection would result in a lower maximum family benefit than would have resulted under the provisions of section 215 of the Social Security Act as it was applicable for December 1977, but without the application of any cost-of-living increases to the benefit table in subsection (a) of such section as a result of subsection (i)(2)(D) of such section for any subsequent months (but with the application of cost-of-living benefit increases as a result of subsections (i)(2)(A) and (i)(2)(B) of such section to individuals entitled to monthly benefits after December 1977 for all periods after the first month of entitlement).".

(e) Section 224(a) of such Act is amended by striking out "average monthly wage" in clause (A) and inserting in lieu thereof "average indexed monthly earnings".

EFFECTIVE DATE PROVISIONS

SEC. 4. The amendments made by sections 2 and 3 shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1977 and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks recognition, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 10:41 a.m., recessed until 10:56 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. LEAHY).

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS FOR 3 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 3 minutes.

There being no objection, the Senate, at 10:57 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. LEAHY).

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to the consideration of H.R. 8532, which will be stated by title.

The assistant legislative clerk read as follows:

Calendar 781 (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate proceeded to consider the bill.

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

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

The 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 (Mr. CLARK). Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the following staff members be permitted the privilege of the floor during consideration of H.R. 8532 and any vote thereon: Tom Brennan of Senator MCCLELLAN's staff, and Charles Kern of Senator FONG's staff.

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

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Emory Sneedon of my staff be granted privilege of the floor during consideration and voting on this bill.

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

Mr. ABOUREZK. I ask unanimous consent that David Rubenstein of Senator BAYH's staff be given the privilege of the floor during the proceeding on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. HRUSKA. Mr. President, I ask unanimous consent that Peter Chumbris

of the staff of the Committee on the Judiciary be permitted privilege of the floor during the debate and voting on this measure and all related matters.

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

AMENDMENT NO. 1701

Mr. PHILIP A. HART. Mr. President, on behalf of myself and Senator HUGH SCOTT, I send to the desk an amendment in the nature of a substitute to H.R. 8532. The amendment substitutes the text of S. 1284 reported by the committee.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HRUSKA. Reserving the right to object——

The legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) for himself and Mr. HUGH SCOTT proposes an amendment in the nature of a substitute.

Mr. PHILIP A. HART. Mr. President, I ask that further reading of the substitute be dispensed with and that I be permitted to make an explanation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be printed in full in the RECORD.

The amendment is as follows:

SHORT TITLE

SEC. 101. This Act may be cited as the "Hart-Scott Antitrust Improvements Act of 1976".

TITLE I—DECLARATION OF POLICY

SEC. 102. (a) It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws, to improve and modernize antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

(b) The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a free, democratic society;

(2) the decline of competition in the economy could contribute to unemployment, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) investigations by the Federal Trade Commission, the Department of Justice, and the National Commission on Food Marketing, as well as other independent studies, have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(5) vigorous and effective enforcement of the antitrust laws, and reduction of anticompetitive practices in the economy, can contribute to reducing prices, unemployment, and inflation, and to preservation of our democratic institutions and personal freedoms.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

SEC. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Subsection (a) of section 2 is amended by inserting "and" after the semicolon at the end of subparagraph (1), by striking subparagraph (2) thereof, and by renumbering subparagraph (3) and striking therefrom "(A)" after the words "with respect to," substituting a semicolon for the comma after the words "trade or commerce" and striking the remainder of the subparagraph.

(b) Subsection (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities preparatory to a merger, acquisition, joint venture, or similar transaction, which may lead to any antitrust violation;".

(c) Subsection (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including any natural person or entity acting under color or authority of State law;".

(d) Subsection (h) of section 2 is amended by striking out the words "antitrust document".

(e) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation or to competition in a Federal administrative or regulatory agency proceeding, he may, prior to the institution of a civil or criminal proceeding thereon or during the pendency of an agency proceeding, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning such information, or to furnish any combination thereof.".

(f) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the investigation and the provision of law applicable thereto or the Federal administrative or regulatory agency proceeding involved; and

"(2)(A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) propound with definiteness and certainty the written interrogatories to be answered; and

"(ii) prescribe a date or dates at which time answers to the written interrogatories shall be made; and

"(iii) identify the custodian to whom such answers shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination, and the custodian to whom the transcript of such examination shall be given.".

(g) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpena issued by a court of the United States in aid of a grand jury investigation; and

"(2)(A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(h) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any person who, in the opinion of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, is not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(i) Section 3 is further amended by inserting the following new subsections immediately after subsection (h), as redesignated:

"(i) The production of documentary material in response to a demand for production thereof shall be made under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed or, if the person to which the demand is directed is not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer, and the answers shall be submitted under a certificate, in such form as the demand designates, sworn to by the person, if a natural person, to whom the demand is directed, or if the person to which the demand is directed is not a natural person, by a person or persons responsible for the answers, to the effect that all information requires by

the demand and in the possession, custody, or control of the person to whom the demand is directed, or within the knowledge of such person, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the custodian. The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts personal business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) When the testimony is fully transcribed, the witness shall be afforded an opportunity to examine the transcript, in the presence of the officer, for errors in transcription. Any corrections of transcription errors which the witness desires to make shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The witness also may clarify or complete answers otherwise equivocal or incomplete on the record, which shall be entered and identified upon the transcript by the officer, with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded an opportunity to examine it, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the custodian. Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

"(4) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer any question on grounds of privilege or other lawful grounds; but he shall not otherwise interrupt the examination. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been subpenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(5) Any person examined pursuant to a demand under this section shall be entitled to the same fees and mileage that are paid to witnesses in the courts of the United States. The court shall award any person, not the subject of an antitrust investigation (or an officer, director, employee or agent thereof), who shall respond to, or be examined pursuant to a demand under this section, reasonable expenses incurred by him in preparing and producing documentary material or in appearing for examination, including reasonable attorneys' fees. A determination made pursuant to this paragraph (5) shall be made subsequent to compliance by such person with such demand.".

(j) Subsection (a) of section 4 is amended by striking the words "antitrust document", and by inserting immediately after the word "custodian" the words "of documentary material demanded, answers to written interrogatories served, or transcripts of oral testimony taken, pursuant to this Act".

(k) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(l) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "any" the word "such", by inserting in the first sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the second sentence immediately after the word "material" the words ", answers to interrogatories, or transcripts of oral testimony", by inserting in the third sentence immediately after the word "material", in both places where it appears, the words "or information", by inserting in the fourth sentence immediately before the word "documentary" the word "such", and by adding after the fourth sentence the following new sentence: "Such documentary material and answers to interrogatories may be used in connection with any oral testimony taken pursuant to this Act.".

(m) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding such attorney shall return to the custodian any such materials so delivered that have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony shall deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with any investigation or proceeding under its jurisdiction unless the Assistant Attorney General in charge of the Antitrust Division determines that it would not be in the public interest to provide such material to the Commission. Upon the completion of any such investigation or proceeding, the Commission shall return to the custodian any such materials so delivered that have not been introduced into the record of such case or proceeding before the Commission. While such materials are in the possession of the Commission, it shall be subject to any and all restrictions and obligations which this Act places upon the custodian of such materials while in the possession of the Antitrust Division of the Department of Justice.".

(n) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of—

"(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and

"(2) any such case or proceeding,

the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(o) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection(c) of this section) so produced by such person.".

(p) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced, answers to written interrogatories served, or transcripts of oral testimony taken, under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material, answers to interrogatories, or transcripts of oral testimony, and (2) transmit in writing to the person who submitted the documentary material notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be

held responsible for any default or dereliction which occurred before his designation.".

(q) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(r) The first sentence of subsection (b) of section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator or investigators named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(s) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: *"Provided*, That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(t) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(u) Subsection (c) of section 5 is amended by striking out the word "delivered" and by inserting immediately after the word "material" the words "or answers to interrogatories delivered, or transcripts of oral testimony given".

(v) The third paragraph of section 1505 of title 18, United States Code, is amended by inserting between the words "any" and "documentary" the words "oral or written information or any", and by inserting between the third and fourth paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

SEC. 202. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914 (15 U.S.C. 16), is amended by adding at the end thereof the following new subsections:

"(j) A plea of nolo contendere in a criminal proceeding under the antitrust laws shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

"(k) The Attorney General, unless he determines it would be contrary to the public interest shall upon written request from the Federal Trade Commission, after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding or after the termination of any grand jury proceeding which does not result in the institution of such a proceeding, permit the Commission to inspect and copy any documentary material produced in and the transcripts of such grand jury proceeding. While such materials are in the possession of the Commission, the Commission shall be subject to any and all restrictions and obligations placed upon the Attorney General with respect to the secrecy of such materials.

"(l) Any person that institutes a civil action under this Act may, upon payment of reasonable charges therefor and after completion of any civil or criminal proceeding instituted by the United States and arising out of any grand jury proceeding, inspect and copy any documentary material produced in and the transcript of such grand jury proceeding concerning the subject matter of such person's civil action. Any action or proceeding to compel the grant of access under this subsection shall be brought in the United States district court for the district in which the grand jury proceeding occurred. The court may impose conditions upon the grant of access and protective orders that are required by the interests of justice.".

SEC. 203. The provisions of this title shall be effective on the date of enactment of this Act, and the provisions providing for the production of documents or information may be employed in respect of acts, practices, and conduct that occurred prior to the date of enactment thereof.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

SEC. 301. (a) Sections 2 and 3 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 13 and 14) and section 3 of the Act entitled "An Act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (15 U.S.C. 13a), are amended by striking out the words "in commerce" wherever the term appears and inserting in lieu thereof the words "in or affecting commerce".

(b) Section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 18), is amended by striking out in the first sentence thereof the words "engaged in commerce" and "engaged also in commerce,"; by striking out in the second sentence thereof the words "engaged in commerce,"; by inserting in the first sentence thereof after the word "corporation", third appearance, the words ", where the activities of either corporation are in or affect commerce and"; by inserting in the first sentence thereof a comma between the words "where" and "in"; by inserting in the second sentence thereof after the word "corporations" the words ", where the activities of either corporation are in or affect commerce and"; and by inserting in the second sentence thereof a comma between the words "where" and "in".

(c) Section 6 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 6), as amended, is amended by striking the words "and being in the course of transportation from one State to another, or to a foreign country", and inserting in lieu thereof the words "and being in or affecting commerce among the several States, or with foreign nations".

COMPLEX CASES

SEC. 302. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"SEC. 27. (a) In any civil action brought in any district court of the United States under the antitrust laws, or any other Acts having like purpose that have been or hereafter may be enacted, the chief judge of the district court or the trial judge assigned to hear and determine the case—

"(1) may, upon application of either party to the proceeding, or upon his own motion, designate the case as a complex antitrust case; and

"(2) shall, upon the filing of a certificate by the Attorney General that, in his opinion, the case is a complex antitrust case, designate the case as a complex antitrust case.

It shall be the duty of the chief judge, and the trial judge designated to hear and determine any case designated as a complex antitrust case, to set the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. Special masters, economic experts, and other personnel may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters.

"(b) Such special masters, economic experts, and other personnel as may be appointed to assist in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters, also may serve as expert witnesses. They may be used by the court in all phases of the trial, including the preparation and analysis of plans for relief. They (1) may be furnished with all evidence introduced by any party; (2) may provide additional evidence subject to objection by any party; (3) may provide an analysis of issues with particular reference to proposed orders to restore effective competition; (4) may recommend provisions for proposed orders to restore effective competition; and (5) shall be subject to cross-examination and rebuttal.

"(c) In any case designated as a complex antitrust case, the provisions of section 604 of title 28, United States Code, providing for the payment of expenses and compensation shall apply in order to provide compensation to such master, expert or other personnel that may be appointed.".

FOREIGN ACTIONS

SEC. 303. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12), is amended by adding at the end thereof the following new section:

"SEC. 28. In any civil action or proceeding before any court of the United States, involving any Act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies, in which the court orders any party (or any officer, director, employee, agent, subsidiary, or parent thereof within the jurisdiction of the court) to furnish discovery, evidence, or testimony in the custody, possession, or control of such party (or officer, director, employee, agent, subsidiary, or parent thereof) and such party (or officer, director, employee, agent, subsidiary, or parent thereof) refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such party (or officer, director, employee, agent, subsidiary, or parent thereof) with such order, the court may enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party: *Provided*, That where in any such action or proceeding the court orders any party to furnish discovery, evidence, or testimony in the custody, possession, or control of any officer, director, employee, agent, subsidiary, or parent of such party not subject to the jurisdiction of such court and such party refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance by such person or entity with such order, the court shall order such party to make a good faith effort to secure a waiver from such law. If the court

determines that such effort has been made and a waiver is not secured, it shall not on the basis of such refusal, declination, or failure enter an order against such party dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party.".

ATTORNEYS' FEES

SEC. 304. Section 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 16, 1914 (15 U.S.C. 26), is amended by adding at the end thereof the following new sentence: "In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.".

SEVERABILITY

SEC. 305. If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Section 301 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 302 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed.

(c) Section 303 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 303 applicable thereto.

(d) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

TITLE IV—PARENS PATRIAE AMENDMENTS

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a) (1) Any attorney general of a State may bring a civil action, in the name of such State in any district court of the United States having jurisdiction of the defendant, to secure monetary and other relief as provided in this section in respect of any damage sustained, by reason of the defendant's having done anything forbidden in the Sherman Act, by the natural persons residing in such State, or any of them: *Provided,* That no monetary relief shall be awarded in respect of such damage that duplicates any monetary relief that has been awarded or is properly allocable to (i) such natural persons who have excluded their claims pursuant to subsection (b) (2) of this section, and (ii) any business entity.

"(2) The court shall award the State as monetary relief threefold the total damage sustained as described in subsection (a) (1) of this section; such other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act; and the cost of suit, including a reasonable attorney's fee and other expenses of the litigation.

"(b) (1) In any action brought under subsection (a) (1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person may elect to exclude from adjudication in an action brought under subsection (a) (1) of this section the portion of the State claim for monetary relief attributable to him. He shall do so by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b) (1) of this section.

"(3) The final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this Act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b) (2) of this section.

"(c) (1) In any action brought under subsection (a) (1) of this section, and in any case action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

"(2) In any action brought under subsection (a) (1) of this section, the court shall distribute, or direct the distribution of, any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize. In either case, any distribution procedure adopted shall afford each person in respect of damage to whom the relief was awarded a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"(d) An action brought under this section shall not be dismissed or compromised without approval of the court after providing such notice to persons affected thereby as the court shall direct in the interests of justice.

"(e) In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

"SEC. 4E. (a) In any action under section 4 or 4C of this Act, the State or any other plaintiff shall be entitled to recover treble damages in respect to the full amount of overcharges incurred or other monetary damages sustained in connection with expenditures under a federally funded program, notwithstanding the fact that the United States funded portions of the amounts claimed.

"(b) The Attorney General of the United States shall have the right to intervene in any such action to protect the interests of the United States.

"(c) Out of any damages recovered pursuant to this section, the United States shall be entitled to the portion of the overcharges or other monetary damages, untrebled, that it sustained or funded. Whenever another Federal statute or law provides a specified method of settlement of accounts between the State and Federal governments, in respect of such recovery, such method shall be used. Otherwise, the court before which the action is pending shall determine the method.

"(d) In the event of multiple actions in respect of the same alleged overcharges or other damages relating to a federally funded program, the defendant shall not be assessed, in total, more than threefold such damages.

"SEC. 4F. For the purposes of sections 4C, 4D, and 4E of this Act:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and shall include the Corporation Counsel of the District of Columbia.

"(2) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1), as amended or as may be hereafter amended.".

SEC. 402. Section 4B of such Act is amended by striking out the words "sections 4 or 4A" and inserting in lieu thereof the words "sections 4, 4A, or 4C".

SEC. 403. Section 5(1) of such Act is amended by striking out the words "private right of action" and inserting in lieu thereof the words "private or State right of action"; and by striking out the words "section 4" and inserting in lieu thereof the words "sections 4 or 4C".

SEC. 404. If any provision of this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by such holding.

SEC. 405. This title shall apply to all civil actions filed under the antitrust laws in which a person representing a class of natural persons or a State is plaintiff, including those in which the cause of action accrued before the date of enactment of this title, but shall not apply to any civil action alleging a violation previously alleged in any civil action filed on behalf of a class of consumers.

TITLE V—PREMERGER NOTIFICATION AND STAY AMENDMENTS

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 7A to read as follows:

"SEC. 7A. (a) Notwithstanding any other provision of law, except as exempted pursuant to subsection (b) (4) of this section, until expiration of the notification and waiting period specified in subsection (b) (1) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1) stock or assets of a manufacturing company with annual net sales or total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(2) stock or assets of a non-manufacturing company with total assets of $10,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $100,000,000 or more; or

"(3) stock or assets of a person or persons with annual net sales or total assets of

$100,000,000 or more is or are being acquired by a person or persons with total assets or annual net sales of $10,000,000 or more.

"(b)(1) The notification and waiting period required by this section shall expire thirty days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (3) of this subsection, or until expiration of any extension of such period pursuant to subsection (c)(2) of this section, whichever is later, except as the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section.

"(2) Notwithstanding any other provision of law or the applicability of subsection (a) of this section, except as exempted pursuant to subsection (b)(4) of this section, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if—

"(A) the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce; and

"(B) the Federal Trade Commission, with the concurrence of the Assistant Attorney General, by general regulations requires, after notice and submission of views, pursuant to section 553 of title 5, United States Code, that such person or persons, or any class or category thereof, shall not do so until the expiration of thirty days following the filing of a notification (specified pursuant to paragraph (3) of this subsection), or until the Federal Trade Commission and the Assistant Attorney General may otherwise authorize pursuant to subsection (c)(4) of this section, whichever occurs first.

"(3)(A) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The fact of the filing of the notification required by this section and all information and documentary material contained therein shall be considered confidential under section 1905, title 18, United States Code, until the fact of such filing or of the proposed merger or acquisition is public knowledge, at which time such notification, information, and documentary material shall be subject to the provisions of section 552(b), title 5, United States Code. Nothing in this section is intended to prevent disclosure to any duly authorized committee or subcommittee of the Congress, to other officers or employees concerned with carrying out this section or in connection with any proceeding under this section.

"(4)(A) The Federal Trade Commission, with the concurrence of the Assistant Attorney General, is authorized and directed to define the terms used in this section, to prescribe the content and form of reports, by general regulation to except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not inconsistent with the purposes of this section, after notice and submission of views, pursuant to section 553 of title 5, United States Code.

"(B) The following classes of transactions are exempt from the notification requirements of this section:

"(i) goods or realty transferred in the ordinary course of business;

"(ii) bonds, mortgage, deeds of trust, or other obligations which are not voting securities;

"(iii) interests in a corporation at least 50 per centum of the stock of which already is owned by the acquiring person or a wholly owned subsidiary thereof;

"(iv) transfers to or from a Federal agency or a State or political subdivision thereof;

"(v) transactions exempted from collateral attack under section 7 of this Act if approved by a Federal administrative or regulatory agency: *Provided*, That duplicate originals of the information and documentary material filed with such agency shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(vi) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), as amended, or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1824), as amended;

"(vii) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended, section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), as amended, or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended: *Provided*, That duplicate originals of the information and documentary material filed with such agencies shall be contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least thirty days prior to consummation of the proposed transaction;

"(viii) acquisitions, solely for the purpose of investment, of voting securities, if, at the time of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(ix) acquisitions of voting securities, if, at the time of such acquisition, the securities acquired do not increase, directly or indirectly, the acquiring person's share of outstanding voting securities of the issuer; and

"(x) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, other than voting securities or other voting share capital, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business.

"(C) For the purpose of subsection (b)(4)(B) of this section, 'voting security' means any security presently entitling the owner or holder thereof to vote for the election of directors of a company or, with respect to unincorporated issuers, persons exercising similar functions.

"(c)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the periods specified in subsection (b)(1) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) The Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsection (b)(1) of this section for an additional period of up to twenty days after receipt of the information and documentary material submitted pursuant to subsection (c)(1) of this section.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that a proposed acquisition or merger violates section 7 of this Act, or section 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and the Federal Trade Commission or the Assistant Attorney General (i) files a motion for a preliminary injunction against consummation of such acquisition or merger pendente lite, and (ii) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(1) upon the filing of such certification the chief judge of such district court shall enter an order temporarily restraining consummation of such proposed acquisition or merger until final disposition of the motion for a preliminary injunction; and shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes;

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited;

"(3) a preliminary injunction shall issue restraining consummation of such proposed acquisition or merger until the order of the Federal Trade Commission in respect thereof or the judgment entered in such action has become final unless the defendants show that the Federal Trade Commission or the United States does not have a reasonable probability of ultimately prevailing on the merits, or that they will be irreparably injured by the entry of such an order, in which case the court may deny, modify, or subject such preliminary injunction to such conditions as the court shall deem just in the premises: *Provided*, That a showing of loss of anticipated financial benefits from the proposed acquisition or merger shall not be sufficient to warrant denial, modification, or conditioning of such an injunction; and

"(4) if a decision by the district court on such motion for a preliminary injunction is not issued within sixty days after issuance of the order temporarily restraining consummation of such proposed acquisition or merger, under paragraph (1) of this subsection, such order shall be vacated unless, for good cause, the chief judge of the United States court of appeals for such circuit extends such order.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b)(1) and (b)(2) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to

such acquisition, at any time under any provision of law.

"(f) (1) Whenever any person violates or fails to comply with the provisions of subsection (a) of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Whenever any person fails to furnish information required to be submitted, pursuant to subsection (c) (1) of this section, such person shall be liable for the penalties provided for noncompliance with the provisions of the Federal Trade Commission Act or the Antitrust Civil Process Act, as the case may be.

"(g) In any proceeding instituted or action brought by the Federal Trade Commission or the United States alleging that an acquisition violates section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), upon application of the Federal Trade Commission or the Assistant Attorney General to the United States district court within which the respondent resides or carries on business, or in which the action is filed, such court shall, as soon as practicable, enter an order establishing the purchase price of the acquired stock or assets, requiring the person or persons to maintain the personnel, assets, stock or firm being acquired as a separate entity unless the interests of justice require otherwise, and may enter an order requiring the profits of the acquired firm, stock, or assets to be placed in an escrow account, pending the outcome of the proceeding or action. Upon entry of a final order or judgment of divestiture under section 7 of this Act, or sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), the court shall order that the divestiture be accomplished expeditiously. To the extent practicable, the court may deprive the violator of all benefits of the violation including tax benefits.".

SEC. 502. The provisions of this title shall be effective one hundred and twenty days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized and directed to carry out the requirements of sections 7A (b) (3) and (b) (4) of the Clayton Act, as amended by this Act.

Mr. HRUSKA. May I ask what the nature of the amendment is?

Mr. PHILIP A. HART. It is S. 1284, as reported by the Judiciary Committee. This is the bill which was the subject of considerable hearing and discussion.

Mr. HRUSKA. And the amendment consists of the text of that bill, except for the number and the title, am I correct?

Mr. PHILIP A. HART. I believe there is no change, save in the title and number.

May I ask the Parliamentarian if that is correct?

The PRESIDING OFFICER. There is no change.

Mr. PHILIP A. HART. No change.

Mr. HRUSKA. Then the number will be a Senate number?

Mr. PHILIP A. HART. No, the number will be the House bill. The amendment substitutes all after the enacting clause.

Is that correct?

Mr. HRUSKA. And, of course, it is subject to debate.

Mr. PHILIP A. HART. It is subject to debate.

The PRESIDING OFFICER. It has the effect of becoming S. 1284 with the House title and number.

Mr. PHILIP A. HART. I thank the Senator.

Mr. President, since 1890 and the passage of the Sherman Act, this Nation has been wary of great stores of economic power. The antitrust laws set forth the tenets of diffused economic power and the concept that competing forces, rather than the Government itself, should offer the balance in a free market society.

The legislation that we begin debate on today acknowledges those tenets. If our economy has fallen short, and it has, it is not because those principles have failed, but rather because we failed to provide legislatively enforcement methods that are effective.

The distinguished minority leader (Mr. HUGH SCOTT) and I believe that the deterrent effect and enforcement of our antitrust laws can be significantly improved. This amendment is designed to strengthen both the public and private system of antitrust enforcement.

It does not change substantive standards. It does not make anything illegal which is not already illegal.

It will make violations easier to detect and it will increase the exposure of violators. In the words of one businessman, white collar crime still does pay:

> When you're doing $30 million a year and stand to gain $3 million by fixing prices, a $30,000 fine doesn't mean much. Face it, most of us would be willing to spend 30 days in jail to make a few extra million dollars. Business Week (June 2, 1975)

Under this amendment, that businessman would stand a greater chance of being forced to pay back that $3 million trebled.

It may be suggested that the committee did not carefully consider the provisions of this legislation. I believe the record clearly demonstrates otherwise. More than 40 witnesses submitted testimony that can be described fairly as exhaustive. Their testimony and related materials are sufficient to fill three volumes. In addition, the amendment was subjected to 16 hours of markup in the full committee—a near record during my tenure in that body.

The amendment consists of five interrelated, but separate, titles. However, the more important provisions—for which there are counterparts in the House—are contained in titles II, IV, and V.

TITLE II—ADDITIONAL INVESTIGATIVE POWERS FOR THE DEPARTMENT OF JUSTICE

Title II would grant additional powers to the Department of Justice to investigate violations of the antitrust laws. Under present law, if the Antitrust Division has reasonable cause to believe that a criminal violation has occurred, it may convene a Federal grand jury to conduct an investigation. Understandably, the courts have frowned on the use of grand juries to investigate conduct which constitutes a civil—and not a criminal—violation. And, some of our antitrust statutes, the Clayton Act and portions of the Robinson-Patman Act, for example, contain no criminal sanctions. In these instances, the Department must rely upon the voluntary cooperation of the parties being investigated or use the limited provisions of the Antitrust Civil Process Act of 1962. Under the 1962 law, the Attorney General may compel the production only of documentary material from nonnatural persons, usually corporations who are the targets of the investigations. The Attorney General may not compel the production of relevant information from third parties who are not subjects of the investigation. Third parties may be trade associations who have market share data or suppliers, customers, or competitors who may be able to shed light on a particular business practice. In addition, the Attorney General is prohibited from issuing written interrogatories or taking oral depositions under this statute. And, what is even more troublesome, the Department may not investigate mergers under the Antitrust Civil Process Act until after the transaction has taken place. After an illegal merger has taken place, securing adequate relief is extremely difficult. Once the eggs of the two companies have been scrambled, it becomes difficult, if not impossible, to pull them apart.

There is a third option available to the Department with respect to civil investigations. The Division could go ahead on the basis of sketchy information and file a complaint, and then use the discovery provisions of the Federal Rules of Civil Procedure to gather evidence. Obviously, this is not a responsible way for any Government agency to proceed. It puts the Department in the position of pretending to bring charges in order to determine whether or not actual charges should be brought. Moreover, once a complaint is filed, it is not always easy to dismiss. There is resistance in any institution to admitting you were wrong in the first place.

Facts are of paramount importance in attempting to decide whether or not a violation has taken place. Effective antitrust enforcement requires full and comprehensive investigation before formal proceedings are filed. Incomplete investigation may mean proceedings not justified by more careful search and study.

Title II attempts to remedy these defects in the Department's precomplaint investigative process. It would amend the Antitrust Civil Process Act to authorize the Division to:

First, issue a civil investigative demand to investigate mergers and acquisitions prior to consummation;

Second, issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

Third, take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

Fourth, issue a civil investigative demand to obtain relevant competitive evidence for use in ongoing regulatory agency proceedings.

The Federal Trade Commission, Department of Labor, Internal Revenue Service, and practically every other Federal regulatory agency already possess the investigatory powers that title II would authorize for the Department of Justice. Nonetheless, some object to the

grant of this additional authority to the Department of Justice because, unlike other executive branch or regulatory agencies, it is also the prosecutor for criminal violations. To protect against potential abuse, title II would require a court order to enforce any Department request. In other words, no civil investigative demand could be enforced against any person until the Department went before a district court judge and sought an order requesting compliance. The person against whom the order is sought may defend and appeal any order entered against him. A Federal district court is interposed between the Government and the public before any compliance may be forced.

TITLE II—ACCESS TO GRAND JURY MATERIALS BY PRIVATE PLAINTIFFS

In addition to the Department of Justice and the Federal Trade Commission, Congress has relied upon private suits to aid antitrust enforcement since the passage of the original antitrust statute, the Sherman Act, in 1890. The private antitrust suit blends antitrust policy with private compensatory law. It enlists the aid of an injured private party in enforcing the antitrust laws by allowing threefold the recovery of damages. In recent years, the number of private suits filed far exceeds the number of cases filed by the Antitrust Division. When the Government does sue, however, it is not uncommon for private parties to file suit on essentially the same set of facts. If these facts were developed by a Federal grand jury investigation, the private plaintiff may have to spend a good deal of time and effort in order to get access to them. Under existing law, a private plaintiff must file a motion to inspect the transcripts of grand jury testimony and the documents in the district court where the investigation took place. The judge has the discretion to grant access upon a showing of "particularized and compelling need." In recent years the trend has been to grant access rather than have the private plaintiff start from scratch and duplicate the work of the grand jury.

Title II would amend section 5 of the Clayton Act to provide that a private plaintiff shall automatically have access to grand jury testimony and documents after the Government has completed whatever case arose out of those proceedings. So what we are really suggesting is that the prevailing practice in most courts be codified while leaving some discretion to the courts. The court may condition its grant of access if the interests of justice so require. Generally, this provision would apply when the Government case has been terminated by a plea of guilty, nolo contendere, or by the entry of a consent decree. In instances in which the Government case went to trial, this same evidence would, of course, be spread upon the public record.

TITLE IV—PARENS PATRIAE

Title IV is the parens patriae section of the amendment. It would give State attorneys general a meaningful cause of action for consumers in their States who have been damaged by violations of the Sherman Act. It is designed to deter antitrust violations, to prevent violators from retaining the fruits of the offense, and to provide compensation to as many victims of the offense as the State can find.

Under existing law, State attorneys general can now sue for treble damages on behalf of consumers who have been injured by a violation of the antitrust laws if two requirements are met. First, the State must have been injured in its own business or property. In other words, the State must have been a purchaser of the goods or services involved in the violation and injured in its own right. Only then can it sue on behalf of consumers. Second, such a suit must be a class action with the State attorney general representing the class of individual consumers, and it must meet all of the requirements of rule 23 of the Federal Rules of Civil Procedure. It is this latter requirement which generally denies consumers an effective remedy. When rule 23 was amended in 1966, it was hoped that this would be the means whereby consumers could recover damages for violations which were individually small but widespread; violations where no individual consumer had a large enough stake to sue. Unfortunately, this has not been the case.

Generally, rule 23 class actions which are based on the same alleged violation are first consolidated for trial before one Federal district court, then the judge makes a determination as to whether or not the class actions filed met the tests of rule 23. These tests are designed to insure that questions of law and fact are predominantly the same for all individual members of the class and that the action is manageable. In antitrust cases, defendants take the position that the questions of fact are not similar on the grounds that one consumer may have been damaged more than another. Generally, the defendants also insist that they have the right to cross-examine each individual consumer as to whether or not he or she was damaged and how much. If the judge sees himself faced with the prospect of holding thousands, or conceivably millions, of minitrials as to each individual class member, he generally finds that common questions of fact do not prevail and that the action is simply unmanageable.

Most rule 23 consumer class actions get thrown out of court at this early stage.

Even if the class action gets by this hurdle, some courts have also required that if the names and addresses of the consumers can be found, individual notice must be sent by mail to each member of the class. If the consumer damage is widespread, this requirement makes the cost of bringing an action prohibitive. In one case, the cost of notice by mail under the 8 cent stamp would have been $315,000, enough to make the filing of suit impossible for all practical purposes.

Title IV attempts to give consumers a meaningful remedy and thereby create an effective deterrent to violations which cause individually small but widespread harm. It would create a new statutory cause of action whereby the State attorney general could sue for treble damages and other relief on behalf of consumers who had been injured by violations of the Sherman Act. The State, itself, no longer would be required to be an injured consumer. The amendment would provide that damages may be proved and assessed in the aggregate without separately proving the fact and amount of injury to each person. In other words, it would tell the courts that each individual purchaser need not be brought before the court to establish that he or she was damaged and the amount of such damage if other proofs are available. Generally, corporations want to know how well their products are selling. They usually keep accurate records on the sales byproduct line in a certain State or region. The amendment contemplates that the violation and amount of the overcharge would be established by other evidence and then multiplied by the number of units sold during the time period in question, with this calculation readily available from company records. To summarize, in an action brought by the State attorney general under this title, the State has the burden of proving that:

First, the defendants violated the Sherman Act;

Second, that consumers were injured by the violation or that some of the overcharge was passed on to them; and

Third, the approximate amount of such damage.

The difference between rule 23 consumer class actions and suits brought under title IV is that under the latter approach, if the State has the necessary evidence, the consumers who actually bought the product and were injured need not be identified until after the treble damage fund has been recovered.

The amendment then would direct the State attorney general to return to those injured consumers he can identify their pro rata share of the treble damage fund. Not all of the treble damage award will be claimed by consumers, and the court would be authorized to distribute the excess in accordance with State law or for some public purpose benefiting as closely as possible the class of injured consumers. This procedure for distributing damages has been used in some of the few successful rule 23 class action cases.

In the tetracycline settlement, more than $28 million was distributed directly to more than 1 million consumers. The average consumer recovery amounted to $200, with some claimants receiving as much as $12,000. The first settlement resulted in $8 million being distributed to 36,000 consumers. The second settlement by the remaining States in tetracycline benefited from the experience and experimentation of the first distribution effort. In settlement No. 2, improved techniques resulted in $30 million being distributed to 1 million consumers in six States. The unclaimed funds were used for expansion of State-sponsored health programs, medical research, the training of nurses and paramedical personnel, the staffing of medical and rehabilitation clinics and other similar programs.

It is also interesting to note that after

the institution of suit by the Department of Justice, the Federal Trade Commission, States and other private plaintiffs, the price of tetracycline dropped from about $51 per 100 tablets in 1961 to about $5 per 100 tablets 10 years later. That is a decrease of 90 percent.

Title IV attempts to give some flexibility to the court on the notice to be given individual consumers in Parens Patriae actions—even where they can be identified by name and address. Notice by publication would be authorized, but the court could direct further notice, including individual notice, to prevent manifest injustice. Since the State attorney general is a public figure with access to the media, it is hoped that individual notice by mail would not be necessary, at least at the outset of the proceedings.

The amendment also would make the aggregation of damages provisions applicable to rule 23 class actions on behalf of consumers which are filed by private attorneys. In the event a consumer or group of consumers does not wish to be represented by the State attorney general, consumers could file a notice with the court indicating that they have elected to file their own private suit.

TITLE V—PREMERGER NOTIFICATION FOR LARGE MERGERS

Title V consists of the premerger notification and stay provisions. The substantive law dealing with mergers is section 7 of the Clayton Act (15 U.S.C. 18). That section prohibits mergers and acquisitions, the effect of which "may be substantially to lessen competition or tend to create a monopoly" in any line of commerce in any section of the country. Once again, title V would not change this standard with respect to what is or is not an illegal merger. It does, however, set up a procedure whereby advance notification must be given to the Department of Justice and the Federal Trade Commission for very large mergers prior to their consummation.

Under existing law, the Department of Justice can neither compel production of information relating to a merger until after it has occurred, nor can the Department or the Federal Trade Commission force a delay of the merger until after they have had a chance to gather the necessary information and make an evaluation. Although both agencies have the power to seek preliminary injunctions, these efforts will be unsuccessful if they are unable to obtain the necessary evidence. The injunctive powers of both agencies can be frustrated by so-called midnight mergers which are consummated before either the Division or Commission can learn of them. Even if the Department is aware of a proposed merger, for all practical purposes little can be done to block it. In a special report on the Burmah-Signal Oil Co. merger, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee found as follows:

Thus, according to the Justice Department's own account, they were apparently snared in a classical "Catch 22": (1) They needed factual evidence to obtain a restraining order; (2) Rules governing the issuance of civil subpoenas limited their ability to gain such evidence; (3) In any event they needed time for an investigation; and (4) Burmah and Signal refused their requests for time.

Continuing from that committee report.

In view of the record developed before us in the Burmah-Signal case, it is abundantly clear that the participants, Burmah and Signal, afforded the Government precious little time to pass upon the proposed transaction in advance. The Government was not even able to gather the requisite factual support to obtain a temporary restraining order against the merger. If antitrust enforcement is to be effective, the agencies charged with this function must, at a minimum, be empowered with the ability to collect the necessary information to carry out their role. This, of course, could be accomplished if the appropriate governmental agency were granted the authority to approve or disapprove all mergers in advance.

The circumstances surrounding the Burmah-Signal merger could be better avoided in the future were the Congress to consider once again requiring either the Justice Department or the Federal Trade Commission to pass upon the legality of all proposed acquisitions over a stipulated size, in advance of formal consummation. This is, of course, not a new or novel idea. It was first proposed as early as 1941, when the Temporary National Economic Committee made a similar recommendation.

Again, Mr. President, I have read from a section of the special report filed by the special committee of the Committee on Interior and Insular Affairs rather recently.

Once the merger has been consummated, the odds are that adequate relief will never be obtained. Years may elapse before the trial and appeals are over. Horror stories abound, with the 17-year history of the El Paso Natural Gas case generally taking the cake. The average merger case takes 5 to 6 years, during which time assets may be scrambled, key employees may be lost, and the goodwill of the acquired firm may be dissipated. If divestiture is ordered 5 years after the merger, the acquired company is bound to be a weaker competitor. Divestiture can be a painfully slow process, and in some cases never occurs at all. Locating an appropriate buyer willing to purchase at a reasonable price is frequently difficult. Also, the firm under the divestiture order may deliberately delay in order to reap the benefits of the unlawful merger. It is estimated that El Paso derived profits of $10 million for every year it retained the illegally acquired company.

Under title V, corporations that wished to merge would have to notify the antitrust authorities 30 days in advance if the transaction involved a firm with sales or assets in excess of $100 million and a firm with sales or assets in excess of $10 million. Using the last 5 years as a guide, this standard would require advance notification for roughly 100 of the 3,000 mergers that take place every year. If a proposed merger appeared not to violate the law, the antitrust authorities could waive any or all of the 30-day period. If either the Department of Justice or the Federal Trade Commission decided it needed additional information in order to determine whether or not proposed acquisition violated the law, further documentary materials could be requested from the merging partners and the waiting period would be extended 20 days after the receipt of such material.

TITLE V—PRELIMINARY INJUNCTION PROVISIONS IN MERGER CASES

Title V would also change the standard by which preliminary injunctions sought by the Government in all merger cases are granted or denied. During the last 20 years, the Department of Justice has sought roughly three preliminary injunctions a year in merger cases.

Under existing law, when the Department decides to try to block a merger, it asks for—and usually gets—a temporary restraining order. At the same time the Department seeks the temporary restraining order, it also files an application for a preliminary injunction which is set down for a hearing at the earliest possible time. The temporary restraining order automatically dissolves in 10 days. It may be extended for an additional period not to exceed 10 days, for good cause shown, or it may be extended for an even longer period if the other parties consent. At the hearing on a motion for a preliminary injunction, the Government has the burden of proving that it will probably succeed on the merits at trial. Usually, the Government loses at this stage. During the last 20 years, the Department has been unsuccessful in over two-thirds of its applications for a preliminary injunction. Yet the Department ultimately prevails 84 percent of the time when the case reaches the trial stage. Given the very difficult problem of securing adequate relief after trial and the fact that the Division usually wins on the merits at trial, Senator SCOTT and I believe a change in the standard is in order.

Title V would provide that the Department of Justice or the Federal Trade Commission could get a temporary restraining order which would remain in effect for 60 days or until the motion for the preliminary injunction is decided, whichever is less. The 60-day temporary restraining order could only be extended by the chief judge of the circuit court of appeals for good cause shown. During the hearing on the motion for the preliminary injunction, the burden would be shifted to the merging parties to prove (1) that the Division or Commission probably would fail on the merits at trial, or (2) that the corporations would be irreparably injured by the granting of the injunction. However, the fact that the acquiring firm would lose the profits of the acquired firm until trial would not constitute a showing of irreparable injury. And even though the terms of the merger agreement could look less attractive by the time the case is disposed of at trial, that too would fail to constitute irreparable injury.

No doubt some will think it unfair to place the burden on the defendants during the preliminary injunction hearings. However, the formulation suggested by Senator SCOTT and myself pales by comparison to some of the recommendations of others who have studied the problems associated with mergers. Back in 1941, the Temporary National Economic Com-

mittee recommended that legislation be enacted "to halt the merger process in its inception, rather than continue to attempt to do so through case-by-case litigation after the event." The Temporary National Economic Committee proposed "that the Federal Trade Commission be given authority to be fixed by the Congress to forbid the acquisition of the assets and property of competing corporations over a certain size unless it be made to appear that the purpose and apparent effect of such consolidation would be desirable." The Temporary National Economic Committee suggested that the burden be placed on the proponents of a merger to satisfy six criteria before approval would be given, including a demonstration that the acquisition was in the public interest and would "be promotive of greater efficiency and economy of production, distribution and management."

In addition to recommending mandatory premerger notification, the Neal Commission White House Task Force Report on antitrust policy under President Johnson urged a complete ban on all mergers between big companies and companies who were leaders in a concentrated industry. Big companies were firms with sales in excess of $500 million or assets in excess of $250 million. Leading companies were those with more than 10 percent of sales in an industry in which the top four possessed 50 percent or more of the market.

In our judgment, 60 days would, in the majority of cases, permit courts to come to grips with the complex issues presented in a merger case. An analysis of the time periods taken by judges in deciding preliminary injunctions in merger cases shows that a period less than 60 days would, in many cases, be inadequate. During the past 20 years, there have been 24 cases in which a temporary restraining order was followed by a decision on a motion for a preliminary injunction. Only eight were decided in 30 days or less; six were decided in from 30 to 50 days; five in from 50 to 70 days; and five in from 103 to 149 days. The average time period amounted to 55 days.

Again, why do we need this amendment? The trend toward economic concentration continues. In 1941, approximately two-thirds of all the manufacturing assets in the United States were controlled by 1,000 corporations. By 1969 approximately two-thirds of all our manufacturing assets were controlled by the top 200 corporations.

A merger, in and of itself, is not necessarily bad. Some do offer efficiencies as well as fostering competition. But, an important issue we must consider today is that with our economy neither operating as advertised nor delivering as promised, some have begun to ask whether competition is at the end of the line as the force that makes our economy work.

Is it? The sponsors of this amendment say no. The principles are sound, the framework is solid, but it needs some repair work to eliminate cold drafts. Enforcement tools of greater efficiency and manageability would offer a more significant and effective deterrent to potential abuse of economic power. Mischief that runs counter to social and economic principles is as undesirable in corporate boardrooms as it is on city streets.

Can we justify a double standard—a standard that accepts certain principles and rejects the tools appropriate to do the job? And are we tougher on city streets than we are on corporate boardrooms?

Mr. President, the amendment, which more easily can be described as Senate bill 1284, in our judgment, while not changing the rules with respect to what may and may not be done under antitrust laws, does insure that violations of those laws more likely may be identified and sanctions applied. Because of this, it makes less likely the engagement by those who would otherwise be tempted in conduct not acceptable under antitrust laws.

We do not propose to change the rules with respect to antitrust practices. We do suggest, Mr. President, by the enactment of this substitute, that those rules will be more widely respected and, in the instance of violation of those rules, the violator more likely apprehended. I hope that the Senate will support the effort to achieve both of those, I think, appropriate ends.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, at the request of the minority leader, Mr. HUGH SCOTT, who is out of the country on official Senate business, I ask unanimous consent that a statement by Mr. SCOTT on H.R. 8532 be printed in the RECORD immediately following the statement of Senator PHILIP A. HART.

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

STATEMENT BY MR. HUGH SCOTT

The people of the United States have been well served by the free enterprise system. Dynamic and aggressive American businessmen and women have set the pace for the rest of the world, and the U.S. economy, as a result of this enterprising leadership, has become the world's most efficient and creative.

No other economic system allocates resources and labor as effectively, or distributes the products of labor to the ultimate consumer as well. We must ensure that we do nothing to hamper the operation of this system. Unnecessary government regulation handcuffs the creativity and competitive spirit of American business.

The Sherman and Clayton Acts represent the basic guidelines of our free enterprise system. But they are not enough. For a variety of reasons, concentration in the American economy has rapidly increased and monopoly power exists in many industries. Two hundred corporations now control two-thirds of all manufacturing assets in the United States.

The lack of effective competition in important sectors of the economy has taken its toll on the American consumer. Traditional monetary and fiscal policies no longer seem to work, and it is difficult to check inflation and reduce unemployment no matter how hard the Government tries. Some of our basic industries have stagnated and no longer seem able to innovate. According to Thomas E. Kauper, the Assistant Attorney General in charge of the Antitrust Division, "The ultimate target of antitrust enforcement has been estimated in terms of billions of dollars of inflated prices."

The United States clearly is at an economic crossroads. Free enterprise must be restored if our nation is to prosper and maintain its leadership in the industrialized world. Curtailment of oppressive government regulation is possible only if it goes hand-in-hand with vigorous enforcement of the antitrust laws, so that free market forces—not conspiracies or other anticompetitive practices—determine the price and quality of our goods and services.

We believe that the time has come to enact the third major Antitrust Act, one designed primarily to improve not the substance of the antitrust laws, but the procedures for enforcing them. We have introduced a bill that will be of great help to all honest businessmen and women, who of course comprise the vast majority.

Our legislation will enhance the vitality of competition throughout the land. The American consumer will see the benefit of greater competition in lower prices, better service, higher quality, and more diverse and innovative products. All businessmen and businesswomen we know who are worth their salt thrive on strong, healthy competition. It keeps everyone on their toes.

In essence, S. 1284 pulls together in an omnibus bill the basic tools to strengthen the most glaring deficiencies of present law. It is an enforcement bill that upgrades existing investigatory, enforcement, and procedural aspects of present law. It is designed to make the Sherman and Clayton Antitrust Acts work.

We urge that our colleagues support us in this worthwhile endeavour.

Mr. ABOUREZK. I thank the Chair.

First, I express my thanks to the Senator from Michigan (Mr. PHILIP A. HART) for the very long effort he has applied to this legislation. He and Mr. SCOTT of Pennsylvania have worked very hard against very determined opposition to bring this bill out on the floor and try to do something to remedy the situation with respect to the antirust laws.

The public is often confused by the legal jargon which lawyers and economists use to describe the antitrust laws. This is unfortunate because the antitrust laws are the basic charter of our free enterprise system. Without the antitrust laws, competition in the economy would surely diminish. Only when there is vigorous competition between businesses will the free enterprise system result in wide distribution of economic benefits to the consumer. Therefore, every American has a vital interest in the effective enforcement of these antitrust laws.

The antitrust laws prohibit conspiracies in restraint of trade, such as agreements to fix prices or divide markets. These conspiracies directly result in higher prices for the consumer. In fact, the present Assistant Attorney General for Antitrust, Tom Kauper, has estimated that the cost to the consumer of the lack of effective competition in our economy is $80 billion a year. Eighty billion dollars is 10 percent of what consumers spend each year. In other words, if we had monopoly-free competition, consumers would buy at least 10 percent more without any increase in their income.

The realities of the concentration of economic power which lead to these overcharges are staggering.

First. Although there are approximately 40,000 manufacturing corpora-

tions in the United States, the 200 largest control two-thirds of all manufacturing assets. That's a greater share of assets than the thousand largest manufacturing corporations controlled in 1941.

Second. Industries in which four or fewer firms control 50 percent or more of sales account for one-fourth to one-third of all manufacturing sales. This fact is especially significant as many economists consider an industry to be a shared monopoly or oligopoly, when 50 or more percent of the sales for that industry are accounted for by the top four firms. Therefore, one-fourth to one-third of all manufacturing sales come from monopolies or shared monopolies.

Third. We now have five corporations whose sales exceed the total budget of our most populous State, California. Only a few countries in the free world have budgets larger than Exxon or GM.

Fourth. The rapid trend toward concentration is illustrated by the fact that between 1962 and 1968 alone, 110 of the 500 largest industrial firms disappeared in mergers. Between 1948 and 1968, some 1,200 manufacturing companies, each with assets of $10 million or more, were merged with other firms.

I firmly believe that this concentration of economic power is one of the root causes of the country's present economic difficulties. This concentration of power is the structural cause of our simultaneous inflation and depression.

The reason why concentration of economic power necessarily leads to inflation is that these large busines enterprises have great discretion to distort the pricing process by maintaining, or even increasing, prices in the face of falling demand. Similarly these enterprises fail to lower their prices when they enjoy productivity gains. These decisions directly contradict the normal rules of supply and demand. Because of this use of market power, it is not feasible to attain full employment by resorting only to monetary or fiscal policy. This is one reason why the present administration's economic policy has failed. This assumption is that only supply and demand are the causes of the economic depression.

It is essential that we now take steps to see that our antitrust laws are vigorously enforced. Because S. 1284 will significantly augment the enforcement of antitrust laws, it is important that this bill be passed.

The most important feature of S. 1284 is contained in title IV. That title would allow State attorneys general to sue violators of antitrust law on behalf of their citizens and to recover triple damages.

I would like to make a few crucial points with respect to title IV which demonstrate that the concept of this title is both necessary and eminently reasonable:

The bill creates no new antitrust liability. It merely provides an effective mechanism for enforcement of the existing antitrust laws. Companies which are not now violating the antitrust laws will have absolutely nothing to fear in the passage of this bill. Only companies which are presently violating the antitrust laws with impunity have a reason to fear this bill.

There is presently no effective remedy for the average consumer who is the victim of antitrust violations, such as price fixing. There is no way, for example, that an individual consumer could ever bring suit for a year's overcharge on the bread he purchased, even though the aggregate overcharge for all individuals in a State may run into the tens of millions of dollars.

The bill makes it possible for a State attorney general to vindicate the claims of individual consumers by bringing a class action on their behalf, but the legislation does not reduce the burden of the State atttorney general to prove that an antitrust violation has, in fact, occurred. The bill makes it possible to bring these class actions by providing that "damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods * * * without separately proving the fact or amount of individual injury or damage" to each member of the class. This provision is the heart of this title.

Proof of the extent of damages is the very last event in a long trial. Before the State attorney general even addresses the issue of the extent of damages, he must first prove that the defendants violated the antitrust laws, that consumers were damaged and that the defendant's violation caused that damage. Only once all of this has been established do the provisions in this legislation have any effect.

If a company is found to have violated the antitrust laws and to have caused injury to consumers, it is absurd to argue that the company should escape payment of damages to these consumers. Cearly it makes no sense to bring an antitrust case if the only result is a declaration of guilt without any monetary recovery. It is precisely this sterile result which this provision is intended to avoid.

Furthermore, when a State attorney general does employ statistical and sampling methods to prove the extent of damages. The methods he uses must be sufficient to actually prove the extent of the damages. If the methods used are not used properly or if use of more sophisticated and precise statistical and sampling methods is appropriate. A court can hold that the State attorney general has not met his burden of proving the extent of damages. The point is that this bill does nothing to reduce the burden of proof of the State attorney general.

At the end of a successful antitrust case, the consumers injured by any antitrust violations will each receive their share of the damage recovery. In the tetracycline case over one million consumers received $28 million in damages. No legislation being considered by Congress will provide such a direct and justified benefit to consumers.

By giving State attorneys general this new mechanism for enforcing the antitrust laws, Congress will significantly strengthen our Federal structure of government. States are closer to their citizens than the Federal Government and closer to the economic transactions which violate the antitrust laws. It is clearly appropriate then that States be given the power and responsibility to protect their own citizens.

I would also like to make a few brief comments about title II of the bill. Title II would broaden the civil investigative demand authority of the U.S. Department of Justice. Although the Justice Department and the Federal Trade Commission have equal responsibility for enforcing the antitrust laws, the Justice Department has far less authority than the Commission to investigate antitrust violations prior to bringing a compliant against a company. This discrepancy makes no sense. Furthermore, if the Department is going to be able objectively to determine whether or not there is reason to believe that an antitrust violation has occurred, the Department must have the basic investigative authority needed to learn the facts. Again the only businesses with reason to fear this investigative authority are businesses which are violating the antitrust laws. In fact, the only way for law abiding businesses to prevent the Department from bringing cases where it may not eventually prevail on the merits is to grant the Department full investigative authority.

In closing, I return to my first point that only companies which violate the antitrust laws should fear this bill. Predictably it is precisely this kind of company which opposes this bill. The principle opponent of the bill is the Business Roundtable, the lobbying arm of 157 of the Fortune 500 companies. This group includes the largest automobile manufacturers, the three largest banks, seven of the largest oil companies, as well as IBM and ATT. Within the last 10 years alone nearly half of these companies, 73 to be exact, have been found to violate the antitrust laws, have admitted to have violated antitrust laws, or have charges pending.

The other leading opponent of this legislation is the National Association of Realtors. As with the Business Roundtable, it should be noted that numerous price fixing complaints by the Justice Department against boards of realtors are already on the public record and settled by consent decrees. Opposition to this bill by these companies is utterly lacking in credibility. It is clear that they have every reason to resist any measure which would strengthen enforcement of the antitrust laws.

I ask unanimous consent that list of these companies be printed in the RECORD.

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

"A" LIST—JUNE 16, 1975.—THE BUSINESS ROUNDTABLE

POLICY COMMITTEE

Chairman

*Mr. John D. Harper, Chairman, Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, Pa. 15219.

*Indicates companies which have been found to violate antitrust laws, have admitted to violating the antitrust laws, or have charges pending

Cochairman

*Mr. John D. deButts, Chairman, American Telephone & Telegraph Co., 195 Broadway, New York, N.Y. 10007.

*Mr. Howard J. Morgans, Chairman, Executive Committee, The Procter & Gamble Co., P.O. Box 599, Cincinnati, Ohio 45201.

*Mr. William O. Beers, Chairman, Kraftco Corp., Kraftco Court, Glenview Ill. 60025.

*Mr. Frank T. Cary, Chairman, International Business Machines Corp., Old Orchard Road, Armonk, N.Y. 10504.

Mr. Alden W. Clausen, President, Bank of America, Bank of America Center, San Francisco, Calif. 94120.

Mr. E. M. de Windt, Chairman, Eaton Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.

*Mr. Charles D. Dickey, Jr., Chairman, Scott Paper Co., Scott Plaza, Philadelphia, Pa. 19113.

Mr. Edward R. Eberle, Chairman, Public Service Electric & Gas Co., 80 Park Place, Newark, N.J. 07101.

*Mr. Robert S. Hatfield, Chairman, Continental Can Company Inc., 633 Third Avenue, New York, N.Y. 10017.

Mr. William A. Hewitt, Chairman, Deere & Co., John Deere Road, Moline, Ill. 61265.

*Mr. Frederick G. Jaicks, Chairman, Inland Steel Co., 30 West Monroe Street, Chicago, Ill. 60603.

*Mr. J. K. Jamieson, Chairman, Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.

*Mr. Reginald H. Jones, Chairman, General Electric Co., Fairfield, Conn 06431.

*Mr. Robert E. Kirby, Chairman, Westinghouse Electric Corp., Gateway Center, Pittsburgh, Pa. 15222.

*Mr. William F. LaPorte, Chairman, American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017.

*Mr. Ralph Lazarus, Chairman, Federated Department Stores, Inc., 222 West Seventh Street, Cincinnati, Ohio 45202.

Mr. Ian K. MacGregor, Chairman, AMAX Center, Greenwich, Conn. 06830.

*Mr. Robert H. Malott, Chairman, FMC Corp., 200 East Randolph Drive, Chicago, Ill. 60601.

Mr. C. Peter McColough, Chairman, Xerox Corp., Stamford, Conn. 06904.

Mr. Louis W. Menk, Chairman, Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minn. 55101.

*Mr. Frank R. Milliken, President, Kennecott Copper Corp., 161 East 42nd Street, New York, N.Y. 10017.

Mr. Roger Milliken, President, Deering Milliken, Inc., P.O. Box 3167, Spartanburg, S.C. 29302.

*Mr. Thomas A Murphy, Chairman, General Motors Corp, General Motors Building, Detroit, Mich. 48202.

Mr. David Packard, Chairman, Hewlett-Packard Co., 1501 Page Mill Road, Palo Alto, Calif. 94303.

*Mr. Charles J. Pilliod, Jr., Chairman, The Goodyear Tire & Rubber Co., 1144 East Market Street, Akron, Ohio 44316.

*Mr. Irving S. Shapiro, Chairman, E. I. du Pont de Nemours & Co., Wilmington, Del. 19898.

Mr. Mark Shepherd, Jr., President, Texas Instruments, Inc., P.O. Box 5475, Dallas, Tex. 75222.

*Mr. J. Stanford Smith, Chairman, International Paper Co., 220 East 42nd Street, New York, N.Y. 10017.

*Mr. Edgar B. Speer, Chairman, United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230.

*Mr. George A. Stinson, Chairman, National Steel Corp., Grant Building, Pittsburgh, Pa. 15219.

*Mr. O. Pendleton Thomas, Chairman, The B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318.

Mr. W. Reid Thompson, Chairman, Potomac Electric Power Co., 1900 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Mr. C. C. Tillinghast, Jr., Chairman, Trans-World Airlines Inc, 605 Third Avenue, New York, N.Y. 10016.

*Mr. Lynn A. Townsend, Chairman Chrysler Corp. 341 Massachusetts Avenue, Detroit, Mich. 48231.

*Mr. Rawleigh Warner, Jr., Chairman, Mobil Oil Corp., 150 East 42nd Street, New York, N.Y. 10017.

Mr. F. Perry Wilson, Chairman Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.

Mr. J. Robert Wilson, President Roadway Express Inc., 1077 Gorge Boulevard, Akron, Ohio 44309.

Mr. Arthur M. Wood, Chairman, Sears, Roebuck and Co., Sears Tower—Department 702, Chicago, Ill. 60684.

*Mr. Walter B. Wriston, Chairman, First National City Corp., 399 Park Avenue, New York, N.Y. 10022.

Counsel

Mr. Roger M. Blough, White & Case, 14 Wall Street, New York, N.Y. 10005.

MEMBERSHIP LIST

"B" list

Allis-Chalmers Corp., 1126 South 70th Street, Milwaukee, Wis. 53201.

*Aluminum Company of America, Alcoa Building, Pittsburgh, Pa. 15219.

*American Can Co., American Lane, Greenwich, Conn. 06830.

*American Home Products, 685 Third Avenue New York, N.Y. 10017.

Amax Inc., Greenwich, Conn. 10017.

ASARCO Inc., 120 Broadway, New York, N.Y. 10005.

*American Telephone and Telegraph Co., 195 Broadway, New York, N.Y. 10007.

*The Anaconda Co., 25 Broadway, New York, N.Y. 10004.

Arizona Public Service Co., P.O. Box 21668, Phoenix, Ariz. 85036.

*Armco Steel Corp., 703 Curtis Street, Middletown, Ohio 45042.

Armstrong Cork Co., Lancaster, Pa. 17604.

*Atlantic Richfield Co., 515 South Flower Street, Los Angeles Calif. 90071.

Babcock and Wilcox, 161 East 42d Street, New York, N.Y. 10017.

Bank of America, Bank of America Center, San Francisco, Calif. 94120.

*The Bendix Corp., 10650 Civic Center Drive, Southfield, Mich. 48075.

*Bethlehem Steel Corp., 701 East Third Street, Bethlehem, Pa. 18016.

*The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.

*Boise Cascade Corp., P.O. Box 200, Boise, Idaho 93701.

*Borg-Warner Corp., 200 South Michigan Avenue, Chicago, Ill. 60604.

*Burlington Industries, Inc., Box 21207, Greensboro, N.C. 27420.

Burlington Northern Inc., 176 East 5th Street, St. Paul, Minn. 55101.

Campbell Soup Co., Camden, N.J. 08101.

Carolina Power and Light Co., Raleigh, N.C. 27602.

Carrier Corp., Carrier Tower, Syracuse, N.Y. 13201.

Carter Hawley Hale Stores, Inc., 600 South Springs Street, Los Angeles, Calif. 60014.

*Caterpillar Tractor Co., 100 N.E. Adams Street, Peoria, Ill.

*Certain-Teed Products Corp., P.O. Box 860, Valley Forge, Pa. 19842.

*Champion International Corp., 777 Third Avenue, New York, N.Y. 10017.

Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, N.Y. 10005.

* Chrysler Corp., P.O. Box 1919, Detroit, Mich. 48231.

Cincinnati Gas & Electric Co., 4th & Main Streets, Cincinnati, Ohio 45201.

* Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.

Clark Equipment Co., 324 East Dewey Street, Buchanan, Mich. 49107.

Cleveland-Cliffs Iron Co., Union Commerce Building, Cleveland, Ohio 44101.

Cleveland Electric Illuminating, P.O. Box 5000, Cleveland, Ohio 44101.

* The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.

Columbia Gas System, 20 Montchanin Road, Wilmington, Del. 19807.

* Continental Can Co., 633 Third Avenue, New York, N.Y. 10017.

* Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.

* Corning Glass Works, Corning, N.Y. 14380.

Crown Zellerbach Corp., One Bush Street, San Francisco, Calif. 94104.

Cyclops Corp., 650 Washington Street, Pittsburgh, Pa. 15228.

* Dart Industries, Inc., P.O. Box 3157, Terminal Annex, Los Angeles, Calif. 90051.

Dayton Power & Light Co., 25 North Main Street, Dayton, Ohio 45401.

Deere & Co., John Deere Road, Moline, Ill. 61265.

Deering-Milliken Inc., P.O. Box 3168, Spartanburg, S.C. 29302.

Detroit Edison Co., 2000 2d Avenue, Detroit, Mich. 48226.

Dow Chemical Co., Midland, Mich. 48640.

* Dresser Industries, Inc., Republic National Bank Building, Dallas, Tex. 75221.

* E. I. du Pont de Nemours & Co., Market Street, Wilmington, Del. 19898.

Eastern Air Lines, 10 Rockfeller Plaza, New York, N.Y. 10020.

Eaton Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.

Eli Lilly & Co., 740 South Alabama Street, Indianapolis, Ind. 46225.

Esmark Inc., 55 East Monroe Street, Chicago, Ill. 60603.

* Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.

* Federated Department Stores, 222 West 7th Street, Cincinnati, Ohio 45202.

* Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317.

* First National City Bank, 399 Park Avenue, New York, N.Y. 10022.

* FMC Corp., 200 East Randolph Drive, Chicago, Ill. 60601.

* Ford Motor Co., The American Road, Dearborn, Mich. 48121.

* GAF Industries, 140 West 51 Street, New York, N.Y. 10020.

General Cable Corp., 500 West Putnam Avenue, Greenwich, Conn. 06830.

* General Dynamics Corp., Pierre Laclede Center, St. Louis, Mo. 63105.

* General Electric Co., Fairfield, Conn. 06431.

* General Foods, Inc., 250 North Street, White Plains, N.Y. 10602.

* General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, Minn. 55440.

* General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.

* General Tire & Rubber Co., Akron, Ohio 44309.

* The B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318.

* Goodyear Tire & Rubber Co., 1144 East Market Street, Akron, Ohio 44316.

* The Greyhound Corp., Greyhound Tower, Phoenix, Ariz. 85077.

* Gulf Oil Corp., Gulf Building, Pittsburgh, Pa. 15230.

Gulf States Utilities Co., P.O. Box 2951, Beaumont, Tex. 77704.

*Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.

The Hanna Mining Co., 100 Erieview Plaza, Cleveland, Ohio 44114.

H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230.

*Hercules, Inc., 910 Market Street, Wilmington, Del. 19899.
Hewlett-Packard Co., 1501 Page Mill Road, Palo Alto, Calif. 94304.
Hoover Worldwide Corp., North Canton, Ohio 44720.
*Ideal Basic Industries, Inc., 821 17th Street, Denver, Colo. 80202.
Ingersoll-Rand Co., Woodcliff Lake, N.J. 07675.
*Inland Steel Co,. 30 West Monroe Street, Chicago, Ill. 60603.
*International Business Machines, Old Orchard Road, Armonk, N.Y. 10504.
*International Harvester Corp., 401 North Michigan Avenue, Chicago, Ill. 60611.
*International Nickel Co., 1 New York Plaza, New York, N.Y. 10004.
*International Paper Co., 220 East 42d Street, New York, N.Y. 10017.
Iowa-Illinois Gas & Electric Co., Davenport, Iowa. 52802.
Irving Trust Co., One Wall Street, New York, N.Y. 10005.
Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
Kaiser Industries Corp., 300 Palesode Drive, Oakland, Calif. 94604.
*Kennecott Copper Co., 161 East 42d Street, New York, N.Y. 10017.
Koppers Co., Koppers Building, Pittsburgh, Pa. 15219.
*Kraftko Corp., Kraftco Court, Glenview, Ill. 60025.
Libbey-Owens Ford, 811 Madison Avenue, Toledo, Ohio 43624.
McGraw-Edison Co., 333 West River Road, Elgin, Ill. 60120.
R. H. Macy & Co., 151 West 35th Street, New York, New York, 10001.
Marcor Inc., P.O. Box 6541, Chicago, Ill. 60607.
*3M Co., 3M Center, St. Paul, Minn. 55101.
Middle South Services, P.O. Box 61000, New Orleans, La. 70161.
*Mobile Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
Monanto Co., 800 North Lindburgh Boulevard, St. Louis, Mo. 63166.
Nabisco, Inc., 425 Park Avenue, New York, N.Y. 10022.
NL Industries, Inc., 111 Broadway, New York, N.Y. 10006.
*National Steel Corp., Grant Building, Pittsburgh, Pa. 15219.
The Norton Co., One New Bond Street, Worcester, Mass. 01616.
Olin Corp. 120 Long Ridge Road, Stamford, Conn. 06904.
Owens-Corning Fiberglas Corp., 717 Fifth Avenue, New York, N.Y. 10022.
*Owens-Illinois, Inc., Madison Avenue & St. Clair Street, Toledo, Ohio 43666.
Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.
Pacific Power & Light Co., Public Service Building, Portland, Oreg. 97204.
J. C. Penney Co., 1301 Avenue of the Americas, New York, N.Y. 10019.
Pennzoil United Inc., 900 Southwest Tower, Houston, Tex. 77002.
*Phillips Petroleum Co., Phillips Building, Bartlesville, Okla. 74004.
*PPG Industries, One Gateway Center, Pittsburgh, Pa. 15222.
*Procter & Gamble Co., P.O. Box 599, Cincinnati, Ohio 45202.
Public Service Co. of Colorado, P.O. Box 840, Denver, Colo.
Public Service Indiana, 1000 East Main Street, Plainfield, Ind. 46168.
Public Service Co. of Oklahoma, Box 201, Tulsa, Okla. 74102.
Public Service Electric & Gas Co., 80 Park Place, Newark, N.J. 07101.
Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63102.
RCA Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.
*Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.
*Reynolds Metals Co., 6601 Broad Street, Richmond, Va. 23229.
R. J. Reynolds Industries, Inc., Winston Salem, N.C. 27102.
Roadway Express, Inc., 1077 George Boulevard, Akron, Ohio 44309.
*Rockwell International Corp., 600 Grant Street, Pittsburgh, Pa. 15219.
Rohr Industries, Inc., P.O. Box 878, Chula Vista, Calif. 92012.
*Scott Paper Co., Scott Plaza, Philadelphia, Pa. 19113.
Sears, Roebuck & Co., Sears Tower, Department 702, Chicago, Ill. 60684.
*Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
SIFCO Industries, Inc., 970 East 64th Street, Cleveland, Ohio 44103.
A. O. Smith Co., Milwaukee, Wis. 63216.
Southern California Edison Co., P.O. Box 800, Rosemead, Calif. 91770.
Southern Co., 64 Perimeter Center East, Atlanta, Ga. 33036.
*Standard Oil Co. of Indiana, 200 East Randolph Drive, Chicago, Ill. 60601.
*Stauffer Chemical Co., Westport, Conn. 06880.
Sundstrand Corp., 751 Harrison Avenue, Rockford, Ill. 61101.
TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
Tenneco, Inc., P.O. Box 2511, Houston, Tex. 77001.
*Texaco Inc., 135 East 42d Street, New York, N.Y. 10017.
Texas Gulf Sulphur Co., 200 Park Avenue, New York, N.Y. 10017.
Texas Instruments, Inc., P.O. Box 5474, Dallas, Tex. 75222.
Texas Power & Light Co., Fidelity Union Life Building, Dallas, Tex. 75201.
Trans World Airlines, 605 Third Avenue, New York, N.Y. 10016.
Texas Gas Transmission Corp., 3800 Frederica Street, Owensboro, Ky. 42301.
*Union Camp Corp., 1600 Valley Road, Wayne, N.J. 07470.
Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
Union Electric Co., P.O. Box 87, St. Louis, Mo. 63166.
*Uniroyal Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
*United Aircraft Corp., 400 Main Street, East Hartford, Conn. 06108.
*U.S. Steel Corp., 600 Grant Street, Pittsburgh, Pa., 15230.
Utah International Inc., 550 California Street, San Francisco, Calif. 94104.
*Westinghouse Electric Corp., Gateway Center, Pittsburgh, Pa. 15222.
*Weyerhaeuser Co., Tacoma Building, Tacoma, Wash. 98401.
Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, Pa. 15230.
Semon E. Knudsen, White Motor Corp., 100 Erieview Plaza, Cleveland, Ohio 44114.
Xerox Corp., Stamford, Conn., 06904.

PRICE FIXING COMPLAINTS AGAINST BOARDS OF REALTORS ON THE PUBLIC RECORD AND SETTLED BY CONSENT DECREES

U.S. v. Atlanta Real Estate Board, Civil Action No. 14744, (CCH 1972, Trade Cases ¶73,787).

U.S. v. Cleveland Real Estate, Civil Action No. C70 731 (ND Ohio), (CCH 1972, Trade Cases ¶74,020).

U.S. v. Long Island Board of Realtors, Inc., Civil Action No. 70C1418 (E.D.N.Y., 1970), (CCH 1972, Trade Cases ¶74,068).

U.S. v. Los Angeles Realty Board, Southwest Branch Hollywood—Wilshire Division, Pacific Palisades Division and Westwood Division, Civil No. 70-2855CC, (CCH 1973, Trade Cases ¶74,366).

U.S. v. Memphis Board of Realtors, Civil Action No. 72-218, (CCH 1972, Trade Cases ¶74,056).

U.S. v. The Real Estate Board of New York, Inc. and Tennant Owed Apartment Association, Inc., Civil Action No. 73 civ. 2719, (CCH 1974-2, Trade Cases ¶73,350).

U.S. v. Multiple Listing Service, Portland Board of Realtors, Washington County Board of Realtors, Clackamas County Board of Realtors, Civil No. 72-68, (CCH 1972, Trade Cases ¶74,221 and CCH 1973-1, Trade Cases ¶74,515).

U.S. v. Prince Georges County Board of Realtors, Inc., Civil Action No. 21545 (MD) 1969, (CCH 1971, Trade Cases ¶73,393).

U.S. v. Real Estate Board of Rochester, New York, Inc., Civil Action No. 74-535, (CCH 1974-2, Trade Cases ¶75,355).

U.S. v. Real Estate Board of Metropolitan St. Louis, Civil Action No. 72-C-793 (3). (CCH 1973-2, Trade Cases ¶74,744).

U.S. v. Metro MLS, Inc., Civil Action No. 210-73-N, (CCH 1974-2, Trade Cases ¶75,137).

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

The PRESIDING OFFICER (Mr. HASKELL). The clerk will call the roll.

The 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.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Brian Southwell of Senator BURDICK's staff be allowed the privileges of the floor during the consideration and voting on this measure.

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

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 1:06 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GARN).

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

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

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

Mr. THURMOND. Mr. President, I rise in support of the minority position and in opposition to the provisions of H.R. 8532 and S. 1284.

Last week on May 19 and again on May 21, I alerted the Senate to the dangers of this bill and read into the RECORD editorials of large papers in my home State of South Carolina. All are unani-

mous in their opposition to H.R. 8532 and S. 1284. Today I give an overview of the minority's position in opposition to this bill and make known the President's views on H.R. 8532 when it was considered in the House of Representatives. In considering the legislation before us, it is important to consider the scholars' views and the impact of the legislation upon the small businessman. This bill is labeled a big business tamer. It is particularly significant to note the number of small businesses opposed to this legislation.

Mr. President, the so-called Hart-Scott Antitrust Improvements Act of 1976 is a hodge-podge of unrelated, complex, and highly technical provisions, which collectively would enact the most revolutionary revisions of the antitrust laws since the Clayton Act of 1914.

Notwithstanding its far-reaching impact, S. 1284 is the defective product of hasty and ill-considered action by the Judiciary Committee's Subcommittee on Antitrust and Monopoly. The majority of this subcommittee is embarked on an ambitious program to restructure the economic system of the United States in this Bicentennial Year of 1976, precluding essential consideration and analysis of the contents and implications of S. 128 and other revolutionary legislative proposals.

As a result, particularly due to the subcommittee's failure to afford adequate deliberation and the subcommittee's disregard of the evidence in the hearing record, S. 1284 is unjustified, unnecessary, unfair, and unconstitutional in critical respects—for the reasons to be detailed in the minority report.

Mr. President, over the objection of Senators to the packaging of important, diverse, and complex provisions into a confusing 35-page legislative proposal thwarting careful analysis in the subcommittee hearings, the subcommittee held just 5 hearing days in May and June 1975. Extensive statements of key Government officials became available to Senators only on the very day of their testimony, preventing meaningful study and examination of the witnesses.

Despite the aim of key provisions to reorder court priorities, and to change established practice under the Federal Rules of Civil Procedure, and notwithstanding the bill's foreseeably substantial impact upon the judicial system, the judiciary branch was not consulted or invited by the subcommittee to contribute recomendations and views from the standpoint of judicial resources or judicial administration.

Without any explanatory report by the majority, a substantially revised version of the bill, containing many complicated and broadening revisions, was published on July 28, 1975 as a committee print. These July 28, 1975 changes were never analyzed or explained to subcommittee members. Important and unexplained revisions included extensions of the so-called parens patriae provisions in title IV to permit State-retained private attorneys to bring large antitrust actions on behalf of State residents, and provisions to facilitate large money recoveries by overturning established indicial safeguards in private antitrust class actions even without State participation.

These subcomittee actions were deplored in a resolution by the American Bar Association on October 16 and 17, 1975, as follows:

> * * * The American Bar Association expresses its profound concern over the apparent departure from established legislative procedures for the consideration of matters of such importance as S. 1284, in that a number of the provisions within the conglomeration of substantive and procedural changes to the antitrust laws which the bill would make, including the findings and declaration of policy: (i) have not been the subject of full legislative hearings or any meaningful analysis as to their potential consequences upon the free enterprise system (title I, sections 701, 704); (ii) have been offered for serious legislative consideration despite the absence of any showing of compelling need which would justify such significant changes (portions of title II, III, and VII).

On subsequent request by Senators, 3 more days of hearings were held in February and March 1976, to hear nine witnesses expressing opposition to the bill as modified by the committee print. Neither the chairman nor any member of the subcommittee majority attended.

Accepting some minor or cosmetic modifications, and dropping some provisions, the majority voted on April 6 to recommend enactment of the entire S. 1284 package.

Significantly, the 135-page majority report, which purports to explain and justify the 77-page fine print of this complex legislation, fails to quote or refer to any of the 1976 testimony or statements filed subsequently in opposition to the revised S. 1284. The majority report likewise ignores the testimony and statements by the American College of Trial Lawyers, the American Bar Association, Prof. Milton Handler, the U.S. Chamber of Commerce, and others opposing the bill in most respects in the 1975 hearings.

Surprisingly, the majority report purports to claim the support of the President and the administration for S. 1284, notwithstanding the President's expressed opposition on March 17, 1976, to key provisions of title IV as contained in companion House proposals. The report also ignores major modifications, partially responsive to the administration's concerns, adopted by the House prior to its passage on March 18 of H.R. 8532, a substantially modified "parens patriae" proposal which eliminates some of the most objectionable features of S. 1284's title IV. For example, the House bill expressly bans parens patriae actions by State-employed private lawyers on contingency fees, applies important provisions only to State-filed parens patriae actions rather than in private antitrust class actions generally, and authorizes "aggregated" damage recoveries only in willful price-fixing cases rather than all possible "restraints of trade."

In our view, therefore, the deficient legislative procedures followed by the subcommittee produced a thoroughly defective and objectionable bill, to be detailed in the textual discussion under the following captions:

FUNDAMENTAL DEFECTS MAKE S. 1284 UNFAIR, UNJUSTIFIED, UNCONSTITUTIONAL, AND UNWORTHY OF ENACTMENT

Each of S. 1284's four substantive titles is built on the defective foundation of title I, and contains additional substantive, procedural, and constitutional infirmities demonstrated in the subcommittee's hearing record.

Title IV's parens patriae concept politicizes antitrust enforcement by giving "White Horse" State attorneys general the power to bankrupt business firms with multimillion dollar antitrust claims.

First. Private attorneys bringing antitrust damage actions for millions of State residents will reap huge fees by fomenting litigation and "blackmail settlements."

Second. Title IV penalizes far more than price fixing and extends to the entire Sherman Act, thereby creating huge exposures for unforeseeable violations particularly by smaller firms and professional or service groups, and even media or labor unions, under recent court interpretations.

Third. Title IV unconstitutionally awards heavy recoveries without proof of injury, not only in actions by the State, but in all private class actions, and destroys essential safeguards against class action abuses.

Fourth. The constitutional defects of title IV are aggravated by its blatantly unconstitutional retroactive forfeitures penalizing business conduct long predating enactment.

Fifth. The heavy contingent liabilities of business firms subject to huge parens patriae actions will inevitably hurt business financing, threatening expansion and employment, while the lawyers collect large fees and the public foots the bill through higher prices.

Sixth. Further proliferation of large antitrust actions stirred up by title IV will overwhelm already overloaded court dockets, draining judicial resources, and thwarting speedy criminal trials.

Seventh. Since the 1974 stiffened criminal antitrust penalties now provide effective deterrence for willful antitrust violators, all antitrust remedies should be reassessed in an objective study by experts who are removed from the self-serving pressures of ambitious State officials and enterprising antitrust lawyers advocating title IV.

Title II confers powers of secret inquisition on the Justice Department that Congress rejected just 14 years ago, in the face of evidence that refutes any legitimate need for their adoption now, and arbitrarily destroys the historic secrecy of grand jury proceedings to facilitate private antitrust treble damage suits.

First. As Congress recognized 14 years ago, granting the investigatory powers of the FTC and other independent regulatory agencies to the prosecutorial arm of the Federal Government is alien to our traditions and susceptible to abuse.

Second. The Department of Justice has not demonstrated sufficient need for title II to justify its burdens and potential for abuse.

Third. Title II dilutes even the 1962 act's existing safeguards, which thus become wholly inadequate to protect against abuse of the new powers.

Fourth. Title II arbitrarily abolishes traditional grand jury secrecy, in order to facilitate private antitrust treble damage actions, and for no public purpose.

Title V would give the Government arbitrary fiat powers to prevent any business acquisition regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

First. The automatic stay provisions, permitting the Government to stop and kill any acquisition, are contrary to fundamental concepts of fairness and due process.

Second. The Bank Merger Act, involving a totally regulated industry is no precedent for automatic stays of acquisitions in free and competitive sectors of the economy.

Third. Title V's premerger notification provisions are unjustifiably broad, reaching too many transactions and delaying them too long.

Fourth. Since the so-called merger problem is a myth, and the Government already has adequate powers to prevent anticompetitive mergers, title V is a deadly cure for an imaginary disease.

Lacking any justification or showing of need, title III is an ill-conceived mishmash of unrelated amendments which unwisely expose local business transactions to Federal antitrust sanctions, inflict shocking new antitrust forfeitures, change court procedures in disregard of the judiciary's views, and authorize more antitrust lawyers' fees.

First. Extension of the Clayton Act to local transactions is unjustified and unnecessary, and the ill-conceived Sherman Act amendments would create shocking forfeitures.

Second. No justification exists for legislative reordering of court priorities and procedures, without the judiciary's advice and without providing required appropriations.

Third. The provision to compel information protected by foreign laws was universally opposed before the committee, by the Justice Department, by the State Department, by the Federal Trade Commission, by the American Bar Association and others.

Fourth. Provision of mandatory legal fees in private injunction actions can only foment more antitrust litigation.

Title I's declaration of policy underlying S. 1284's substantive titles is based on myths and misconceptions about concentration, which expose the faulty foundation upon which the entire edifice is built.

Mr. President, I shall now present to the Senate a memorandum of certain constitutional questions arising with respect to fluid recovery provisions of title IV of S. 1284, which was prepared by Erwin N. Griswold, a former dean of Harvard Law School and former Solicitor General of the United States:

On March 2, 1976, four representatives of the Section of Antitrust Law of the American Bar Association appeared before the Committee on the Judiciary of the U.S. Senate in opposition to certain provisions of S. 1284. One of the persons who appeared was Allen C. Holmes, of Cleveland, Ohio, who is a member of the Council of the Antitrust Section. Mr. Holmes is my partner in the firm of Jones, Day, Reavis & Pogue, and, at his request, I have prepared this memorandum dealing with certain constitutional questions which appear to me to be involved with the so-called "fluid recovery" provisions of title IV.

In this connection, I have read the testimony given by Philip A. Lacovara, Esq., on March 3, and the memorandum subsequently filed by Mr. Lacovara with the committee. Although Mr. Lacovara refers to some of the same authorities as those relied on in this memorandum, they are presented here from a different point of view, and with sepcial emphasis on the constitutional aspect of the questions which are raised by title IV.

Title IV of S. 1284 is entitled "Parens Patriae Amendments." It undertakes to amend the Clayton Act by adding a new section 4C(a), which provides for suits by State attorneys general to recover damages for Sherman Act violations on behalf of the natural persons residing in such State, or any of them.

The amendments contain a further provision, in paragraph (c)(1) of section 4C, which reads as follows:

(c)(1) In any action brought under subsection (a)(1) of this section, and in any class action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

This paragraph is applicable not only to the parens patriae suits authorized by section 4C(a)(1), but also to private antitrust suits brought on a class basis. It purports to authorize the so-called fluid recovery in both types of antitrust suits. More specifically, it provides for the award of damages against the defendant in favor of persons who are not in court, are not notified, except by publication, and who are not required to prove either that they were injured, or the amount of their injuries.

These provisions raise serious constitutional questions which should be carefully examined and considered before the Congress starts down so novel and draconian a road. I will endeavor in the following pages of this memorandum to summarize three aspects of these questions in terms of basic constitutional requirements.

A. "FLUID RECOVERY" IS NOT WITHIN THE CONSTITUTIONAL JURISDICTION OF THE FEDERAL COURTS, WHICH ARE LIMITED TO THE CONSIDERATION OF "CASES AND CONTROVERSIES" INVOLVING ACTUAL PARTIES PROPERLY BEFORE THE COURT

The law of "case or controversy" may fairly be said to be lawyers' law. But it is real. It reflects the language of the Constitution; and the language is not accidental. It was carefully chosen, and it was designed to limit the Federal courts to consideration of cases of "a judiciary nature," that is, to the decision of controversies between parties who are before the court, and subject to appropriate rules of proof.

In the case of "fluid recovery," the "case or controversy" requirement is not met, for the persons on whose behalf recovery is obtained make no claim, are not parties to the case, and provide no proof. For the most part, they are simply unknown.

Although no precise authority on this question is known—probably because the possibility of such a contention has seemed so farfetched—it seems obvious that a claim on behalf of such persons does not meet the requirements of article III of the Constitution, limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

There are a number of decisions which go far to show that this question under article III is a substantial one which would be given serious consideration by the courts. One of these is *Eisen v. Carlisle & Jacquelin*, 479 F. 2d 1005 (C.A. 2d, 1973), decision vacated on other grounds, 417 U.S. 156 (1974). That case involved an effort to obtain a "fluid recovery" on behalf of all persons who had bought or sold odd lots on the New York Stock Exchange between May 1962 and June 1966. It was estimated that there were 6,000,000 members of this group, of whom 2,250,000 could be identified. The basic question in the case was who should bear the cost of giving notice to the members of the class who could be identified. The court of appeals held that this burden could not be put on the defendant, under a proper construction of rule 23 of the Federal Rules of Civil Procedure; and this conclusion was affirmed by the Supreme Court. But the court of appeals went further in an opinion by Judge Medina, and discussed the impropriety of "fluid recovery," which had been suggested by the district court as a possible solution to the manageability problem posed by the case (479 F. 2d at 1018):

Even if amended Rule 23 could be read so as to permit any such fantastic procedure, the courts would have to reject it as an unconstitutional violation of the requirement of due process of law. . . . We hold the 'fluid recovery" concept and practice to be illegal, inadmissable as a solution of the manageability problems of class actions and wholly improper.

It is, of course, quite true that this passage does not speak in terms of the article III limitations of "case and controversy." It seems equally clear, though, that the factors to which the court referred are those which are involved in determining whether there is a case or controversy, that is, whether the matter to be undertaken by the court is truly "of a judiciary nature."

There are other recent decisions which point in the same way. *In Re Hotel Telephone Charges*, 500 F. 2d 86

(C.A. 9th, 1974), is an example. In this case, it was estimated that the class—all hotel guests who had been subjected to a surcharge—would number more than 40 million persons. The court held that this was not appropriate for a class action. Although it did not put the decision specifically on any constitutional ground, it said (500 F. 2d at 92):

The antitrust laws focus on the compensation of parties actually injured, presupposing that a plaintiff can prove that he was in fact injured as a proximate result of an antitrust violation.

Another case reaching a similar result is *Kline* v. *Coldwell, Banker & Co.*, 508 F. 2d 226 (C.A. 9th, 1974). This case involved a suit against real estate brokers brought by the plaintiffs, "on behalf of themselves and all sellers of residential real estate in Los Angeles County." It was estimated that the number of persons in the class was "upwards of 400,000," and possibly more. The court held that this was not appropriate for a class action.

Again, its conclusion was not put on constitutional grounds, but much of its language would support the contention that the effort to bring in so large and indefinite a class was inconsistent with the "case or controversy" limitation of article III of the Constitution. Judge Duniway's concurring opinion is particularly relevant. He referred to the suit before the court as a "judicial juggernaut" (508 F. 2d at 236), while recognizing the possibility that class action suits might be brought on behalf of classes made up of: "truly and actively aggrieved plaintiffs." 508 F. 2d at 239. This is language that is apt to the consideration of the question of "case or controversy." He also said (508 F. 2d at 238):

"It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each 'plaintiff.'"

Here again, it can fairly be contended that without such proof there is no "case" within the constitutional sense of that word as it is used in article III.

The recent decision of the Supreme Court in the case of *Warth* v. *Seldin*, 422 U.S. 490 (1975), is of especial importance on this question. That case turned on an issue of "standing," which is closely related to the "case or controversy" question. The case was a suit brought by organizations and residents of Rochester, N.Y. to contest the validity of a zoning ordinance in the town of Penfield, adjacent to Rochester. The contention was that this ordinance excluded persons of low and moderate income from living in Penfield. The suit was originally filed by an organization called Metro-Act of Rochester, Inc., and eight individual plaintiffs, "on behalf of themselves, and all persons similarly situated." The Supreme Court held that the plaintiffs did not have the requisite standing to maintain the suit.

In reaching this conclusion, the Court said (422 U.S. at 478–499):

In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. The inquiry involves both *constitutional limitations on federal-court jurisdiction* and prudential limitations on its exercise. *E.g., Barrows* v. *Jackson*, 346 U.S. 249, 255–256 (1953). In both dimensions it is founded in concern about the proper—and properly limited—role of the courts in a democratic society. See *Schlesinger* v. *Reservists to Stop the War*, 418 U.S. 208, 221–227 (1974); *United States* v. *Richardson*, 418 U.S. 166, 188–197 (1974) (Powell, J., concurring).

In its constitutional dimension, standing imports justiciability; whether the plaintiff has made out a "case or controversy" between himself and the defendant within the meaning of Art. III. This is the threshold question in every federal case, determining the power of the court to entertain the suit. As an aspect of justiciability, the standing question is whether the plaintiff has "alleged such a personal stake in the outcome of the controversy" as to warrant *his* invocation of federal-court jurisdiction and to justify exercise of the courts' remedial powers on his behalf. *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party, even though the court's judgment may benefit others collaterally. [First emphasis supplied; second emphasis in original.]

The Court also said (422 U.S. at 499) that "even when the plaintiff has alleged injury sufficient to meet the 'case or controversy' requirement, this Court has held that the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties."

This decision makes it plain that the Court is fully aware of the fundamental importance of the "case or controversy" requirement of article III, and that it regards this constitutional limitation on judicial power as "the threshold question in every Federal case." The Congress should be as careful as the courts to see that remedies provided are within the role that our courts can properly play in our constitutional system.

This does not mean that there cannot be representative suits, where there is a clear relationship between the representative and the person he represents. A trustee can represent his beneficiary, a guardian can represent his ward, and a parent may appear as the next friend of his child. In each such case, though, there is a clear and directly adverse claim of injury and the burden is on the plaintiff to produce the facts which will prove the injury and the amount of the damages, by a preponderance of the evidence.

Nor does this mean that there cannot be class actions, even, sometimes, with rather large classes, where there is some sort of coherence between the members of a reasonably circumscribed and defined class. For example, a suit may be brought on behalf of all the shareholders in a corporation. A suit might, in some circumstances, be brought on behalf of the members of a church, or the students in a school. In such cases, there is a clear relationship between the members of the class, and the class is finite and readily determinable. Moreover, in many class suits, if not most, the object is to seek an injunction. If an injunction is obtained by some plaintiffs, this will inure to the benefit of all persons similarly situated, since a decision in favor of some plaintiffs would operate on behalf of all, under ordinary principles of stare decisis. In such cases, there is no "recovery" by the plaintiff. The fact of injury to any individual plaintiff, or the amount of that injury, is irrelevant, as long as some of the plaintiffs before the Court show the requisite grounds for injunctive relief. It is suits of this kind in which expansive notions of the scope of a proper class have taken root.

When there is a claim for money damages, however, the situation is entirely different. The purpose of having a class is for the convenience of the court, to avoid multiplicity of litigation, and needless repetition of the same issue. But this does not negate the constitutional requirement that there must be a case or controversy with respect to all members of the class, who must in some way—for example, through actual notice, or appearance in court—be before the court. Similarly, it does not mean that there is a case or controversy with respect to any member of the supposed class whose actual identity is completely vague and uncertain, and who does not provide proof that he has been injured, and proof of the damages he has sustained from such injury. Surely the fact that some members of the class may be properly before the court does not mean that there is a case or controversy with respect to other members of the class. The fact that there is a case or controversy with respect to a named or identified plaintiff, does not give the court jurisdiction to decide other and hypothetical or abstract questions. Thus, a plaintiff that is properly before the court could not say: "And, by the way, we would like to have you declare this other, unrelated, statute unconstitutional." Cf. *Muskrat* v. *United States*, 219 U.S. 346 (1911). Similarly, the fact that proof is provided by some members of the class who are before the court does not necessarily mean that there is a case or controversy with respect to other members of the class who make no proof at all, either of actual injury, or of damages. The fact that others may seek to provide some sort of proof on their behalf does not mean that there is an actual controversy on such matters before the court. Under article III, the court has no constitutional power to decide such collateral questions, on behalf of parties not before the court, and making no claims, and the Congress should not seek to assign such powers to the courts under our constitutional system.

B. THE PROVISIONS OF SECTION 4(C)(1) VIOLATE THE GUARANTEE OF THE FIFTH AMENDMENT AGAINST TAKING PROPERTY WITHOUT DUE PROCESS OF LAW

A substantial constitutional argument can also be made against the provisions of title IV on the ground that they provide for taking the defendant's property without due process of law, insofar as they authorize the award of damages on behalf of some members of the class, without proof of injury, and without proof of the actual extent of damage sustained by those members of the class.

Congress cannot constitutionally provide that the property of A shall be taken from him and given to B, without complying with the requirements of due process. As the Supreme Court said in *Warth* v. *Seldin* (422 U.S. at 499):

> The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party . . .

There should be no recovery on behalf of a plaintiff who has provided no proof of injury or damages. Recovery in such a case is a clear violation of due process. See also the recent decision of the Supreme Court in *Eisen* v. *Carlisle & Jacquelin*, 417 U.S. 156 (1974).

This is especially true when it is known in advance that a substantial part of the recovery will not, in fact, go even to the members of the class. That this is the intended effect of title IV is evident from the provision of section 4C(c)(2) which provides that—

> The court shall distribute . . . any monetary relief awarded to the State either in accordance with State law or as the district court may in its discretion authorize.

The purpose of this provision is to legislate that any unused portion of the fund—that is, any "monetary relief" in excess of that actually proven by a known and existing plaintiff—should be used to benefit others, in some way, even though many of the others will not be members of the same class on whose behalf the suit was brought. Thus, in the Tetracycline litigation, unused funds—obtained in a settlement—were, in effect, distributed cy pres to hospitals and other charities. And in *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005, it was proposed that the unclaimed funds relating to past odd lot traders should be used to reduce costs for future odd lot traders, many of whom would not be members of the original class.

It is said that the defendant has done wrong, and he should be made to disgorge. But, consistently with due process, damages cannot be awarded in vacuo. A person can be mulcted for wrongdoing only pursuant to a criminal statute imposing a fine, or pursuant to a statute imposing a civil penalty or forfeiture, subject to proper requirements and standards of proof. This is not the purport of title IV. And it would not satisfy some of the proponents of title IV, since it would not provide a fund for distribution, or for the payment of attorneys' fees.

The contention is made that the allocation of the funds to charity, or to other groups, is simply an example of escheat; and the case of *Mullane* v. *Central Hanover Trust Co.*, 339 U.S. 306 (1950) is pointed to. But the Mullane case is distinguishable. In the first place, the case required service of process, where the claimants could be identified. Moreover, the case involved specific amounts held by a bank in a company trust fund. There was no contention that the bank did not hold the money for the beneficiaries. There was no issue either as to liability, or as to the amount of the liability. The money was held by the bank without any claim to keep it. The issue in the case was the protection of the bank against future claims by beneficiaries, and it was held that the bank would not be protected unless there was actual notice to all beneficiaries who could be identified.

Thus, the decision in the Mullane case with respect to notice by publication related to the defendant bank only with respect to its protection against a further suit by a beneficiary. The persons to be protected there were the persons who made the payments to the common trust fund. Thus, the defendant bank was not deprived of anything without proof of its liability; and the beneficiaries were not deprived of their rights without actual notice when that would be given.

I am quoting from a memorandum, as I stated in the beginning, of Erwin N. Griswold, former dean of the Harvard Law School and former Solicitor General of the United States. That is what he says about this bill:

C. THE PROVISIONS OF TITLE IV VIOLATE THE PROHIBITION IN THE FIFTH AMENDMENT AGAINST THE TAKING OF PRIVATE PROPERTY FOR PUBLIC USE WITHOUT JUST COMPENSATION

It is plain that title IV provides no compensation to the defendant for the property taken from him. In the ordinary case, under title IV, of course, the property is taken from the defendant for the benefit of an indefinite class, a large part of which will, in fact, never be specified. Insofar as the property is taken for the benefit of this class, and the property is taken without proof of actual damage, or the amount of damage, it is in fact a taking of private property for private use, and this is an a fortiori case within either the due process clause or the just compensation clause of the fifth amendment.

Insofar as the property taken is applied cy pres for some public use or benefit, it can well be contended that this is a violation of the just compensation clause. It is a taking of the property of the defendant, not for any identified plaintiff, on proof of his injury and damages, but, in effect, for public use and benefit. The fifth amendment provides that private property shall not be taken for public use without just compensation. Since private property is taken under title IV without compensation and proof that any identified person has been injured, a serious question can be raised under the just compensation provision of the fifth amendment.

CONCLUSION

For the reasons indicated, a strong case can be made that the provisions of title IV violate the Federal Constitution: First, with respect to the "case or controversy" requirement of article III; second, with respect to the due process clause of the fifth amendment; and third, with respect to the just compensation clause of the fifth amendment. These constitutional reasons against the enactment of title IV should be given full consideration, in addition to the practical arguments which have been advanced by other witnesses before the committee.

Now, Mr. President, Mr. Richard A. Posner, from the University of Chicago Law School, wrote a letter to the chairman of the subcommittee, Mr. PHILIP A. HART, dated March 3, 1976. I feel that the Senate should have the benefit of this letter. It reads as follows:

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, Ill., March 3, 1976.

Senator PHILIP A. HART,
Chairman, Senate Subcommittee on Antitrust and Monopoly, Washington, D.C.

DEAR SENATOR HART: I am writing to express my views on S. 1284 which is pending before your subcommittee. I request that the statement which follows be made a part of the record of your subcommittee's deliberations on this bill:

My name is Richard A. Posner. I am a professor of law at the University of Chicago Law School and I have taught and written extensively in the field of antitrust law.

I believe that the enactment of S. 1284, which would allow state attorneys general to bring suits under Section 1 of the Sherman Act to recover damages for injury to residents of their states, would be a serious mistake. It is important to provide effective damage remedies for violations of the antitrust laws; and where the injury inflicted by such a violation is widely diffused, no individual may have a substantial incentive to bring a damage action, even though the aggregate injury imposed by the violation may be very great. Because antitrust violations frequently do impose such diffuse injuries, procedural innovation is necessary if there is to be effective redress of antitrust violations. I am persuaded, however, that the most effective innovation is the modern consumer class action, which permits the aggregation of many small claims. That is not to say that the class action is free from opportunities for abuse on the one hand, and inadequacies and insufficiencies on the other; but it seems to me the best of the available procedures. S. 1284 would be among the worst:

1. State attorneys general might file groundless antitrust suits designed for purposes of political self-aggrandizement. We must be realistic and recognize that attorneys general are politicians who have been known to use their office to advance a political career. The temptation to file a multimillion-dollar suit for publicity purposes would in some cases, I fear, prove overwhelming. It is a salutary limitation on the powers of the attorney general of the United States that he is not empowered to bring money actions under the antitrust laws (other than for actual damages to the United States in its proprietary capacity). I fear, in short, that S. 1284 would turn the antitrust laws into a political football.

2. Calculating the damage to a state's residents from an antitrust violation would be fraught with uncertainty. It is difficult enough to estimate the injuries suffered by a class of individuals or firms doing business with the antitrust violator. To trace out the possible economic ramifications of the violation throughout a state's economy—which is what would be necessary in order to measure the injury to the state's residents—would strain the capacities of the economic science and the judicial process, and would violate the traditional limitation of damages to those that are foreseeable.

3. The piecemeal creation of antitrust remedies is a great mistake. Congress has recently increased the public penalties for antitrust violations but has not, to my knowledge, attempted to evaluate the effects of that change in law. Nor have I seen evidence that Congress has carefully considered the effect on compliance with the antitrust laws of alternative remedies such as the consumer class action. Your subcommittee has not, to my knowledge at least, considered how S. 1284 would fit in as part of a cohesive, general system of public and private penalties. In these circumstances its enactment would be premature even if, considered alone, it did not

have the two disabling disadvantages that I have identified.

In sum, I urge you not to report favorably on S. 1284. I may add that in offering these views I am speaking as an individual and not as the representative of any group or interest.

Sincerely,

RICHARD A. POSNER.

Now, Mr. President, I would like to bring to the attention of the Senate a letter that was written to Honorable ROMAN L. HRUSKA, U.S. Senator from Nebraska, and a member of the Judiciary Committee, in fact, the ranking minority member, from Allen P. Stults, chairman of the board and former president of the Bankers Association. He is chairman of the board of the American National Bank and Trust Co. of Chicago.

AMERICAN NATIONAL BANK & TRUST CO. OF CHICAGO,
Chicago, Ill., February 12, 1976.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: I understand that the Congress will shortly vote on proposed legislation which would authorize the Attorneys General of the States to bring antitrust treble damage actions in the Federal courts on behalf of all or large groups of residents of a State claiming damages from violations of the antitrust laws.

In this connection, I wish to stress the importance for the national economy of a careful assessment as to how potentially huge contingent liabilities, particularly of smaller firms named as co-conspirators in such antitrust actions, may affect their access to financing and capital markets.

I understand that antitrust class actions in the past have asserted multi-million dollar claims for which all named co-conspirators are jointly and severally liable, including one recorded case in California claiming $750 million in joint and several liabilities against 2,000 real estate brokers.

In view of SEC disclosure requirements in the financial statements of public corporations which incur material contingent liabilities in pending antitrust litigation, it is my considered opinion that such antitrust actions may have a substantial adverse impact on the financing opportunities particularly of smaller firms named in such actions.

This is so because banks and other financial institutions will necessarily take such substantial contingent liabilities into account in their lending decisions.

ALLEN P. STULTS,
Chairman of the Board.

(Former President, The American Bankers Association).

Now, Mr. President, some people wish to point to this antitrust bill as an anti-big-business bill. Well, I guess it makes no difference whether you call it an anti-big-business bill or what kind of bill it is called. We have to go to the heart of it and see what it does.

Here is a letter from a very prominent man, chairman of the board of a big bank in Chicago, which says that "actions of this kind will have a substantial adverse impact on the financing opportunities of small firms."

So this is not a bill that is an anti-big-business bill necessarily, although to some extent it may be because it is anti-any-kind of business, it is anticonsumer, it is antipublic. This bill is not in the best interest of the consumer; it is not in the best interests of the public, and it is certainly not in the best interest of small business.

Mr. President, on March 12, 1976, Ward S. Bowman, Jr., Ford Foundation professor of law and economics of the Yale Law School, wrote Senator HART, the chairman of the subcommittee, a letter which I feel should be brought to the attention of the Senate. It says:

YALE LAW SCHOOL,
New Haven, Conn., March 12, 1976.

Re: Title IV, S. 1284 (Parens Patriae).

Senator PHILIP A. HART,
Chairman, Senate Subcommittee on Antitrust and Monopoly, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HART: As an economist who has spent most of his adult life working with lawyers on problems of competition and monopoly, I write to express my gravest apprehensions about the enactment of S. 1284.

I have long shared the consumer interest concern which S. 1284 purports to support. But allowing state attorneys general to bring suits under the Sherman Act to recover damages for their state residents would create more problems than would or could be resolved. Important as it is to deter collusive activity among competitors when total injury is substantial but injury to individual consumers is minimal, I am confident that alternative means of deterrence are far better means of enforcement. Included are high fines, better case priority for prosecutions by the Antitrust Division, state antitrust laws and their more stringent enforcement, and private class actions. As to the latter, the proposed legislation seems to be attempting to undo the effects of recent federal court decisions without at all clarifying what would or should make these cases go the other way were state attorneys general to represent a class.

Furthermore, I must emphasize what, for me, is an even more basic problem—increasing deterrence for antitrust violations which are inconsistent with efficient use of resources to the benefit of consumers. In recent years much antitrust activity has centered on protection of competitors rather than protecting the competitive process. Thus, both public and private actions under the Sherman Act, and particularly its Section 1, have had the effect of making illegal actions which lead to efficiency and lower costs, making for consumer benefit rather than consumer harm. As I read S. 1284, and the arguments in support of it, there seems to me to be a presumption that all antitrust actions that state attorneys general might bring would be reasonably exact facsimilies of horizontal price fixing agreements or division of fields agreements which would clearly be adverse to the interest of consumers.

I see nothing in S. 1284, however, which would limit state action to such obvious consumer cases. As my 1973 book, *Patents and Antitrust Law, a Legal and Economic Appraisal*, analyzes in detail, all violations of antitrust law under current standards are not consumer benefiting. And your S. 1284 ignores or seriously underplays the deficiencies in existing antitrust law. To be specific, I see nothing which would prevent state attorneys general from bringing actions based on such antitrust precedent as *Schwinn, Von's Grocery, Topco*, or *Brown Shoe*. And I must restress, as I, and others, including the Solicitor General of the United States[2] have long contended, such cases are undeserving of antitrust support, much less treble damages from either private action or class suits brought on behalf of state attorneys general.

My conclusion, therefore, supports the position taken by Professor Richard Posner of the University of Chicago in his letter to you dated March 3, 1976. All of his valid arguments apply to such obviously consumer harming activity as collusive price fixing agreements. That S. 1284 is not limited to such arrangements makes it worse not better.

Sincerely,

WARD S. BOWMAN, Jr.,
Ford Foundation Professor of Law and Economics.

Mr. President, that letter from Mr. Bowman at the Yale Law School in New Haven, Conn., I think clearly sets out his position. He feels this bill is not in the best interests of the people of this country.

Mr. President, on March 17, 1976, the President of the United States, the Honorable Gerald R. Ford, wrote to the minority leader in the House of Representatives, the Honorable JOHN J. RHODES, and this letter contains views which I feel should be brought to the attention of the Senate. It says:

THE WHITE HOUSE,
Washington, March 17, 1976.

Hon. JOHN J. RHODES,
Minority Leader,
House of Representatives,
Washington, D.C.

DEAR JOHN: As I outlined to you on Tuesday, March 16, I support vigorous antitrust enforcement, but I have serious reservations concerning the parens patriae concept set forth in the present version of H.R. 8532.

I question whether federal legislation is desirable which authorizes a state attorney general to sue on behalf of the state's citizens to recover treble damages that result from violations of the federal antitrust laws. The states have the ability to amend their own antitrust laws to authorize parens patriae suits in their own courts. If a state legislature, acting for its own citizens, is not convinced the parens patriae concept is sound policy, the Administration questions whether the Congress should bypass the state legislatures and provide state attorneys general with access to the federal courts to enforce it.

In addition to my reservations about the principle of parens patriae, I am concerned about some specific provisions of the legislation developed by the House Judiciary Committee.

The present bill is too broad in its reach and should be narrowed to price fixing violations. This would concentrate the enforcement on the most important antitrust violations.

In addition, the Administration is opposed to mandatory treble damage awards in parens patriae suits, preferring instead a provision which would limit awards only to the damages that actually result from the violation. The view that federal penalties were inadequate, which has been used to justify mandatory treble damages in the past, is no longer justifiable given the substantial increases in these penalties in recent years.

The Administration opposes extension of the statistical aggregation of damages, beyond parens patriae legislation, to private class action suits because this is outside of the appropriate reach of this legislation.

Finally, the Administration prefers discretionary rather than mandatory award of attorney's fees, leaving such awards to the discretion of the courts.

During the last two years, the Administration has sought to improve federal enforcement efforts in the antitrust area and the resources devoted to antitrust enforcement have increased substantially. In December 1974, I signed the Antitrust Penalties and

[2] See, for example, *Crisis in Antitrust*, by Robert H. Bork and Ward S. Bowman, Jr., Fortune Magazine, December 1963.

Procedures Act which increased maximum penalties from $50,000 to $1 million for corporations and $100,000 for individuals. As I indicated above, I support vigorous antitrust enforcement, but I do not believe H.R. 8532 is a responsible way to enforce federal antitrust laws.

Sincerely,

GERALD R. FORD.

Mr. President, here is a letter from the President of the United States in which he states clearly in his own words that he supports vigorous antitrust enforcement, but he does not believe that H.R. 8532 is a responsible way to enact Federal antitrust laws.

Mr. President, I hope the Members of the Senate will take his views into consideration when this bill comes to a vote in the Senate.

Mr. President, without encouraging any mail on this subject, any wires to be sent, or any communications, the people of my State—and I think the people of my State are typical of the other States of the Nation—have shown their opposition and their resentment to this dangerous piece of legislation by the many communications I have received.

I am going to quote from a few of these communications, because it would take all day long to read the many objections I have received from my constituents on this topic.

Here is a letter from Greenville, S.C., that says:

I strongly urge you to oppose bill S. 1284 now being considered by the Senate Judiciary Committee.

It is signed Wade H. Stephens, Jr., 414 McIver Street, Greenville, S.C.

Here is a letter from Gerald J. Dix, a senior vice president of the National Bank of South Carolina, Sumter, S.C.:

DEAR SENATOR THURMOND: The referenced Senate Bill appears to be designed to create more law business for attorneys. It would most certainly create more harassment of business even without identification of aggrieved individual(s). It also appears to hand to state Attorney Generals unnecessary and quite broad powers to bring class action suit against "alleged violators" of federal antitrust laws on behalf of residents of their states with possible treble damages.

As a practical matter, this legislation will necessarily increase the cost to business and any similar legislation would do likewise. It simply follows that costs for all consumers will increase.

Senator, I strongly urge you to do everything to expose such impractical legislation that cannot on the long term serve our nation well. I assume you do oppose this legislation. May your opposition be successful as it surely must be.

May I hear from you on this?

Most respectfully,

GERALD J. DIX,
Senior Vice President.

Next, Mr. President, I have a letter from Thomas & Howard Co., Columbia, S.C.

DEAR SENATOR THURMOND: I would sincerely request that you oppose the Hart-Scott Antitrust Improvements Act, S.1284.

This bill will cause additional hazards and difficulties with which businessmen will have a difficult time complying. Should this bill be passed, prices will have to go up so that businesses can pay the damages.

With kindest regards, I am

Very truly yours,

HOWARD TIMBERLAKE.

Mr. President, Howard Timberlake is the president of Thomas & Howard Co.

Mr. President, here is a businessman. He says that if this bill passes, prices will go up so that businesses can pay the damages.

Mr. President, who is losing here? They are speaking about hitting big business. They are not hitting big business probably as much as little business. But there is one thing for sure: they are going to hit the consumer and they are going to hit him right in the middle of his forehead. This is an anticonsumer bill, and I want the people of this country to know that. It is being labeled an anti-big-business bill. This is an anticonsumer bill. All of the letters and communications I have received from people in little busines, consumers and others, see it so.

Mr. President, I have a letter from Steel Heddle, Greenville, S.C. It reads:

We understand that on April 6 the above bill will come before your committee and we urge you to oppose this bill in the best interest of overall business and the country as a whole. As we see it, the only parties that are going to benefit from the passage of such a bill would be—

Who? Consumers? No. Little business? No. Who does he say will benefit from it? The lawyers, the lawyers who will be delegated the power to bring suits in the thousands, in the hundreds of thousands and in the millions of dollars and will impose expenses on businesses which will have to be passed on to the consumers.

Then he goes on to say those who benefit will be:

lawyers, with business and individual consumers suffering in the long run. We certainly hope you will concur with us.

Sincerely,

B. BOWEN,
Executive Vice President.

Mr. President, I have a letter from the First National Bank of Holly Hill, S.C.:

DEAR SENATOR THURMOND: You have before your committee the Hart-Scott Antitrust Act.

I am certain you are aware of the many dangers in a bill including such provisions as this act.

If you can help in keeping this act from becoming law, it will be appreciated.

Wtih kind personal regards, I am

Sincerely yours,

H. D. FOLK,
Chairman of the Board.

Mr. President, I have a wire from a gentleman in Greenwood, S.C.:

GREENWOOD, S.C.

S. 1284 is another giant step toward turning the DOJ into a complete anarchy, and favors "private interest" law firms. Another Boondoggle to harass private enterprise and will have reverse effect on economic goals it's designed to achieve. Kill it quick.

LARRY THOMPSON.

Mr. President, I have another wire, one from Lancaster, S.C.:

Urge your opposition to S. 1284. It is another step toward complete government takeover of business.

R. H. COLLINS.

Mr. President, I am sure that the Senators who are listening today will understand that these communications are from all strata of life, all types of businesses. Most are small businessmen. They are deeply concerned that it is just another step to let the Government take over and assume more power, more Federal power. Federal power is entirely too strong now. The flow of power ought to be reversed. It ought to be turned back to the States and back to the people. Instead, with the passage of this type of legislation, more and more power will be brought to Washington. In the end, it brings tyranny to the people.

This gentleman, Mr. Collins, is afraid that this type of bill will lead to Government takeover of business, and he may be right.

Mr. President, I have a letter from a gentleman in Anderson, S.C., by the name of Cordes G. Seabrook, Jr.

DEAR SENATOR: I would like to express my opposition to SR-1284. I feel confident you are against this bad legislation, and I hope you and those who think like you will keep this from becoming law.

Sincerely,

CORDES.

I have a wire here from Columbia, S.C., which reads:

We earnestly solicit our opposition to omnibus antitrust bill S. 1284. Southeastern Safety Supplies, John G. Farmer, Columbia, South Carolina.

I have a letter here from Sumter, S.C.:

DEAR MR. THURMOND: I hope you will oppose the antitrust improvements act S. 1284. The passage of such an act would not at all improve business competition. In fact it would discourage business growth.

Thank you in advance for opposing bill S. 1284.

Mr. President, here we are, all considering how we can get people back to work, how we can provide more employment, how we can provide more jobs, and yet we have a letter from a businessman, a businessman who gives employment to people, a man who provides for people, a man who enables the head of a family to feed his family, and here is what he says:

The passage of such an act would not at all improve business competition. In fact, it would discourage business growth.

How are we going to increase employment if we do not have business growth, if we do not expand the economy and provide more jobs, unless we let the Government do it? That is what some people want to do today. They want the Government to assume responsibility in every facet of people's lives, and to inject the Federal Government into every phase of activity.

In my opinion, private enterprise will provide most of the jobs for our people if we will unshackle private enterprise and quit loading it down with more and more regulations and harassing it, as is now being done, by so many agencies of this Government under the acts created by this body.

Now, Mr. President, I have a letter here from Clinton Mills:

DEAR SENATOR THURMOND: I am calling to your attention S. 1284.

This bill will only seriously shackle further every business in this country with unnecessary involvement of government in private industry.

Business may in some cases, need government investigation, but most American business needs to be let alone.

Everyone wants to have a better country, and most business is trying harder than anyone to make it better. Business is getting fed up with overregulation and unnecessary government interference.

That is exactly what we have in this bill. This gentleman has put his finger on it. He says business is getting fed up with overregulation and unnecessary Government interference.

He adds:

I hope you will ask for detailed explanation of every facet of this bill. Hopefully you will move to kill it.

Mr. President, I have a letter here from Terry Construction Co., Greenville, S.C.:

DEAR SENATOR THURMOND: Would you please use your influence to defeat Anti-Trust Bill S1284 which I understand is now on your Committee's Agenda. In my opinion this is another "back door" attempt to break up our free enterprise system in America.

Some of the ills of this proposed legislation are as follows:

1. Give the Department of Justice power to subpoena innocent individuals for interrogation under oath, without direct court supervision or formal complaint.

Mr. President, that is what this bill does. It gives some little lawyer here in the Justice Department the power to subpena anybody he wants to in this country and bring him into Washington, or he can go down to his business and talk to him there, and swear him.

He can put him under oath, and if he puts him under oath and if he makes a misstatement or a mistake—he may not have a lawyer there, and may not have all his records—if he makes a mistake, then that lawyer will be ready to prosecute him for perjury.

Mr. President, we have never had anything like this in this country before. Ordinarily, if a man is charged with a violation of law, he goes into a court of justice and is tried under a criminal proceeding. If he has to go to court on a civil case, he knows what the controversy is about before he goes to court, and there he can answer. Under this bill he is put under oath and asked anything concerning his business. This is purely a fishing expedition type of bill, to try to find something against business that some little lawyer or bureaucrat may not like. It is purely harassment of the individual and harassment of business.

His next point:

Give State Attorney Generals power to sue alleged violators and collect triple damages without proving individual claims.

Mr. President, that is what this bill does. It gives the State attorney general or anybody in his office, or any attorney he chooses anywhere in his State—you can just see these defense lawyers now, looking out to get to bring these suits. It would give them the right to sue for alleged violations; and injury need not be proved. Just so there is a violation on the part of an individual or company, the business can be sued and treble damages can be collected. And who does it go to? Well, there is nobody injured, so it would not go to the injured. Then the judge would determine whether to give it to some charitable institution, or something like that.

It is purely a way of taking money away from one private company and giving it over to some charitable organization or some other organization, and there is no provision in the Constitution of the United States to allow that.

His next point:

Give private Attorneys power to bring anti-trust class actions for triple damages without proving individual claims.

That is what it does. They do not have to prove the claims; all they have to prove is that there is a violation on the part of the defendant, and they can get damages, and not only damages but triple damages.

This gentleman says:

We do not need any more power in the hands of the Department of Justice and neither do we need to encourage public interest law firms.

The letter is signed John R. Terry, Jr.

Mr. President, I have a letter here from the Greater Rock Hill Chamber of Commerce, Rock Hill, S.C.:

DEAR SENATOR THURMOND: We are opposed to S. 1284, because the charge of anti competitive business behavior given as the basis for this legislation is not true.

The burden of proving the charge is on the proponents of this legislation. We don't believe they have done this. It appears that they are attempting to make their case by naked assertion without reliable evidence.

In our judgement, added power in the Department of Justice is unnecessary. Needed information may be obtained under existing Civil Investigative Demand authority and under court supervision by grand jury or during actual litigation.

The Department of Justice does not stand in the same position as other agencies which may need compulsory powers for regulatory functions like rate making. Added powers would allow the Department of Justice to prosecute corporations criminally without going through protective grand jury process. This is especially significant in light of recent amendments raising Sherman Act violations from misdemeanor to felony level.

We hope you will oppose S. 1284 and actively work for its defeat.

Signed Clint R. Carpenter, Jr., CCE.

Mr. President, I have a telegram here from Sumter, S.C.:

Urge your strong opposition to S. 1284.

H. G. MARTIN, Jr.,
President, First Federal Savings & Loan Co., North Main St., Sumter, S.C.

I have a letter here from Robert P. Stirm, Greenville, S.C.:

Although I am not familiar with all of its provisions, the so-called "Antitrust Improvements Act" (S. 1284) now before the Senate Judiciary Committee would appear to be another attempt to foister legislation not in the best interest of the country and its economy as a whole, and particularly the business community. If the limited information I have is correct, the bill would enhance the ability of certain government agencies, encouraged and supported by anti-business special interest groups, to harass corporations of their choice and thereby impede continued recovery of the economy. Moreover, it would seem that the bill may well raise certain constitutional issues of due process.

Unless my information is completely erroneous, I would urge your opposition to S. 1284 and your insistence that each of its provisions be fully debated before the Committee and appropriate disclosure thereof be made public through the national media.

Signed Robert P. Stirm.

Mr. President, I have a letter from Greenville, S.C.:

Subject: Omnibus Antitrust Bill (S. 11284)

MY DEAR SENATOR: Would appreciate anything you can do in your power toward defeating S. 1284).

Signed J. M. Clary. He is with the Britt-Clary Co., food brokers.

Mr. President, I have a wire here from Laurens, S.C.:

We urge you to oppose anti-trust bill S. 1284.

MORRIS J. CRUMP,
Southern States Lumber Co., Inc., Box 265, Laurens, S.C.

I have a letter here from Columbia, S.C.:

DEAR SENATOR THURMOND: In the near future you and the Judiciary Committee will be making a decision on the bill known as the "Antitrust Improvements Act". The bill I am referring to is S. 1284.

The information I have read concerning this legislation could not only do permanent damage to our private enterprise system but would create an expense to business the ultimate consumer would end up paying. It is my opinion we have more than enough laws and regulatory agencies governing industries.

As for those persons and organizations who feel that the business world is the enemy of our society, let them also pause and consider where they would be without businesses.

I solicit your support by voting against S. 1284. Thank you.

Signed W. N. Carroll, Treasurer, Dreher Packing Co., Columbia, S.C.

Mr. President, I have a wire here from Fort Mill, S.C., just south of the North Carolina line.

I am advised that H.R. 8532 and S. 1284 antitrust bills may be up for votes in a few days. I am not opposed to vigorous enforcement of our present laws against anticompetitive restraints of trade, but I am opposed to this legislation. Rather than freeing the marketplace of counterproductive influences, these bills seek to add such influences, namely, among others, harrassment from every career promoting assistant U.S. attorney and assistant State attorney general in the country. This legislation simply opens the way for political blackmail. If your aim is an efficient market wherein the best produce the most at the least cost, this is not the way to get it.

Signed Dan M. Byrd, Jr., Spring Mills, Inc., White Street, Fort Mill, S.C.

Mr. President, I have a letter here from Florence, S.C., the Home Furnishing Co. Re S. 1284.

DEAR SENATOR THURMOND: No one in their right mind would quarrel with any real improvements in this bill. My concern is that some are trying to sell the bill as a cure for inflation, unemployment and other economic problems.

I seriously question this.

It looks like more government regulations and harrassment and office expense because of "government enforcers; state attorneys general; and "public interest" law firms".

Government Enforcers, FTC: Few Government agencies are more insatiable in their demands for confidential business information than the FTC.

State Attorneys General: The bill is made to order for ambitious state attorneys general.

"Public Interest" Law Firms: Among those watching the bill with greatest anticipation are self-styled "public interest" law firms.

As a member of the Judiciary Committee, I request that you study carefully what this bill will do and what the end results and effects will be.

How can you stimulate business by limiting it's ability to grow and provide jobs?

How can you increase the income tax collections if you reduce the volume of business and the number of people they employ?

If we want to come out of this recession, we need to put a halt to new regulations on business. Allow them to catch their breath and move ahead in what is left of the Free Enterprise System.

Yours truly,

J. MADISON RAINWATER.

Mr. President, again, I repeat, although this is called an anti-big business bill, this bill will have greater effect on the little businesses of this country and the little people than it will anyone else.

Here is a little businessman in my State, and here is a whole page that he wrote to me opposing this bill. He would not have taken the time to sit down, study this bill, and write me about it if he did not feel it was against the best interest of small business.

The Members of this Senate pride themselves on being for small business. If the Members of this body are really for small business, now is the time for them to show their true colors and stand up and oppose this bill.

Mr. President, I have a letter here from a man from Columbia, S.C., Bagnal Builders, and they are small business people.

I cannot imagine the Senator from South Dakota taking the position he is taking, because he has the reputation of being for the little man. But here he is pushing through a bill that will help destroy the little man.

I read the letter from Mr. Bagnal:

DEAR SENATOR THURMOND: As a member of the Judiciary Committee I hope you are not in favor of Senate Bill 1284. The man in business today is being regulated out of business. All new buiness regulations add more cost of doing business and the ultimate consumer has to pay for it.

The small or large business cannot win a lawsuit today under any condition. It is time to stop all of the legislation that is being passed against private enterprise, after all this is the group that are paying the bulk of the taxes in this country today. Unless something is done to stop it the incentive to make money will soon be gone, then who will pay the taxes?

Your consideration with regard to Senate Bill 1284 will be appreciated.

Sincerely yours,

M. R. BAGNAL, Jr.

Mr. President, I could talk on this bill all day and all night, and if necessary to do so in order to stop it, I would not hesitate. But I am going to close now. Others wish to speak on this bill.

I have tried, in the time available to me here today, to demonstrate that there are two sides to S. 1248. This bill is not a panacea to solve antitrust problems.

It is a bill disguised in the cloak of consumer legislation, when in reality it is a lawyers' bonanza—more government by overregulation. Finally, it is a bill which will set back the economic recovery of this country.

All I ask here today is that the Members of this body inform themselves very carefully on both sides of the issue upon which they must vote.

Mr. BELLMON. Mr. President, I oppose the passage of S. 1284. This bill has many flaws that make its substantive terms unwise or unconstitutional. In addition to those defects, it also threatens to interfere with other more important values in our system of justice by needlessly and recklessly contributing to the already critical problem of court congestion.

It comes as no surprise to learn that our courts are in crisis. Each year the caseload cast upon overworked Federal judges increases significantly. Later, I will put into the RECORD some statistics showing how rapidly this court load has increased. Each year, the Chief Justice plaintively calls for restraint and circumspection by Congress in the creation of whole new categories of cases to be dumped into the Federal courts. Each year, Congress nevertheless adds more and more burdens to the Federal courts. As a result, the Federal judiciary, which was designed to be the great bulwark of constitutional interpretation and implementation, is being steadily transformed into an institution distracted by petty claims and overwhelmed by massive and incomprehensible economic confrontations.

I will give the Senate some idea of the impact that the changes in the law have had on our legal system in the last 15 years insofar as the Federal district court system is concerned.

Since 1960, the number of civil cases in Federal district court has increased more than 100 percent, to a total of more than 117,000 cases in 1975 alone.

Let me repeat that: During the years since 1960, the number of civil cases commenced in Federal district courts increased more than 100 percent, and in the year 1975 reached the level of 117,320 cases. From 1960 to 1975, in the district court civil caseload, Federal question cases, grew from 13,175 to 52,688, and this was a 400-percent increase.

Diversity case filings were up from 17,000 to 30,631 and this was a 79-percent increase. From 1960 to 1975, the number of civil antitrust cases filed in the Federal court system increased by 278 percent.

From 1960 to 1975, social security cases in the district courts increased by almost 1,000 percent—986 percent, to be precise. This increase was due to several amendments to the social security laws and the enactment of new legislation.

In addition, between 92,000 and 93,000 social security cases are now pending before administrative law judges, and between 14,000 and 15,000 cases are pending before the Appeals Council.

The Narcotic Addict Rehabilitation Act of 1966 produced many cases. When it comes to civil acts cases, in the civil caseloads, three laws are primarily responsible for increasing the work of the district courts: the Civil Rights Act of 1960, the Civil Rights Act of 1964, and the Equal Employment Opportunity Act of 1972. These three laws yielded a total of 10,392 cases in calendar year 1975 alone. This amounted to 8.9 percent of the total civil caseload in the district courts.

The National Environmental Policy Act of 1969 became law on January 1, 1970. In 1973, which is the first year for which statistics are available, 270 environmental cases were filed. In 1974, the number increased to 343 and in 1975 to 406. This is an increase of 50 percent in just 2 years.

These cases represent complex issues, and they consume a disproportionately high number of judicial work hours.

Truth-in-lending laws passed in 1968 and 1970 began to make their impact on the civil caseload of the district courts in 1970, when 101 such cases were filed.

In 1975, just 5 years later, there were 2,237 of these cases. That is more than a 2,000-percent increase in those 5 years.

Labor law case increases grew by 212 percent in the years between 1960 and 1975.

One of the most remarkable increases has occurred in the area of prisoner petitions, which have increased by 786 percent.

The Consumer Products Safety Act became effective late in 1972, and already thousands of cases have been filed under that legislation.

The Freedom of Information Act, the National Flood Control Insurance Act of 1968, the Motor Vehicle Information and Cost Savings Act, the Equal Credit Opportunity Act Amendments of 1976, and the Consumer Leasing Act of 1976 all have added to the caseload of our Federal legal system. The criminal caseload of the district courts was burdened additionally by laws dealing with weapons and firearms. Two laws particularly relevant are the Omnibus Crime and Safe Streets Act of 1968 and the Gun Control Act of 1968, which have made their impact.

From 1965 to 1975 there was a great deal of activity concerning selective service due to the Vietnam war. The criminal caseload was augmented by 380 such cases in 1965. That figure rose steadily to 1972, when there was a peak of 5,142 cases, 1,200 percent over the number filed in 1965. With the end of the war, there was a dramatic increase, to the point where there were only 242 cases in 1975.

Mr. President, these figures demonstrate that already Congress has seriously overloaded the Federal court system, and now we come along with a bill such as S. 1248, which, as I have said, is going to bring massive and incomprehensible cases to the courts that will further make it impossible for the Federal judiciary to deal with this burden.

S. 1284 would continue this deplorable trend and would add a number of new and unjustified burdens to those already staggering the Federal courts. Chief among these new burdens is title IV which would create a whole new type of

proceeding in which the financial interest of hundreds of thousands or millions of people would be litigated in suits brought by State attorneys general.

Mr. President, as a former Governor who served with an elected attorney general who was ambitious to be the next Governor of the State, I can imagine how much fun he would have with an act such as this. This man would be able to get a headline every day and could cause tremendous burdens on the Federal courts, just to serve his own selfish political interests.

If we were to pass such a bill such as this—and God forbid that we do let this become law—we would be handing to ambitious attorneys general the very finest vehicle ever conceived to give them opportunities to forward their own political ambitions, at tremendous cost not only to the taxpayers, who would pay the bill for their litigation, but also to the consumers, who would have to pay increased costs for every product they bought, because those kinds of lawsuits would be costly to defend on the part of the manufacturer.

The pretext for this new device is that there may be antitrust violations that cause injuries that are so small that individual planitiffs would not bother to come forward to assert any claims. This bill would aggregate all those claims and let the attorney general sue for them and then try to distribute the money to those uninterested individuals. It is time we realized, however, that the Federal courts can be made the instruments of relentless pursuit of such insignificant claims only if we are willing to sacrifice other more important interests that will necessarily be set back by the influx of massive parens patriae suits.

Even since Congress first established the federal courts in 1789, it has provided a minimum dollar amount for bringing most cases into a Federal court under either the diversity jurisdiction or the "Federal question" jurisdiction. This amount today is $10,000, and many commentators and judges say that in light of modern inflation the amount should be raised to $25,000 or even $50,000.

The minimum "jurisdictional amount" reflects a sound and sensible principle; namely, that it is foolish to treat the courts of the United States as if they were "small claims courts" obliged to hear every dispute, even a dispute allegedly involving some Federal question. The jurisdictional amount principle has worked well through our history. If the amount in controversy does not rise to that minimum level of significance, then the Federal courts should not be burdened with it. Instead, if anyone is interested, there should be resort to the State courts which are fully competent to hear even Federal claims, subject, of course, to possible review by the Supreme Court if some serious error of Federal law has been committed.

If the amount in controversy is so small that the supposedly injured person would not even bother to sue for it, this hardly demonstrates that Congress should invent a new device for turning the Federal courts into a super-collection agency. It is not the function of the Federal courts to dun alleged antitrust violators for grossly aggregated sums and then for them to supervise inevitably futile efforts to track down the hundreds of thousands or millions of disinterested citizens in whose name the case was brought. It is a very wise and ancient principle of Anglo-American jurisprudence: "De minimis non curat lex"—"The law does not concern itself with trifles."

If, as the proponents of the parens patriae device assert, there are some antitrust violations which injure consumers in amounts that are not sufficiently large for consumers to notice or care about, that does not lead me to agree that the law should attempt to deal with this problem as a matter of civil damages. If a wrong is being done to that large a group, it can be treated as a public wrong and handled accordingly. Barely 2 years ago, Congress increased the penalties for violations of the antitrust laws—I call the Senate's attention to section 1 of the Sherman Act, 15 U.S.C., section 1—making conviction for an antitrust violation a felony punishable by a $100,000 fine and 3 years in prison for an individual defendant and by a fine of $1 million for a corporation. These penalties apply to each violation, of course, and thus can cumulatively be even much higher on each count.

In our system, we deal with public wrongs by having the public prosecutor file criminal charges and exact stern punishment. The criminal penalties for antitrust violations were raised dramatically less than 2 years ago and there has been no evidence produced to suggest that the criminal process is not adequate to deal with any widespread injuries inflicted in wilfull violation of the antitrust laws.

Furthermore, where there is illegal conduct causing widespread damage but where the damage to individuals is small, our law already has a remedy which is tailored to this situation. The remedy is, in short, an injunction which can be sought by the Department of Justice or by any other person aggrieved by the alleged violation. Where the injury is broad but not deep, the primary concern should be with expeditious and efficient judicial action to halt the misconduct. Creation of a damage remedy on behalf of countless numbers of consumers, as worthwhile as it may seem in the abstract, is simply an unwise course which is not calculated to achieve any real justice and can be attempted only at great expense.

Much has been said by the proponents of parens patriae about the injustice of allowing antitrust violators who inflict many small injuries to retain their "ill-gotten gains." It is doubtful whether this is nearly as substantial a problem in reality as it is in the imagination of the proponents of this bill. The spectacle of huge businesses gorging themselves on illegal profits without challenge is, I suggest, largely fantasy. Certainly we have seen no evidence of these massive, unredressed wrongs that should impel us to accept the parens patriae device.

It must be recognized that most of the defendants who are sued in consumer actions are businesses that deal with other business enterprises before their products ever reach consumers. As a consequence, it is rare—if not impossible—to find a situation in which only a damage suit brought in the name of consumers can prevent a violator from keeping unjust profits. Rather, if there are grounds for believing that a manufacturer has engaged in some conduct that violates the antitrust laws, it is almost inevitable that one or more businesses with whom that company dealt will be in the position to bring a well-financed and competent lawsuit presenting those allegations.

If there has, in fact, been a violation, treble damages will be awarded to the company directly injured. The mythical specter of a violator retaining huge illegal profits because of the absence of a consumer damage suit dissolves.

And it is important in this context to bear in mind that the Supreme Court held in the Hanover Shoe case (*Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U.S. 481 (1968)) that a defendant charged with an antitrust violation cannot defeat the recovery by the injured company by alleging that the financial loss had been "passed on" to someone else, like consumers.

This decision is totally consistent with a historic principle of our jurisprudence: the principle of proximate causation. In Hanover Shoe, the Court quoted from an earlier decision by Justice Oliver Wendell Holmes, who explained:

> The general tendency of the law, in regard to damages at least, is not to go beyond the first step.

Justice Holmes further explained why the dilemma advanced by the proponents of the parens patriae device is a false one when they say that actions in the name of consumers must be created lest a violator retain his ill-gotten gains. Holmes said:

> The [violator] ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the [violator] took the sum.

Nowhere in the law do we attempt to assign to the courts the metaphysical function of trying to trace every remote consequence that may flow from an individual's action. In the law of negligence, for example, if a driver causes an accident that injures a pedestrian and keeps him out of work, we allow the injured pedestrian to sue for his damages. But we do not allow his employer to attempt to show that his business suffered in some amount because of the employee's enforced absence. And it would be even more ludicrous to ask the courts to determine an amount in which a customer of the injured pedestrian's employer was damaged because the absence had delayed the performance of a contract.

That type of endlessly speculative inquiry is what the parens patriae bill would force the courts to pursue in trying to trace all of the unfortunate economic consequences that may theoretically flow down to consumers because of an antitrust violation at the manufacturing

level. From the standpoint of the consumer, the situation is indistinguishable from the consequences that may flow from a breach of contract at that level. For example, let us assume that a manufacturer of washing machines has a supply contract under which a supplier is to sell him gaskets at a particular price, but the supplier reneges on this contract and forces the manufacturer to secure the parts elsewhere at a higher price. It is possible that when the washing machine is ultimately sold to a consumer it will cost more. We do not know that it will inevitably cost more because of all of the intervening pricing decisions that are made by the washing machine manufacturer, by the jobber to whom he sells, by the wholesaler who buys the product from him, and by the retailer who finally sells it to the consumer.

It would be absurd to consider giving the individual consumer the right to sue the gasket supplier who had breached his contract to allow the consumer to try to prove that the breach of that contract had actually injured him because of the passing on of the higher price for the gasket through each level in the distribution system. It would be even more complicated and unwieldy to attempt to establish the amount by which any of the price differential had been passed on to him.

Indeed, in Hanover Shoe the Supreme Court upheld the claim of the business directly injured by a violation, because of the very impracticability of trying a lawsuit to determine whether the financial effects of an antitrust violation have been passed on to an individual consumer. The Court's opinion stated expressly:

> Treble damage actions would often require additional long and complicated proceedings involving massive evidence and complicated theories.

One of the most prominent and respected commentators on antitrust law problems, Prof. Richard Posner of the University of Chicago Law School has exposed this basic flaw in the parens patriae bill in his March 3, 1976 letter to Senator HART. He said.

> Calculating the damage to a state's residents from an antitrust violation would be fraught with uncertainty. It is difficult enough to estimate the injuries suffered by a class of individuals or firms doing business with the antitrust violator. To trace out the possible economic ramifications of the violation throughout a state's economy—which is what would be necessary in order to measure the injury to the state's residents—would strain the capacities of economic science and the judicial process, and would violate the traditional limitation of damages to those that are foreseeable.

And it certainly would be no answer to say that instead of letting the individual consumer come into the Federal court to make such a damage claim, we will authorize a State attorney general to sue on behalf of all of the hundreds of thousands or millions of people who may have bought those washing machines in his State over a period of several years.

It is clear therefore that the parens patriae title of S. 1284 is wholly out of phase with our jurisprudence in disregarding the sensible principle that the courts ought not to be given the elusive or indeed impossible task of going beyond the person whose injury was proximately caused by a violation of law and trying to determine whether or not a more remotely situated consumer finally sustained some injury, and if so, how much. Indeed, if it were ever feasible to make this sort of inquiry, which the Supreme Court in Hanover Shoe said the courts are ill equipped to make it would not be in the antitrust field. One need not be an expert antitrust lawyer to know that this is perhaps the most complex field of law. The statutory terms—"unreasonable," "tendency," and so forth—are about as vague as any in the law, and the principles and concepts that have been developing over the past 85 years remain unsettled and evolutionary. Moreover, the facts at issue in the typical antitrust case are highly complex, and the key elements of defining the "relevant market" and determining the cross-elasticity of other products provides riddles that two experts rarely agree in resolving.

Title IV of S. 1284 would thus assign to the Federal courts a function which is difficult in a simple context and is practically impossible in the antitrust context—determining whether huge numbers of consumers, who may have purchased their products through dozens or hundreds or even thousands of different channels, sustained financial injury, and if so, by how much. If the individual interests involved were substantial and if the alternatives were nonexistent, perhaps this approach could be taken seriously, but as I have explained, the amounts involved are admitted to be trivial on an individual basis, and there are other more rational and more efficient remedies for coping with the problem in the aggregate. Thus, it would be reckless indeed to create a new kind of legal proceeding which could only have disastrous consequences on the administration of justice in the Federal courts.

As I have already mentioned, Mr. President, the Federal courts are already heavily overburdened, and Congress continues to add to their load. Here comes a bill that would add greatly to the already crushing burden of the courts and for practically no benefit to anyone concerned.

Quite recently, at the urging of the Chief Justice of the United States, a conference was held in St. Paul, Minn., to commemorate the 70th anniversary of Dean Roscoe Pound's historic speech on the reasons underlying popular mistrust of the courts. Many distinguished lawyers and judges attended this conference in April of this year. The meeting was termed the "National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice." One of the principal speakers at the conference was Francis R. Kirkham, one of the county's leading trial lawyers and coauthor of the definitive treatise on "The Jurisdiction of the Supreme Court of the United States." Mr. Kirkham was formerly a member of the Attorney General's Committee on Revision of the Antitrust Laws and of the recent Commission on Revision of the Federal Court Appellate System. Mr. Kirkham's topic was "Problems of Complex Civil Litigation," and his excellent analysis of the problems in this area deserves to be considered in its entirety.

However, I would like to refer specifically to various portions of Mr. Kirkham's address in the balance of my remarks to show how unwise it would be to inflict the parens patriae proceeding on the Federal courts. Our courts are already struggling under a killing case load that is interfering with the ability of litigants in civil and criminal cases to get expeditious justice where truly substantial interests are at stake. And let us keep in mind Justice Felix Frankfurter's pointed observation that "justice delayed is justice denied."

Mr. Kirkham observed:

> Owing in part to the office the courts have played in protecting civil liberties, and in part to the recent traumatic disclosures of misconduct reaching to highest office, respect for lawmakers and the executive has reached a low eb, while courts emerge as the most trusted organ of Government. With this, however, has come an unhappy concomitant. The source of many if not most of the problems which attend civil litigation today lies in our tendency to assume that through litigation we can solve any problem and right any wrong, however remote and whatever the source.

Similarly perceptive comments made recently by a distinguished judge of the U.S. Court of Appeals for the Ninth Circuit, Shirley Hufstedler, who explained why the courts are so overburdened:

> We want courts to sustain personal liberty, to end our racial tensions, to outlaw war, and to sweep the contaminants from the globe. We ask courts to shield us from public wrong and private temptation, to penalize us for our transgressions and to restrain those who would transgress against us, to adjust our private differences, to resuscitate our moribund businesses, to protect us prenatally, to marry us, to divorce us, and, if not to bury us, at least to see to it that our funeral expenses are paid. These services, and many more, are supposed to be quickly performed in temples of justice by a small priestly caste with the help of a few devoted retainers and an occasional vestal virgin. We are surprised and dismayed because the system is faltering.

Judge Hufstedler's remarks are to be found in her 1971 article entitled "New Blocks for Old Pyramids: Reshaping the Judicial System," printed in volume 44 of the Southern California Law Review beginning at page 901.

As a result of this passion to assign every perceived social problem to the courts, Congress has joined private interests in placing before our courts questions of the most monumental significance. The process itself is becoming burdensome and expensive in the extreme. In an article not long ago, Fortune magazine described litigation as a "growth industry." I refer to Mr. Carruth's April 1974 article entitled "The 'Legal Explosion' Has Left Business Shell-Shocked."

Many observers of the American judicial system find it today to be in a state of "crisis." In his state of the judiciary address in 1975 Chief Justice Burger outlines the overwhelming increase which has taken place in the business of the

Federal courts in recent years. He notes that since 1968, there has been an "extraordinary 80-percent increase in cases per judgeship" in the courts of appeals. See Chief Justice Burger's article, "The State of the Judiciary—1975," in Volume 61 of the American Bar Association Journal (April 1975) at pages 439, 440. According to the Chief Justice's report for 1975 the increase rose to 113 percent.

The number of civil cases filed in Federal district courts in 1975 was nearly 100 percent greater than the number filed in 1960, and was 34 percent greater than the number filed in 1970. Complex litigation was a highly significant factor in this group. Between 1970 and 1975, the number of antitrust cases commenced increased from 929 to 1,431 cases, an increase of 54 percent, and between 1974 and 1975, antitrust class action filings increased from 114 to 190, an increase of 60 percent. In 1960 there were 228 treble damage and private injunction cases filed under the antitrust laws. By 1975 the filings had jumped about 600 percent to 1,375 such cases.

Apart from illustrating the great stress placed on the Federal courts by these cases, these figures, taken from the most recent report of the Director of the Administrative Office of the U.S. Courts, demonstrate that it is simply false to argue that existing remedies and procedures under the antitrust laws are not adequate or effective to combat any violations.

Mr. President, this upsurge in cases in the Federal trial courts is of course accompanied by a comparable increase in the case load of the Supreme Court. This makes it possible for the Supreme Court to review on the merits and hear arguments in only about 3 percent of the cases presented to it. As a result many cases where truly important issues are at stake cannot be heard, simply because of the time the justices must spend wading through the hordes of cases flowing upward toward them.

The American Bar Foundation recently conducted a study of the Supreme Court's workload. The report notes nearly a fourfold increase in the number of review petitions since 1935, and a doubling since the late 1950's—Casper & Posner, A Study of the Supreme Court's Caseload, 1974 Research Contributions of the American Bar Foundation, No. 7, pages 339–341. The report also notes an increase between 1957 and 1972 of the percentage of cases involving constitutional issues—page 349. This suggests that as to all but the most important nonconstitutional questions, the circuit courts are increasingly becoming the final courts. The Second Circuit determined that presently only 2 percent of its decisions are reviewed. See Judge Oake's opinion, dissenting from court's denial of rehearing in *Eisen* v. *Carlisle & Jacquelin* (2 Cir. 1973) 497 F.2d 1005, 1026.

Mr. President, the Commission on Revision of the Federal Court Appellate System recently made the extreme recommendation that Congress create a brandnew court, a National Court of Appeals, to deal with the large number of instances in which important questions, including conflicts in the circuits, necessarily now go unresolved by the Supreme Court. It seems to me that we should first consider what we can do to stem the tide of unproductive litigation before we decide whether new courts or other structural changes are warranted.

We have all heard about the lawsuit filed by former Justice Arthur Goldberg in the U.S. Court of Claims on behalf of at least 80 Federal judges. Their basic complaint is that their salaries have not nearly kept pace with the cost of living over recent years, and that as a result the constitutional guarantee that a judge's salary not be decreased has been violated. But beyond that the growing problem is recruiting top-caliber lawyers to the Federal bench and in keeping them from resigning must also be related to the mushrooming workload imposed upon these men and women. As Mr. Kirkham put it:

> The true measure of the mounting congestion in the Federal district courts is the increase in pending cases per authorized judgeship. Between 1970 and 1975, pending cases in the district courts increased from 285 per judgeship to 355, an increase of 70. The significance of this fact is the more striking when it is noted that the number of judgeships has not increased and the total number of cases disposed of has increased substantially. In fact, according to the Annual Report for 1975 of the Director of the Administrative Office of the United States Courts, the actual number of authorized judgeships declined by one between 1970 and 1975, and the number of disposals per judgeship increased from 292 to 371, an increase of 79 cases.
>
> The increase in the number of pending cases per authorized judgeship is attributable almost entirely to civil cases. From 1970 to 1975, the number of pending criminal cases increased from 20,910 to 22,411, a case load difference of less than four cases per authorized judgeship, while pending civil cases jumped from 93,207 to 119,767, a case load increase of nearly 67 cases per authorized judgeship. Civil cases thus accounted for 94.5% of the increase, and of these, complex cases continued to expand. In the period 1970 to 1975, pending antitrust cases increased 30%.

And it is not merely numbers of cases that must concern us, but their complexity. The complex case, of course, consumes vastly more time than other types of litigation. Between 1970 and 1975, the number of complex cases pending for 3 years or more increased nearly 43 percent. In 1975, 1,814 or 24 percent of all cases pending for more than 3 years were in this category. In 1975, 134 of the antitrust cases which were terminated had been pending approximately 5 years.

Mr. President, again I emphasize that figure, that in calendar year 1975, 135 of the antitrust cases which were terminated had been pending for 5 years.

This means that litigants had waited a total of 5 years or longer for settlement of their grievances.

In 1972 the American College of Trial Lawyers conducted a study of class actions in the southern district of New York, which is the leading district for filing antitrust and securities cases, and determined that in 1972 over half the class actions filed in 1966, and 60 percent of those filed in 1967, were still pending 5 or 6 years later.

In fact, the tetracycline antibiotic drug litigation, which the proponents of the parens patriae device point to as a model proving that cases of this sort are manageable has been in the courts for 15 years. It was manageable only because the defendants were "blackmailed" into settling it. The Eisen case, which the Supreme Court termed a "Frankenstein monster posing as a class action" (417 U.S. at 169) has been in court for nearly 10 years, with eight reported decisions (41 F.R.D. 147; 370 F. 2d 119; 391 F. 2d 555; 50 F.R.D. 471; 52 F.R.D. 253; 54 F.R.D. 565; 479 F. 2d 1005; 417 U.S. 156).

All of these problems are going to become more and more acute in light of the Speedy Trial Act of 1974, Public Law 93–619, 88 Stat. 2076, adding sections 3152 through 3156, and 3161 through 3174 to title 18 of the United States Code and adding section 604 to title 28. That act requires criminal trials to be commenced within a short period after a suspect is arrested or an indictment filed. As a result of this act, which reflects basic constitutional values about the right of both the accused and of society to have criminal charges tried promptly, many districts are experiencing even greater difficulty in giving civil litigants a reasonably expeditious hearing. Let us keep in mind that if we enact parens patriae, we will be contributing to what is already a massive problem of judicial overload. Encouraging a flood of new kinds of cases all across the country where the interests of hundreds of thousands of persons are allegedly involved can only have the effect of interfering directly and substantially with the ability of the Federal courts to deal effectively with cases where the interests of the individual parties are sufficiently large and important to them to induce them to call upon the Federal courts for help.

It would be foolish and unfair to drown such litigants beneath a flood of cases where, by definition, no individual has an interest significant enough to bother about.

This is not merely speculation. These same concerns have been voiced by the Judicial Conference of the United States, the very agency established by Congress to monitor the effectiveness of the Federal courts in administering justice.

I remind my colleagues that under section 331 of title 28 of the United States Code, the Judicial Conference of the United States is given the responsibility to "make a comprehensive survey of the condition of business in the courts of the United States," and it is expressly empowered to make recommendations concerning legislation.

Senator HRUSKA asked the Chief Justice of the United States to obtain the conference's views on the impact that enactment of S. 1284 would have on the Federal judiciary. He was subsequently advised that on April 7, 1976, the Judicial Conference had endorsed a statement relating to the workload of the courts submitted to the staff of the conference committee considering the parens patriae bill. I would like to quote from that report at some length. It is

entitled the "Report of the General Counsel of the Administrative Office to the Committee on Court Administration" and it begins:

In connection with the committee's review of S. 1284 relating to the antitrust laws, the General Counsel's Office has prepared the following statement relating to the current workload of the federal courts to which would be added the burdens imposed by S. 1284.

That statement endorsed by the entire Judicial Conference reads as follows—I shall omit the citations to the elaborate tables that accompanied the statement:

There has been a dramatic increase in absolute number of the civil antitrust cases filed in the federal court system; 1431 civil antitrust actions were filed in 1975, up 54% from 929 actions in 1970. In the thirteen districts where at least thirty private antitrust actions were filed, seven show a rise in private antitrust filings between the years 1973 and 1975, ranging from 3% to 167%.

While the absolute number of class action cases filed is quite small, five of those districts have seen their class action antitrust cases grow strikingly; rising in 1975 to three and four times the level filed in 1973. The figures of pending private antitrust litigation are also substantial for those districts. Nine of the thirteen districts have grown sharply. Seven of those districts reflect an increase in class actions pending ranging from 50% to 1300%.

In evaluating the impact of further increases in private antitrust actions filed in federal courts as a result of this Act, cognizance must be taken of the present critical shortage of judgeships in both the district and circuit courts. In the ten years between 1965 and 1975 the total number of cases filed in appellate courts rose 146%, while only nineteen additional judgeships were provided (an increase of 24%). The number of district court cases docketed rose nearly 60% in the last 10 years. The present shortage of judgeships is calculated at 13 circuit court judgeships and 52 district court judgeships. The estimated cost to adjust this shortage on an annual basis is $2,119,000 and $10,816,000 respectively.

The treble damage and notice provisions of this Act appear certain to engender a greater volume of private antitrust litigation. The most significant measure of the ramifications of that higher volume of private antitrust cases is the fact that the median time interval involved in the disposition of a private antitrust litigation is *twice* the time expended for other civil cases. [Emphasis in original].

The time factor of increased private antitrust litigation, noted above, may seriously affect the processing of criminal caseloads. It is worth noting that several of the districts which entertain most of the private antitrust filings have a higher than average criminal docket. For example, the nationwide criminal cases represent 15.8% of the total pending caseload, yet the Central District of California has had criminal case loads of 33%, 27%, and 31% respectively, in the years 1973–1975.

Mr. President, you will notice that is roughly double the national average.

In 1975, four of the thirteen districts which have a high concentration of private antitrust litgation had above average criminal dockets. In 1973 and 1974, more than half of those districts had above average criminal case loads. In sum, the present strain on the already underplenished resources of the judicial system will be further exacerbated by a proliferation of private antitrust litigation. As a consequence, the capability of the courts to meet the mandates of the Speedy Trial Act may be decreased.

That ends the relevant portion of the Judicial Conference report on the bill we now have before us.

How can we responsibly enact this parens patriae measure in light of this chilling assessment of its consequences, as provided by the very agency established to provide objective and expert analysis of the administration of justice in the Federal courts?

If there were convincing proof that there is a massive problem that cannot be dealt with in any other way, perhaps we should give serious consideration to doing so, however reluctantly. But it is simply unjustified and unjust to contribute a major new ingredient to the already staggering problem of court congestion in the Federal courts, when we have yet to see any evidence that the need for this legislation even remotely equals the deleterious consequences that would flow from its enactment. Nor have we been given any convincing explanation why other approaches, like increased criminal investigation and prosecution or creation of a simplified civil fine, could not satisfy the objectives of the bill with far fewer burdens.

These burdens are real and would intensify a disturbing trend in antitrust litigation. Many observers have commented that, for a number of reasons, antitrust cases are becoming more and more complex and less and less manageable. And, of course, a case alleging that hundreds of thousands of consumers in a State were injured by an antitrust violation will inevitably lead to major problems of court administration. It is obvious that if one State attorney general brings a parens patriae action of the type authorized by S. 1284, dozens of other attorneys general will feel obliged to do the same. This is the history of this type of case, whether it is styled a parens patriae suit or a consumer class action. Sometimes as many as 45 States are suing on behalf of their consumers.

This means that the Federal courts in 45 States must initially begin processing these massive cases. Although there is a mechanism for the transfer of all of the cases to a single district or to several districts for the coordination of pretrial discovery and other proceedings, that transfer by the Judicial Panel on Multi-District Litigation under 28 U.S.C. section 1407 simply means that one or more Federal judges will be occupied virtually full time for a number of years administering these mammoth monstrosities. These problems of unmanageability, coupled with a realistic recognition of how small the interests are of individual consumers, has increasingly led the courts to refuse to entertain these creations of ambitious lawyers. The proponents of this bill must frankly concede that they are trying to overrule a series of court decisions, some of which were rendered by the Supreme Court itself, exposing the major flaws in trying to handle these allegations in treble-damage cases. The cases to which I refer of course include the Supreme Court's decision in Hawaii against Standard Oil Co., Eisen against Carlisle & Jacquelin, and Hanover Shoe against United Shoe Machinery; the second circuit's decision in Eisen III; and the ninth circuit's decisions in the Frito-Lay case, the Telephone Charges case, and the real estate brokerage commission case—Kline against Caldwell Banker.

Although I consider the notice provisions of this bill plainly unconstitutional, I am prepared to assume that the courts will do their constitutional duty and attempt to provide actual notice to the hundreds of thousands or millions of people whose tiny interests are allegedly being litigated in their name. The administration of such a notice program is itself a horrendous burden for the Federal courts, including the staffs of the clerks' offices. Moreover, while I also question whether this bill can constitutionally dispense with the need to prove individual injury to the consumers on whose behalf claims are being made, even the bill's provisions for consumers to make ex parte claims against the fund mulcted from the defendants would involve an administrative nightmare. The Federal courts must necessarily retain administrative supervision over the submission of claims, the proof of the fact or amount of injury, and the allocation of a pro rata share.

If a significant percentage of the huge masses of people who allegedly have small financial interests actually come forward, it is not hard to imagine the staggering burden that will be imposed on the Federal judges. And of course if no significant number do come forward, we must ask ourselves again why we have created this device in the first place.

The bill recognizes what has proven to be the case in the past, namely that the lofty goal of consumer compensation is a myth. The same disinterest which leads consumers not to bother bringing their own claims or joining in someone else's lawsuit under the traditional class action rules makes it impractical in many instances to track down the individuals whose interests are allegedly at stake. In the vast majority of situations where they are given actual notice of the opportunity to make a claim, they disregard the opportunity because it is not worth the trouble.

As a result, it has been necessary for the courts to use their ingenuity in figuring out what to do with all the money left over that remained unclaimed. Under title IV of the pending bill, the Federal judge would be directed to distribute the balance "either in accordance with State law or as the district court may in its discretion authorize." It strikes me as quite inappropriate to saddle a Federal judge with the responsibility for serving in effect as the director of a statewide "Community Chest" or "United Givers Fund." I believe it is both unwarranted and improper to require Federal judges to act as charitable dispensers of largesse to be sprinkled around the community in any way they determine in their "discretion." The Federal courts were set up to decide important Federal constitutional questions and to adjudicate the substantial Federal rights of our citizens. It is a great disservice to the Federal judiciary to impose upon it the kind of functions this bill would mandate.

In his remarks before the National Conference on the Causes of Popular Dissatisfaction with the Courts, April, Francis Kirkham gave a number of concrete illustrations of the problems that I have mentioned and I would like to call attention to some of these points. He stated that the courts and members of the bar who face litigations involving massive discovery "are deeply concerned with the trend in recent years toward ever-expanding discovery in complex civil litigation." He continued:

For example, the Judicial Panel for Multidistrict Litigation recently refused to consolidate a case with the IBM-Control Data litigation, in part because of its belief that in the latter case "hundreds of millions of documents will be produced." See In Re IBM Antitrust Litigation (J.P.M.L. 1971) 328 F. Supp. 509, 510.

The electrical equipment litigation involved 1.5 million documents (Peterson, Jr. & McDermott, Multidistrict Litigation: New Forms of Judicial Administration, 56 A.B.A. Jour. (1970) 737, 738). The recently concluded Western Asphalt Litigation (N.D. Cal., Civ. No. 50173) involved several hundred thousand documents; the trial exhibits alone numbered in excess of 20,000. One might be well within the realm of common sense to suggest that the gathering and perusal of 100 million documents—let me repeat that figure: 100 million documents, whatever the dispute, is beyond the scope of reasonable discovery. But attempts, at least, for such unlimited discovery are not unusual.

Mr. Kirkham pointed to a recent case filed by the attorney general of California alleging antitrust violations. California's "first"—preliminary—set of interrogatories in that case, he observed, makes clear that a description and summary of hundreds of millions of documents are involved, and that the defendants were required to inspect and translate millions of documents of hundreds of companies operating in numerous foreign countries on every inhabited continent of the globe.

Mr. Kirkham then continued:

Computerized processing of documents has become commonplace. Many companies now market software for the processing of large numbers of documents, enabling retrieval by subject, date, and even subject matter by keyword. This type of automated handling is expensive, costing from $1 to $2 per document for input, together with search and storage costs based upon total volume. Control Data reportedly spent $3 million for pretrial computerization of its documents in its suit against IBM (S. Rept. 94-498, 94th Cong., 1st Sess., p. 4).

Naturally the document discovery is only part of the story. The depositions in complex cases impose heavy burdens on the parties and also on the courts, with whom they are filed and before whom are presented hundreds of disputes and objections. For example, the recently settled Western Asphalt Litigation, involved some 290 depositions, taken in approximately 40 locations, totaling some 30,000 transcript pages. In Control Data Corp. agaist IBM, 248 depositions were taken totaling 126,000 transcript pages; in Telex against IBM, there were 233 depositions, totaling 107,000 transcript pages, and in United States against IBM, 1,265 depositions, totaling 144,000 transcript pages.

Discovery of such magnitude is enormously costly. Although information regarding the total costs of civil litigation to private litigants is difficult to obtain, some figures are available on the costs to the Government. As a result of many factors, the Government's costs are probably substantially less than comparable costs to private litigants. In its case against IBM, the antitrust division in 1975 already had spent $4 million; the division expects to spend $3.6 million in its suit against A.T. & T. The division estimates that Control Data spent $15 million getting ready for a trial against IBM.

And, of course, the costs of these enormous suits will inevitably be borne by consumers—in the form of taxes when the plaintiff is the Department of Justice or a State attorney general, and in the form of higher prices for the goods manufactured or sold by the private parties. To talk about such cases as unburdening consumers is economic nonsense.

As early as 1951, the Prettyman Report, prepared under the guidance of the late chief judge of the District of Columbia Circuit, E. Barrett Prettyman, recognized that the sheer dimensions of the complex case threatened the judicial process itself:

[Complex cases], especially antitrust * * *, while not numerous, are of sufficient frequency to create an acute major problem in the current administration of justice. Unnecessary consumption of time and energy, delay in disposition of disputes, and enormous expenditures of money are among the vices reulting from the circumstances described, but the principal vice is that such conditions create confusion, magnify uncertainty, multiply the possibilities of error, and otherwise tend to make less certain and less accurate, the judicial determination of disputed issues. The latter vices, if permitted to continue to exist, might threaten the judicial process itself in respect to complex controversies. See "(Procedure In Anti-Trust And Other Protracted Cases," 13 F.R.D. 62, 64).

As Mr. Kirkham pointed out:

Since that time massive and virtually uncontrolled discovery has proliferated. This poses several questions: Is the social value of such discovery worth the demonstrably enormous work and burden upon the courts and parties? Is such discovery essential to the resolution of issues cognizable by a court? And, if the answers to these questions are in the negative or even doubtful, what can be done to bring discovery within reasonable bounds?

While these problems continue to fester it would be most unwise, in my opinion, to create a whole new class of massive lawsuits to drag the Federal judiciary deeper into the morass.

These problems are not new to Congress. Just a few years ago we considered and refused to enact proposed legislation that would have permitted large classes of consumers to bring lawsuits. For example, S. 3201, as reported by the Commerce Committee in the 91st Congress, would have created a private right to sue anyone engaging in a deceptive trade practice and would have required a defendant to pay the cost of notice to the class members in consumer class actions brought under the bill. The bill would have permitted an award of damages to the class, even on behalf of persons who did not come forward to claim recovery. S. 3201 was but one of numerous bills which have considered generally the scope and purpose of the class action device. That bill, just like the pending parens patriae bill would have eliminated the present procedural protections provided in the carefully balanced provisions of rule 23 of the Federal Rules of Civil Procedure governing class actions. We did not pass that bill, and for similar reasons we should not tamper with rule 23 by creating the parens patriae device. We should remember what Justice Thurgood Marshall said on behalf of the Supreme Court in Hawaii against Standard Oil Co.:

Parens patriae actions may be, in theory, be related to class actions, but the latter are definitely preferable in the antitrust area. Rule 23 provides specific rules for delineating the appropriate plaintiff-class, establishes who is bound by the action, and effectively prevents duplicative recoveries.

Certainly no one can accuse Justice Marshall of being hostile to the interests of consumers or friendly toward antitrust violators. We should be quite reluctant to disregard his sound, solid judgment, which reflects the great weight of authority in the Federal courts in recent years.

Although the proponents of the parens patriae bill argue that rule 23 is inadequate to handle massive consumer class actions, that argument begs the question. If the careful standards of rule 23 cannot be satisfied, on such questions as adequate notice to interested parties and sheer manageability of the litigation, then the answer is not the creation of a new device short-cutting these protections and forcing the courts to shoulder these crushing burdens. Rather, the clear message is that this kind of contrived dispute does not belong in the Federal courts at all.

Some of Mr. Kirkham's recent observations bear on this. As he explained, speaking of massive consumer classes:

Typically, the hundreds of thousands or millions who are brought into the class have never had an interest in enforcing their claims; disregard or are baffled by the notices they receive; and in most cases even fail to respond when settlements on their behalf have been made and moneys are available for distribution.

For example, according to Mr. Kirkham's survey, some of the responses in the tetracycline antibiotic drug litigation, which the proponents of the parens patriae bill hail as a model, included the following:

Dear Mr. Clerk: I would like to know why I am a party to this action that I don't know nothing about. Who made me a party to anything? (I am a Democrat).

Dear Sir: Our son Bill is in the Navy stationed in the Caribbean some place. Please let us know exactly what kind of drugs he is accused of taking. From a mother who will help if properly informed. A worried mother Jane Doe.

It is obvious that that person had no idea what in the world they were talking about, and she assumed it had something to do with her son and with some drugs.

Dear Mr. Morgan: I received your card about the lawsuit and I would like to know how much I owe and can I pay it off by the month so I won't have to go to court? If I

can pay by the month, I will do just that as soon as I hear from you.

So here is a case where a person thought that rather than being entitled to receive some money the court was asking him to pay some kind of fine.

These examples are taken from the article written by David Shapiro, the lead counsel for the plaintiff State attorneys general in that case, entitled "Processing the Consumer's Claim," and printed in volume 41, Antitrust Law Journal, 1971–72, at pages 257, 267.

It would be almost humorous to glimpse these responses if they were not so pathetic. In that litigation, barely one-fourth of all the money put up by the companies to settle the cases actually reached individual consumers—and it remains highly questionable whether most of that portion reached consumers who had bona fide claims. We shall never know the answer because the claims were processed ex parte, not through the ordinary adversary process, since the defendants agreed to pay over the settlement fund without regard to the merit or lack of merit of any individual claims.

In the antibiotic drug case, according to Mr. Kirkham, some 885,000 claims were honored. As he reports, however, claim forms were sent to some 10,700,000 households and the amounts paid into the settlement funds were divided pro rata among the 885,000 claimants. The claim notice in that case was entitled, "Cash Refund Message," and in effect advised its recipients that a check was awaiting them. In bold letters it advertised that a fund of more than $20 million awaited distribution, urging recipients to "claim your fair share" and emphasizing that proof of purchase was not needed (see Lebedoff, Operation Money Back, 4 Class Action Rptr. (1975) 156–157, 160).

I question whether Congress should deliberately put the Federal courts into the business of being parties to what in many instances will be part of a massive "sting" in which millions of dollars in legal fees are awarded to enterprising lawyers who put these suits together and more millions are paid out to dubious claimants. There is an almost frantic effort to get rid of the money simply to avoid the embarrassment of having too much money left over for the Federal judge to have to dispose of for some purposes he considers worthwhile.

Just last year in the Blue Chip Stamp case, in 421 U.S. at page 723, the Supreme Court narrowed the class of persons entitled to bring suits under the securities laws by alleging misrepresentations in the purchase or sale of stock. The Court said that expanding the class of potential plaintiffs to an almost limitless number was intolerable. The Court explained:

> A rule allowing this type of open-ended litigation would itself be an invitation to fraud.

The same point applies to parens patriae actions. Any device or procedure that attempts to exact huge sums of money from a defendant to be payable to an amorphous class of anonymous claimants is bound to lead to the most unwholesome abuses. This is especially true when the procedures cavalierly and brazenly dispense with the need to prove either the fact or the amount of damages and are frankly unconcerned about what happens to the money after it is stripped from the defendants. I do not regard such a process as worthy of the Federal judiciary and I am confident that most Federal judges will regard this process as not only oppressive but also demeaning.

The mythical nature of the parens patriae device as a realistic way to compensate consumers is further illustrated by the experience where similar attempts have been made in other consumer class actions. The results are consistent in demonstrating that the plaintiff's lawyers get rich, the courts are bogged down, but few consumers—whether deserving or not—get anything. For example, in *Cherner* v. *Transitron Electronic Corp.* (D. Mass. 1962) 201 F. Supp. 934, approximately 150,000 notices of settlement of a securities case were mailed but only 33,000 claims were approved, about 20 percent.

In *Korn* v. *Franchard Corp.* (2 Cir. 1972) 456 F. 2d 1206, some 1,154 notices were mailed with a claim form, 111 persons opted out and some 212 persons filed some form of a claim. In *City of Detroit* v. *Grinnell Corp.* (2 Cir. 1974) 495 F. 2d 448, 454, 89,000 written notices were mailed, and 14,156 persons filed claims, significantly less than 20 percent.

Thus, actual experience confirms in practice what we could deduce from logic—that despite the tremendous overhead costs and court processing problems, from 60 to 90 percent of the people on whose behalf these cases are allegedly brought are not sufficiently interested in their tiny pro rata shares even to bother responding to the notice that they may get something for nothing.

Judge Gibbons of the U.S. Court of Appeals for the Third Circuit put this whole problem into perspective not long ago in this opinion in *Hackett* v. *General Host Corp.*, 455 F. 2d 618, 625–26:

> If the public interest issue involved in the individual suit is so insignificant that neither a private nor public attorney deems it worthy of pursuit, despite the availability of attorneys' fees in the event of success, then the public interest may well be so insignificant that the redress of the nine dollar wrong should from a policy viewpoint be left to the realm of private ordering. Our scarce Federal judicial resources cannot be allocated on the assumption that they must provide a forum for the vindication of every individual wrong however slight.

This same theme was echoed by one of the Federal judiciary's most distinguished jurists, Circuit Judge Henry Friendly, former chief judge of the U.S. Court of Appeals for the Second Circuit, where so many of these consumer class actions and parens patriae suits have confounded the courts. He wrote in his 1973 book "Federal Jurisdiction: A General View":

> Something seems to have gone radically wrong with a well-intentioned effort. Of course an injured plaintiff should be compensated, but the federal judicial system is not adapted to affording compensation to classes of hundreds of people with $10 or even $50 claims. The important thing is to stop the evil conduct. For this an injunction is the appropriate remedy, and an attorney who obtains one should be properly compensated by the defendant, although not in the astronomical terms fixed when there is a multimillion dollar settlement. If it be said that this still leaves the defendant with the fruits of past wrongdoing, consideration might be given to civil fines, payable to the government, sufficiently substantial to discourage engaging in such conduct, but not so colossal as to produce recoveries that would ruin innocent stockholders or, what is more likely, produce blackmail settlements.

In sum, therefore, Congress is being asked to give statutory legitimacy to a most unworthy creature—the parens patriae device. There are simply no compelling justifications to add what would undeniably be a major new burden to the workload of the Federal courts. Our courts have too many important functions to perform to distract them with the mythical promises contained in the parens patriae title. Title IV of S. 1284 should therefore be rejected categorically.

In addition, I have letters from some constituents in Oklahoma, and I ask unanimous consent that these letters be printed in the RECORD.

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

FLEMING COMPANIES, INC.,
Oklahoma City, Okla., April 8, 1976.

Hon. HENRY BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: The Antitrust Improvements Act of 1975 (S. 1284), frequently referred to as the Omnibus Antitrust Bill, is difficult legislation to justify. I hope that you share this view and that you will join in opposing its passage.

The punitive provision allowing state attorneys general as well as private attorneys suing on behalf of a class of persons the right to sue and collect treble damages on behalf of individual state residents without the necessity of proving individual claims, is an awesome power. Such initiation of antitrust cases against business would be a literal bonanza for politically ambitious attorneys general and a potential gold mine for private attorneys who would share in windfall recoveries through contingent fee arrangements.

Additionally, the bill would permit notification by publication in newspapers, allow proof of damages by statistics and estimates without actual proof of damage, and generally remove all safeguards which have been built up to prevent unjustified and unmanageable class actions.

The almost unlimited harm of "parens patriae" law is made even more alarming by provisions which

1. Limit the right to challenge unlawful FTC subpoenaes and orders to file reports and raise the penalty for failure to comply by fines from $1,000 to $5,000 per day.

2. Authorize the Department of Justice to subpoena individuals for interrogation under oath prior to institution of a suit and without the protection of judicial supervision.

3. Require up to sixty days notice of mergers involving a company with $10 million or more and if the government files an antitrust action the merger can be postponed pending final determination by the Court.

While the stated purpose of the proposed

law is to stimulate business competition, the effect would be a disastrous change in our judicial system.

Please let me urge you to take all appropriate action in opposing this bill.

Thank you very much, Senator Bellmon.

Sincerely,

R. D. HARRISON.

HAROLD JONES CO., REALTORS,
Oklahoma City, Okla., April 19, 1976.

Senator HENRY BELLMON,
Post Office Building,
Oklahoma City, Okla.

DEAR SENATOR BELLMON: I am writing to you, pertaining to Bill (S. 1284) which, if passed, would allow the states' attorneys generals to sue business firms for triple damages if they "appeared" to be guilty of anti-trust violations. I consider this bill the most serious single threat to the continued survival of private business proposed in this congress.

The following reasons that I want you to consider and hopefully support my viewpoints are:

(1) The selective power of enforcement which the states would have could enable them to bankrupt any business they decided to attack.

(2) Existing anti-trust enforcement powers better serve the intended purpose.

(3) The new power could enable politically oriented attorney generals to blackmail politically and coerce business.

(4) The amount of money recovered by an individual citizen could amount to pennies, but the total fine could result in the bankruptcy of the business firm.

I therefore urge and demand that you vote "NO" and actively urge your constituents to support this viewpoint, when the bill comes up for consideration.

Sincerely,

J. MIKE JONES,
President.

ADDITIONAL STATEMENT SUBMITTED

Mr. TOWER. Mr. President, what we have here, I am afraid, is a bill founded on false premises and full of false promises.

The bill begins with a boldly presumptuous "declaration of policy." Fairy godmothers wave their wands and turn frogs into princes. We wave our gavel and turn economic theory into fact.

How simple our jobs could be if that only worked:

Congress could "find and declare" that abuses by our intelligence agencies were caused by a lack of congressional oversight, and "presto," end abuses by creation of an oversight committee.

Congress could "find and declare" that the United States is unsurpassed militarily and, "presto," eliminate the need for increased defense appropriations.

"The Congress finds and declares," this bill pompously states, that diminished competition and increased concentration in the marketplace have led to unemployment, inflation, inefficiency, reduced exports, underutilized economic capacity and had an adverse effect on our balance of payments.

About the only thing it is not blamed for causing is swine flu.

Yet, "presto," pass S. 1284 and it will reduce prices, unemployment, and inflation while preserving our democratic institutions and personal freedoms.

I admire the sardonic wit of columnist James J. Kilpatrick's recent description of title I's finding of facts. "Unhappily," he noted, "some of these facts have never been found."

For title I states as fact some highly specious economic theories on which noted and learned economists disagree. It is assertion, not fact, that the country suffers from diminished competition and increased concentration. It is theory, not fact, that these factors have fueled inflation.

Not only does the policy statement strike me as disturbingly antibusiness; I am appalled at the way Congress is attempting to shift the burden of responsibility. Certainly if the business sector must bear guilt for our economic problems, it is a blame which must be shared with this free-spending Congress.

Yet even worse than pious and superfluous declarations of policy are some of the substantive provisions which would be made law by this bill.

Title II, for example, must be the most regressive measure ever to gain such widespread support from supposed civil libertarians. It merely empowers the Department of Justice to coerce information from anyone, anywhere, about virtually anything. Safeguards in present law which guard against unwarranted harassment are weakened. Opportunities for intrusions into individual privacy are increased. The resulting potential for abuse is alarming.

Title IV, also known as the Attorney General's Political Assistance Act, would authorize State attorneys general to file antitrust suits in behalf of the State's residents. What, in abstract, may look to be a protective boon for consumers, in reality would be a boondoggle for politically ambitious attorneys general. Antitrust enforcement would be greatly politicized. Consumers, who are being promised price benefits by supporters of the bill, are instead likely to find themselves paying higher prices to cover contingent liabilities and costly litigation. Furthermore, the States have the power to enact such parens patriae provisions on their own should they so desire.

A final aspect of this bill I feel compelled to speak against is the premerger notification and stay provision. The bureaucratic redtape alone would be a burden, but it pales in light of the Justice Department's ability to delay a merger indefinitely pending court review. In view of the critical timing normally involved, this bill in effect gives the Government veto power over private business mergers without any necessity of a finding of illegality.

In this election year, to pass S. 1284, an antitrust bill promising lower prices, inflation, and unemployment, is to engage in legislative sloganeering. While our antitrust laws need vigorous enforcement and, in some areas, revision, S. 1284 has not proven to be the proper vehicle for change.

Mr. McCLURE obtained the floor.

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

Mr. McCLURE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not to exceed 5 minutes, without the Senator losing his right to the floor, to the consideration of certain measures on the calendar.

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

BADLANDS NATIONAL MONUMENT, S. DAK.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 862, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1068) to designate certain lands in the Badlands National Monument, South Dakota, as wilderness.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 1, in line 6, strike out "fifty-eight thousand nine hundred and twenty-four" and insert in lieu thereof "sixty-four thousand two hundred and fifty".

On page 1, in line 9, strike out "137/20,010 A and dated July 1972," and insert in lieu thereof "137/20,010 B and dated May 1976,".

On page 1, beginning in line 11, strike out:

The lands which comprise about five thousand three hundred and twenty six acres, designated on such map as "Potential Wilderness Additions", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, hereby designated wilderness.

On page 3, beginning at line 1, strike out:

SEC. 4. Within the wilderness area designated by this Act, (1) the Secretary may construct and maintain wildlife watering devices, as he deems necessary; and (2) the driving of livestock, where established prior to the effective date of this Act shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary.

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, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Badlands National Monument, which comprise about sixty-four thousand two hundred and fifty acres, and which are depicted on the map entitled "Wilderness Plan, Badlands National Monument, South Dakota", numbered 137/20,010 B and dated May 1976, are hereby designated wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Badlands Wilderness" and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wil-

derness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. ABOUREZK. Mr. President, I want to thank Senator JOHNSTON, Senator HANSEN, and the rest of the Interior Committee for the cooperation I have received on this bill.

I want to urge the Senate to pass S. 1068, the Badlands Wilderness bill. This legislation designates 64,250 acres of the Badlands National Monument as wilderness under provisions of the Wilderness Act of 1964. The Badlands National Monument is located in southwest South Dakota and is visited by over 1 million persons each year.

The bill will preserve large expanses of flat to rolling prairie grasslands which contain a variety of native wildlife habitats including mesic grasslands, wet meadows, and bare Badlands walls. Numerous types of wildlife exist within the Badlands area including antelope, western painted turtles, white-tail deer, and the reintroduced buffalo and Rocky Mountain big horn sheep.

In addition to habitat and wildlife, there is a great deal of scientific value in the fossils belonging to the Oligocene epoch and Cretaceous period. To paleontologists, this area is world renowned for its fossils and erosion patterns which reflect a geological story of constant natural change.

The administration introduced this wilderness legislation in the 92d Congress because it recognized the importance of preserving these lands from permanent development. Shelters, hostels, or other permanent structures would be prohibited, permitting the wilderness traveler to enjoy the backcountry in its primitive condition.

The Badlands Wilderness area designated by this act will be administered by the Department of the Interior in accordance with the provisions of the Wilderness Act of 1964.

The amendments were agreed to.

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

AMENDMENT TO TITLE III OF THE BANKHEAD-JONES FARM TENANTS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 799, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2485) to amend title III of the Bankhead-Jones Farm Tenant Act as amended to eliminate the necessity of referring loans made with resource conservation and development funds in excess of $250,000 to congressional committees for approval.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That the third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(e)), is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS) I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan, for Senator STEVENS and others, proposes an amendment:

At the appropriate place at the end of the bill add the following:

That (a) section 310B (a) of Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (a)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "and the conservation, development, and utilization of water for aquaculture purposes.".

(b) Such section is further amended by adding at the end thereof a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes; or public agencies or state or local governments for scientific purposes; or the culture and growing of fish by private industry, public agencies, or a state or local government for the purpose of creating or augmenting publicly owned and regulated stocks of fish in streams or rivers.".

Mr. STEVENS. Mr. President, my amendment to S. 2485, the Farm Tenant Act, is designed to correct a deficiency in Department of Agriculture directives which inadvertently prohibits the Department of Agriculture from granting loans for certain types of fish aquaculture and hatchery facilities.

The Department of Agriculture, through its business and industrial loans program of the Farmers Home Administration, already grants loans for aquaculture projects. This program is a very fine one which has brought aquaculture facilities to many parts of the United States. When this program was created aquaculture was envisioned only as a fish farming operation in which the fish were held throughout their life cycle in a closed system. In recent years, the state of the science of aquaculture has advanced markedly.

Scientists now tell us that anadromous fish are among the most successfully raised aquaculture crops. Salmon, for example, has been raised in the New England area and many streams in New England now are again inhabited by Atlantic salmon. In my home State, Alaska, we hope that salmon hatchery facilities will be able to rebuild the salmon stocks depleted by foreign fishermen.

The definition of aquaculture established by the Department of Agriculture now prohibits funding for those aquaculture projects, such as salmon, which release juvenile fish into public waterways. This effectively precludes industry from engaging in those aspects of aquaculture which we now believe to be potentially the most beneficial to the economies of many regions of the United States.

Mr. President, I would urge each of my colleagues here in the Senate to vote favorably on this amendment.

I want to emphasize that we are not creating a new program here, nor are we asking for new funding. This amendment merely corrects a deficiency in the Department of Agriculture's definition of aquaculture which has arisen as a result of advancements in the state of the science of aquaculture.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2485) was passed, as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(e)), is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 2. (a) Section 310B(a) of subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "and the conservation, development, and utilization of water for aquaculture purposes.".

(b) Such section is further amended by adding at the end thereof a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes; or public agencies or State or local governments for scientific purposes; or the culture and growing of fish by private industry, public agencies, or a State or local government for the purpose of creating or augmenting publicly owned and regulated stocks of fish in streams or rivers.".

The title was amended so as to read:

A bill to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committees.

LAND AND WATER RESOURCE CONSERVATION ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 851, which has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2081) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Land and Water Resource Conservation Act of 1976".

FINDINGS

SEC. 2. (a) The Congress finds that—

(1) There is a growing demand on the land, water, and related resources of the Nation to meet present and future needs for food and fiber, rural and urban development, agricultural, industrial, and community water supply, fish and wildlife habitat, recreational facilities, and other needs of the people.

(2) These resources are essential to the Nation's economic and social well being, and they must be conserved, protected, and enhanced to promote their wise use and to avoid their loss, misuse, and damage.

(3) It has been the continuing policy of Congress to maintain and improve the resource base of the United States while using the resources to meet the needs of the Nation.

(4) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(5) Resource appraisal is basic to wise land and water conservation. Since individual and governmental decisions concerning land and water resources often transcend administrative boundaries and reflect other programs and decisions, a coordinated appraisal and program framework are essential.

DECLARATIONS OF POLICY AND PURPOSE; PROMOTION THEREOF

SEC. 3. (a) In order to further the conservation of land, water, and related resources, which for the purpose of this Act shall include those resources coming within the scope of the program administered and participated in by the Secretary of Agriculture through the Soil Conservation Service, it is declared to be the policy of the United States and purpose of this Act to achieve and maintain—

(1) quality, quantity, and productivity of the natural resource base for sustained multiple uses;

(2) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and

(3) quality in the standard of living based on community improvement and adequate income.

(b) Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act.

(c) The varying demands on the Nation's land and water resources often present conflicts between competing interests and, as a consequence, planning for the conservation and use of such resources should reflect an understanding of, and a concern for, the respective interests involved.

(d) The Secretary shall promote the attainment of the policies and purpose expressed in this Act by—

(1) appraising on a continuing basis the land, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the land, water, and related resources of the Nation; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 6.

APPRAISAL

SEC. 4. (a) In recognition of the importance of and need for obtaining and maintaining information on the current status of land, water, and related resources, the Secretary is authorized and directed to carry out, through the Soil Conservation Service, a continuing appraisal of the land, water, and related resources of the Nation. The appraisal shall include, but not be limited to:

(1) data on the quality and quantity of land, water, and related resources;

(2) an analysis of the potential of those resources for various uses;

(3) a determination of the changes in the status and condition of those resources resulting from various uses; and

(4) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other considerations associated with the land.

(b) The appraisal shall utilize data collected under this Act and pertinent data and current information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and potential for alternative uses of the resource base and to identify areas of local, State, and national concerns pertaining to land conservation, resource use and development, and environmental improvements.

(c) The appraisal shall be made in cooperation with conservation districts and with State soil and water conservation agencies and other appropriate State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) A report of the appraisal shall be completed by December 31, 1977, by December 31, 1979, and at each five-year interval thereafter.

LAND AND WATER CONSERVATION PROGRAM

SEC. 5. (a) In order to establish a framework for achieving the national land and water policy and purpose of this Act, the Secretary is hereby authorized and directed to develop, through the Soil Conservation Service, a National Land and Water Conservation Program (hereinafter called the "program") for furthering land and water conservation on the private and non-Federal lands of the Nation. The program shall set forth the direction for future soil and water conservation efforts based on the current land, water, and related resource appraisal developed in accordance with section 4 of this Act, taking into consideration both the long- and short-term needs of the Nation. The program shall also include, but not be limited to:

(1) analysis of the Nation's land, water, and related resource problems;

(2) analysis of existing authorities and adjustments needed;

(3) an evaluation, based on a system to determine the effectiveness of the soil and water conservation on-going programs and the progress being achieved in meeting the soil and water conservation objectives of this Act;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, in the context of specific time frames, and a recommendation of the preferred alternative; and

(5) analysis of the Federal and non-Federal inputs required to implement the program.

(b) The Secretary, in the development of the program shall provide for participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means.

(c) The program plan shall be completed not later than December 31, 1977, be updated by December 31, 1979, and at each five-year interval thereafter.

REPORT TO CONGRESS

SEC. 6. (a) On the first day Congress convenes in 1978, in 1980, and at each five-year interval thereafter, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal report and the program as required by sections 4 and 5 of this Act, together with a detailed statement of policy intended to be used in framing budget requests of the Administration for Soil Conservation Service activities. Following the transmission of such appraisal report, program, and statement of policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such statement of policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such appraisal report, program, and statement of policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the statement of policy transmitted by the President, and the revised or modified statement of policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1979, requests presented by the President to the Congress governing Soil Conservation Service activities shall express in qualitative and quantitative terms the extent to which the programs and

policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so represented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser program or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.

(c) The Secretary, during budget preparation for fiscal year 1979, and annually thereafter, shall prepare a report which evaluates the program's effectiveness in attaining the purposes of this Act. The report, prepared in concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 4 of this Act, shall set forth the progress in implementing the program required to be developed by section 5 of this Act, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

DEFINITIONS

SEC. 7. As used in this Act—

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

(2) The term "land, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "land and water conservation program" means a framework for attaining the purposes of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect on October 1, 1976.

The amendment was agreed to.

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

RELIEF OF POSTMASTERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 737.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6512) for the relief of certain postmasters charged with postal deficiencies.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

Mr. ROBERT C. BYRD. Mr. President, there is an amendment at the desk which I will offer, and I call it up at this time on behalf of Mr. MUSKIE.

The PRESIDING OFFICER. The amendment will be stated when it is available.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further consideration of the bill be postponed for the moment.

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

(Later in the day the following proceedings occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 737, which request has been cleared on both sides of the aisle.

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

The clerk will state it.

The assistant legislative clerk read as follows:

Calendar No. 737, H.R. 6512, an Act for the relief of certain Postmasters charged with postal deficiencies.

Mr. ROBERT C. BYRD. Mr. President, there is an amendment at the desk by Mr. MUSKIE. I understand it has been cleared on both sides of the aisle.

On behalf of Mr. MUSKIE, I call up that amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. MUSKIE, and Mr. HOLLINGS, Mr. JOHNSTON, and Mr. HATFIELD, proposes an amendment:

At the end thereof add the following new section:

SEC. 3. (a) Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(1) An individual who is entitled to an annuity upon separation from service as a Congressional employee may be allowed credit for service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee if such employee makes the deposit provided for in section 8334(c) of this title with respect to Congressional employees for such service. The period of service which may be credited under this subsection by any individual shall not exceed 10 years.".

(b) The amendment made by this section shall take effect on October 1, 1976, and shall apply to individuals who are entitled to annuities upon separation from service as Congressional employees on or after October 1, 1976.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

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 a third time. The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

So the bill (H.R. 6512), as amended, was passed.

The title was amended so as to read:

"For the relief of certain postmasters charged with postal deficiencies, and to amend title 5 of the United States Code to allow Congressional employees to credit certain service for purposes of the civil service retirement system.".

EXTENSION OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken on S. 3147, a bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years, be reconsidered; that the third reading be rescinded; that an amendment in the nature of a substitute be considered as adopted; that the bill be considered as read a third time and passed; and that a motion to reconsider be laid on the table.

The amendment is as follows:

That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "fiscal year 1976,"; and

(2) by adding immediately after "September 30, 1976)," the following: "and not to exceed $4,800,000 for fiscal year 1977,".

SEC. 2. Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended—

"(1) by striking out "Administrator shall" and inserting in lieu thereof "Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually";

"(2) by striking out "June 30 of each year" and inserting in lieu thereof "March 1 of each year".

SEC. 3. The last sentence of section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by inserting immediately before the period the following: ", and not to exceed $5,600,000 for fiscal year 1977".

SEC. 4. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1976,"; and

(2) by adding immediately after "September 30, 1976)" the following ", and not to exceed $500,000 for fiscal year 1977".

Mr. ROBERT C. BYRD. The reason for this request is as follows: It appears that the bill as filed with the clerk was not the bill that was reported by the Committee on Commerce. This error was not caught, even though the committee report had the correct version of the bill. As a result, the wrong bill was passed, and it is for the purpose of correcting this matter that I have presented the request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his courtesy in yielding.

Mr. McCLURE. The Senator from West Virginia is welcome.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. McCLURE. Mr. President, I ask unanimous consent that Margo Carlisle, of my staff, have the privilege of the floor during all stages of the pending measure.

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

Mr. McCLURE. Mr. President, the

parens patriae title of S. 1284 is more a lawyer's welfare bill than a remedy for consumers. It should come as no surprise to realize that the people who have the greatest financial interest in the enactment of this bill are not consumers, and maybe not even American businesses. Instead, the interest group that has the most to gain from passage of parens patriae is the relatively small group of private lawyers who specialize in bringing antitrust cases against American companies.

It is no wonder that these lawyers have been among the most vigorous advocates of this bill. Representatives of the so-called plaintiffs' bar have testified before the Judiciary Committee. They have visited the offices of Members of the Senate to sing the praises of this legislation. And they have worked with the committee staff to draft its provisions and to formulate the arguments in favor of the bill. I doubt that anyone can question the accuracy of these statements any more than I doubt the ardor with which the plaintiffs' bar has pressed this legislation upon us.

The key to understanding this legislation is, in short, the contingent fee system. Under that system lawyers who bring cases like this are given fees representing a sizeable percentage of any amount recovered—or more typically, of the amount they are able to extract as a settlement.

A few months ago a distinguished lawyer with nearly 50 years of private practice and public service gave a major paper at the conference convened by the Chief Justice on the "Causes of Popular Dissatisfaction with The Courts." That lawyer, Francis R. Kirkham, served in the 1950's on the Attorney General's Committee on the Revision of the Antitrust Laws and then just a few years ago served with the group headed by Senator HRUSKA, the National Commission on the Reform of the Federal Appellate Court System. Mr. Kirkham told the conferees about the vice inherent in big antitrust cases where damages of mind-boggling size are claimed from the defendants, and where, as he put it:

> No matter how sincere is their belief in the innocence of their acts, they have little practical alternative but to settle.

He then continued:

> In the nearly half century of my practice I have never seen a single other circumstance which has created the cynicism at the bar that has arisen from the settlement negotiations in these cases and the accompanying maneuvering for fees. Nor have I ever seen before anything to equal the consternation of unbelieving businessmen, large and small, when told that the law literally does not provide them with a process for determining the merits of their defense; that any settlement within their purse, as a practical matter, may be their only chance for survival.
>
> It is not the finest hour of a profession that produced a Lord Coke to challenge the Crown, and a David Dudley Field to challenge the right even of a Lincoln to suspend the writ of *habeas corpus*.

Later in his remarks, Mr. Kirkham put his finger on the core problem with this legislation:

> The hard truth, of course, is that virtually all, if not all, large consumer class actions are inspired by lawyers seeking the fees engendered by converting a de minimis claim of a handy client into a multimillion dollar law suit.

This is hardly one man's opinion. For example, in testimony before the Committee on the Judiciary, given in 1970 by the then Assistant Attorney General in charge of the Antitrust Division, Richard W. McClaren, Judge McClaren stated quite candidly:

> Adding to the burden on the courts are the built-in incentives to initiate a greater number of suits than might be otherwise warranted. The size of the settlement which big companies might pay to avoid any significant risk of loss in a suit involving a large consumer class, could well be an inducement to harassing actions. In addition, where damages to individual consumers are comparatively small the aggregate fees flowing to attorneys representing the class make them by far the largest single parties in interest, and provide a potent incentive to press suit.
>
> This was demonstrated last year when a successful suit was brought in California on behalf of 460,000 lifetime members of the Playboy Club, contending that they were not required to pay an annual maintenance fee. Reportedly, each of the members was given an $8 chit redeemable in trade over 2 years; the lawyers received a fee of $275,000.

Judge McClaren's point has been echoed by others, including Professors Charles Alan Wright and Arthur R. Miller, who have published the definitive multivolume treatise on "Federal Practice and Procedure." In the most recent supplement to their treatise, Wright and Miller warn:

> The class action device must be protected against the taint that it is the source of strike suits promoted by attorneys who simply are seeking fat fees.

Earlier in the same work they had cautioned that—

> [U]ndue generosity might encourage some members of the bar to seek out clients and encourage litigation that otherwise might not reach the courts. Were this to become a widespread practice both the American system of civil litigation and the legal profession might fall into public disrepute.

This prediction has come true. The allure of huge fees to be reaped from settlement awards has led to the filing of numerous massive antitrust cases that might otherwise never have been brought—not because no plaintiffs could have afforded to bring the suits but because the merits of the case might not have justified the plaintiffs' investment of any of their own resources.

Awards of contingent fees to plaintiffs' lawyers in amounts exceeding $1 million have become almost commonplace in the last 10 years. And the prospect of bringing actions as assistants to State attorneys general, hired on a contingent fee basis, demanding damages for injuries allegedly done to millions of consumers, must be making the blood run hot in the veins of many a "plaintiffs' lawyer."

I wish to provide just a few examples of the enormous fees awarded to private counsel who filed cases on the basis of contingent fee agreements. The proponents of this system emphasize that it is subject to some supervision by the courts, who ultimately decide how much will be set aside as the fee for counsel. But it is only fair to note that, as Francis Kirkham recently put it, "control of fees has been administered with a gentle hand."

In the Gypsum Wallboard cases a few years ago, for example, the defendants were forced to settle the massive claims against them—without a trial—for $75,000,000. District Judge Zirpoli was then confronted with applications from the various law firms who represented various groups of plaintiffs, including governmental units. Many of the firms, by the way, are those that show up in case after case of this type. Even though Judge Zirpoli termed their demand for legal fees of over $20,000,000 "exaggerated and untenable" and described his function in doling out the huge sums as "distasteful," he finally awarded the various plaintiffs' lawyers over $9,000,000 in fees.

In the Library Book litigation, the fees on settlement exceeded $1,100,000 awarded to the lawyers who represented the class. In another antitrust case, city of Detroit against Grinnel in 1974, it was only the intervention of the court of appeals that overturned a district judge's award of fees to plaintiffs' counsel that worked out to a rate of $635 per hour. The court had the temerity not to be persuaded by counsel's argument that the award was really modest, because in another case he had been compensated at a rate of over $3,500 an hour.

In Ellis against Flying Tiger Corp., the court of appeals refused to go along with the district court's award amounting to more than $1,000 an hour. These instances of appellate correction of especially outrageous awards cannot mask the fact that, by any standards, the rewards to the lawyers who take these cases on a contingent fee basis are astronomical.

The proponents of the parens patriae title of this bill contend that it is simply codifying what the courts have done in cases like the Tetracycline Antibiotic Drug litigation. There, private lawyers were hired on a contingent fee basis by the attorneys general of virtually all of the 50 States to represent the governmental units and consumers in those States. In that litigation, the defendants were forced to pay over $213,000,000 in settlements. This monumental settlement was made even though they insisted they had not violated the antitrust laws and even though, in those few cases that have gone to trial because the plaintiffs' lawyers refused to settle and demanded even more, the defendants have been exonerated. Of that $213,000,000, the courts involved have approved attorneys' fees in the fantastic amount of nearly $42,000,000. In the early years of our country, our entire national budget was less than the courts have awarded to private lawyers under contingent fee arrangements in just that one litigation.

That case also illustrates who really benefits from these cases. Only about $28 million is actually being paid to consumers, out of about $61 million earmarked for them but unclaimed. These nationwide figures show what in some States is

even more dramatic: that in the litigation that is supposed to show the desirability of the parens patriae approach, the private lawyers made far more than the consumers are receiving. Indeed, in some cities and States, the lawyers' fees are 5 or 10 times the amount actually reaching consumers.

In the tetracycline litigation, it appears that the law firm that served as lead counsel will alone net over $6 million.

In the Library Books cases, which I mentioned a few moments ago, Judge Decker criticized what he called the "contingent fee syndrome" but felt constrained to go along with it. Nevertheless, he commented that—

[T]he attorneys who are taking advantage of class actions to obtain lucrative fees will find themselves vulnerable to the criticism expressed in the Italian proverb, "A lawsuit is a fruit tree planted in a lawyer's garden."

The parens patriae mechanism is precisely that sort of delectable bonanza for private lawyers. It seeks to achieve the awesome momentum and financial scale of the massive class actions that have so deeply troubled the courts, without any of the basic safeguards applicable to rule 23 class actions. Because of the similarities, though, it is fair to consider what some courts have candidly said about the rule nature of class actions brought in the name of hundreds or thousands of people who have only tiny individual financial interests.

For example, *Cotchett* v. *Avis Rent-A-Car System, Inc.* (S.D.N.Y. 1972), 56 F.R.D. 549, was an action seeking to recover a $1 surcharge on automobile rentals. The district court refused to certify a class of 1½ million persons, stating:

The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit (56 F.R.D. 554).

A similar point was made several years ago by District Judge Charles R. Richey, in Washington, who refused to be bound by a contingent fee arrangement which would have entitled plaintiffs' counsel to one-third of the pensions of each of hundreds of coal miners. Judge Richey found the contingent fee agreements there "null and void as against public policy." The Judge said:

The question of appropriate counsel fees has been tied to the apron strings of the contingent fee percentage for too long. (*Kiser* v. *Miller*, 364 F. Supp. 1311, 1315).

The Judge then commented:

To justify the contingent fee percentage in class actions on the grounds that the recovery is a "windfall" to the class, and, therefore, there would be a "windfall" award to the attorney is without logical merit.

He explained cogently that the first premise of this reasoning is faulty because the individuals who actually get something back get only insignificant sums which can hardly be termed a "windfall." He then explained:

Furthermore, the second premise implies a selfishness unbecoming to the legal profession. This thinking is all the more unacceptable when one remembers that the purpose of the suit was to restore the rights of a deprived class. In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute a substitution of one fiduciary wrongdoer with another.

The multidistrict Hotel Telephone Charges case in the Ninth Circuit, 2 years ago, 500 F. 2d 86, was a class action in the name of 40 million persons suing 47 hotel chains and 600 individual hotels for alleged overcharges on telephone calls. The individual claims were approximately $2. The court of appeals reversed the certification of a class, saying:

In view of the nonexistent, or miniscule, recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named plaintiffs are attorneys acting as counsel for themselves. Considering that this action has been primarily generated and financially supported by the lawyers who possibly stand to realize astronomical fees, and not by the individuals whose potential claims in any event are *de minimis*, we find the Court's conclusion in *Berley* v. *Dreyfus Co.* * * * applicable here:

'[W]e think that subparagraph (b)(3) [of Rule 23] read as a whole reflects a broad policy of economy in the use of society's difference-settling machinery. One method of achieving such economy is to avoid creating lawsuits where none previously existed. * * * If a class of interested litigants is not already in existence the court should not go out of its way to create one without good reason.' (500 F. 2d 91).

And in *Kline* v. *Coldwell, Banker & Co.* (9th Cir. 1974), 508 F. 2d 226, Judge Duniway, in a concurring opinion, reminded counsel that "in California, barratry is a crime" (508 F. 2d 237, 238), and said:

The real bonanza in a case like this, if it is won, will go to counsel * * * I venture to suggest that none of the class action features of this case was dreamed up by the named plaintiffs, but that all of them were the brainchildren of their attorneys. (508 F. 2d 238).

It is undeniable, I believe, that because of the difficulty, or impossibility, of distributing any significant amount of money to individual consumers, the real beneficiaries in cases like these are the private lawyers. In this connection, we should bear in mind an observation made by the court of appeals in the Eisen case and quoted in Justice Powell's opinion for the Supreme Court. The court of appeals there expressed its concern about the manageability and utility of a massive lawsuit nominally brought on behalf of hundreds of thousands of potential claimants. The court said it was "reluctant to permit actions to proceed where they are not likely to benefit anyone but the lawyers who bring them."

Congress should have no less concern about the wisdom and fairness of passing this lawyers' bill, which is expressly designed to require what the courts in Eisen and other cases have refused to do. It is hard to see how anyone who takes a hard, objective look at reality can deny that, in addition to all its other flaws, the parens patriae title would be a gigantic boondoggle for private lawyers. There are problems enough with the contingent fee syndrome in class actions that can presently be maintained under rule 23 of the Federal Rules of Civil Procedure. I urge my colleagues not to extend this bounty to a new and inevitably more lucrative and more dangerous inducement to bring lawsuits that do not deserve to be brought.

To create and legitimize parens patriae and to allow this theory to be used by private lawyers who are willing to file suits on a contingent fee basis is to give too potent a weapon. This power to bring lawsuits in the name of hundreds of thousands or millions of consumers, seeking millions, or hundreds of millions, or billions of dollars is too easy to abuse. Even at present, when it is somewhat harder to put together a lawsuit in which the alleged claims will aggregate those stupendous amounts, there is ample evidence of abuse. There is ample evidence that lawsuits seeking vast sums are brought because the plaintiffs' lawyer knows that the businessman is likely to have little choice other than to settle. Antitrust litigation is costly. It is time consuming. And it is uncertain.

So even if the corporate defendant is willing to settle the case only for 10 cents on the dollar, it is all clear profit to the plaintiff's lawyer who will take from 10 to 30 percent of that settlement. If $20 million was demanded—and this is not a particularly large claim any more—the lawyer hired on a contingent fee can thus look forward to an amount ranging from $200,000 to $600,000.

Francis Kirkham, in the paper to which I have referred, described what happens today, and I would like to quote his remarks:

A further hard fact to face in appraising the social value of consumer class actions is the use of such actions to coerce settlements. The pattern is familiar to every attorney involved in these actions, for the plaintiffs and for the defense. The certification of the class immediately creates an uncertain and enormous exposure, often large enough to bankrupt a defendant. In antitrust cases the period for which liability may be imposed is open-ended but to join in any settlement by the larger companies or be left with a potential liability measured by the total damages a jury might find to have been inflicted by all defendants, trebled, less only the settlement amounts.

The *Kline* court [considering the real estate brokerage commission case] recognized the tremendous power of the massive exposure which accompanies a large class action antitrust case as a vehicle to induce settlement. In a concurring opinion Judge Duniway said:

"* * * I doubt that plaintiffs' counsel expect the immense and unmanageable case that they seek to create to be tried. What they seek to create will become (whether they intend this result or not) an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust." (508 F.2d 238).

And the Second Circuit in *Eisen* said:

"There is reason to believe that the practical effect of these procedures, and the fact that possible recoveries run into astronomical amounts, generate more leverage and pressure on defendants to settle, even for millions of dollars, and in cases where the merits of the class representative's claim is to say the least doubtful, than did the old-fashioned strike suits made famous a generation or two ago by Clarence H. Venner." (479 F. 2d 1019).

"Plaintiffs' lawyers have frankly argued," Mr. Kirkham continues, quoting one plaintiff's lawyer, "that there is 'nothing so conducive to settlement of complex litigation as

the establishment by the court of a class,' and have urged that for this reason the court should sustain the class action."

Similar candor was exhibited by the lawyer for the plaintiffs in the Newark Gasoline cases in seeking certification of a class of 8 million gasoline users. His candid comments, as quoted in an article in volume 55 of the Federal Rules Decisions entitled "Class Actions—Useful Tool Or Engine of Destruction," were these:

I have seen nothing so conducive to settlement of complex litigation as the establishment by the court of a class.

* * * * *

When two very competently represented and major litigants have settled, I think it shows this. *It shows that the problem is manageable.* It shows that they feel that this is the way that the litigation can be disposed of by settlement, namely, by having a class; whereas, if there were no class, it would not be disposed of by settlement. So I think that you sow the seed for the possibility of a settlement.

Prof. Milton Handler, a distinguished antitrust law teacher and practitioner for nearly half a century has responded to the argument that the inevitability of a settlement shows that massive consumer cases are manageable:

[T]he rationalization suffers from a fundamental flaw. Any device which is workable only because it utilizes the threat of unmanageable and expensive litigation to compel settlement is not a rule of procedure—it is a form of legalized blackmail. If defendants who maintain their innocence have no practical alternative but to settle, they have been de facto deprived of their constitutional right to a trial on the merits. The distinctions between innocent and guilty defendants and between those whose violations have worked great injury and those who have done little if any harm become blurred, if not invisible. The only significant issue becomes the size of ransom to be paid for total peace.

These comments rather clearly show what most antitrust litigation is about—making demands that are so imposing that a settlement, in some amount, is inevitable. It is undeniable that very, very few large antitrust cases are tried. And no large consumer-class case has ever been tried.

I can predict with some confidence that no parens patriae case would ever be tried. Instead, cases seeking damages on an unprecedented scale will be filed, several years will be spent sparring, and finally the companies will be forced into a settlement, even if they believe they are innocent. And experience shows that it is the private lawyers representing the plaintiffs who will have the biggest direct stake in the settlement fund.

These factors have led to the other body, in considering a similar bill, to bar contingent fee arrangements in parens patriae cases. Although I certainly do not suggest that we should automatically defer to the other body on matters of legislative policy, this is an instance where they have clearly reached a sound position. There has been intense pressure on this side to overturn the action of the other body by blocking any limitation on contingent fees. I urge that, instead, we join with the other body and provide the protection the courts and commentators have been seeking.

The whole premise of parens patriae is to treat alleged antitrust violations that may have caused widespread—but individually small—injuries as public wrongs. For this reason the chief law enforcement officers of the States would be authorized to bring these actions in the name of the State on behalf of those hundreds of thousands or millions of citizens of the State. This bill would therefore grant overwhelming power to the States to pursue American businesses they suspect of violating the antitrust laws. This power is too awesome to be yielded to private lawyers. And the power ought not to be perverted for the private gain of private lawyers.

Where large consumer class suits have been brought in the name of the State on behalf of consumers, it has been typical for the State attorneys general to contract away their authority. What they do is appoint private practitioners who specialize in bringing big cases, making them special assistant attorneys general. Those private lawyers file the suits, conduct the discovery, handle the inevitable settlement negotiations, and take a huge contingent fee from the settlement. The State, in whose name the case is ostensibly brought, and the State attorney general who is supposed to attend to the public responsibilities of the State government, have very little to do with the case. Rather, the case is in reality simply a good gamble being taken by an enterprising private lawyer.

This illustrates the potential for abuse here. Because the State attorney general is not committing his own time or the resources of his office to the case, he is inevitably less concerned about the merits of the case. For him, it is a no risk venture. The State attorney general immediately reaps favorable publicity by announcing that he has authorized the filing of an antitrust suit as the champion of the rights of the people. That is good politics. It costs the office nothing to allow the case to be filed in the name of the State. And the State may eventually get some share in the settlement fund. After the private lawyers contingent fee is deducted of course.

It is a wonderful system. Everybody wins. Everybody gets rich. Except of course for the American businesses that are exposed to this sort of tactic. And we cannot be content ourselves that it is just some giant, impersonal corporation that ultimately suffers that burden of the contingent fee system. A corporation is, after all, the stockholders who own it. And that includes thousands and thousands of people who count on the dividends their stock should pay. And it is hundreds of thousands of people whose pension plans are invested in the company's stock and depend on its earnings to pay decent pensions.

And finally it is millions of consumers who buy its products. The tremendous costs of litigation and settlements necessarily show up ultimately in higher prices the company is forced to charge for its products in order to cover these most unproductive and socially useless costs.

There is already too much baseless litigation around, fomented by lawyers who have a direct financial stake pegged to the size of the demands they make and the settlements they can exact. If the parens patriae concept is to be given legislative recognition, we should at least cooperate with the other body in guarding against the abuse of this power and preventing the use of contingent fee retainers.

It is sometimes said that the State attorneys general do not have experienced antitrust lawyers to bring the cases that have merit. Perhaps this was once true, but it is not true any longer. Many States in recent years have substantially increased their antitrust enforcement capacity.

In any event, that objection misses the point. The theory of the parens patriae suit is that a wrong is being done to the people of the State. For this reason, it would be the public duty of the State attorney general to take action. If he believes a claim has enough merit to justify filing a lawsuit, he should be prepared to commit public resources to the case. If this means hiring special counsel to assist his office, perhaps he should do so—as long as the initiative comes from the attorney general and as long as the special counsel is given no contingent financial interest in the claim. In this way, the State official will have the practical incentive to make a careful judgment whether the case has substantial merit and to supervise closely the services rendered by the special counsel, which the State is paying for.

If the State attorney general is not willing to commit the resources of the State to the case, then the case should not be filed at all.

And if the argument is made that the State attorney general may not have adequate resources to bring big antitrust cases on behalf of the citizens of his State, that should not lead us to tolerate contingent fee arrangements. The Congress should not be in the position of forcing the States to bring parens patriae actions. If the elected legislatures of the States do not want to provide the funds to bring these claims on behalf of their own citizens, that is a policy judgment we should respect.

The views of the House Judiciary Committee are well stated on this point. In explaining why the committee voted to ban contingent fees in parens patriae actions—a position adopted by the other body in the bill it passed—the House committee noted the importance of developing State antitrust enforcement capabilities, but then continued:

Nonetheless, the Judiciary Committee believes that certain types of fee arrangements between States and private attorneys may inhibit the development of State antitrust capabilities. The definition of State attorney general, therefore, specifically prohibits parens patriae cases to be brought by "any person employed or retained on a contingency fee basis."

Suits in the name of a State are an exercise of State power. The committee believes that the State should exercise control over the use of State power not only in theory but in fact. If a State attorney general were able to delegate this function to private counsel on a contingency fee basis, the political and financial stake he would experience in otherwise prosecuting the action

would be substantially diminished. And thus State power would be exercised without the guarantee of State supervision.

The committee bill excludes the use of fee arrangements whereby a State agrees to pay a private attorney a percentage of the recovery if the attorney wins the parens patriae case for the State. H.R. 8532 also prohibits any contracts which made the outside counsel's fee or the amount thereof contingent on the amount, if any, of the recovery or on whether there is a recovery.

For similar reasons, we should go no further than allowing parens partiae suits to be brought by State attorneys general—and I think even that is going too far. We should leave it to the people of the various States, speaking through their elected legislatures, to decide whether this power should be exercised. If this protective condition is not imposed on the use of the parens patriae power, the whole concept should be rejected.

Mr. McCLURE. Mr. President, I am happy to yield to the Senator from West Virginia for an unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

TIME-LIMITATION AGREEMENTS—H.R. 12384

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the amendment by Mr. GARY HART is called up to the military procurement bill there be a time limitation thereon of 30 minutes to be equally divided in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow at such time as an amendment by Mr. GLENN is called up there be a time limitation thereon of 20 minutes to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as an amendment by Mr. HATHAWAY is called up on tomorrow to the military procurement bill there be a time limitation of not to exceed 2 hours to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Minuteman missile amendment by Mr. KENNEDY tomorrow, Mr. BARTLETT be recognized to call up an amendment on which there be a time limitation of 90 minutes to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, that request is granted and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Mr. DOLE calls up his amendment tomorrow there be a limitation of debate thereon of 1 hour to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. THURMOND to the military procurement bill tomorrow there be a time limitation of 40 minutes to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding.

Mr. McCLURE. The Senator from West Virginia is always welcome.

PRIVILEGE OF THE FLOOR—H.R. 12438

Mr. STENNIS. Mr. President, I ask unanimous consent that during the consideration of H.R. 12438, the Department of Defense Appropriations Authorization Act, 1977, Mr. Don Lynch of the staff of the Committee on Armed Services, under special circumstances under which I am working, be accorded the privilege of the floor.

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

Mr. MOSS. Mr. President, I ask unanimous consent that the following members of my staff have the privilege of the floor during the consideration of H.R. 12438, the military procurement bill, on Wednesday, May 26, 1976: Craig Peterson, James Bruce, and Lewis Ashley.

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

ORDER FOR ADJOURNMENT UNTIL 9 A.M. 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 9 a.m. tomorrow.

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

ORDER OF PROCEDURE TOMORROW—MILITARY PROCUREMENT BILL (H.R. 12438)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order providing for the resumption of consideration of the military procurement bill 1 hour following the convening of the Senate tomorrow remain the order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. LEAHY be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business not extending beyond the hour of 9:30 a.m., with statements limited therein to 5 minutes each, and that at the hour of 9:30 a.m., rather than 1 hour after the convening of the Senate, the Senate resume consideration of the military procurement bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—BYINGTON NOMINATION

Mr. ROBERT C. BYRD. Mr. President, on yesterday the Senate rejected, by a vote of 37 to 33, the nomination of S. John Byington, of Virginia, to be a Commissioner on the Consumer Products Safety Commission. A Member on the other side of the aisle is prepared to move to reconsider the vote by which that nomination was rejected. The various parties on both sides of the aisle have consulted, realizing that a motion to reconsider that vote would be made. I believe that it is agreeable that the following request would be accepted by both sides of the aisle and by parties on both sides of the question.

I ask unanimous consent, as in executive session, that the Senate, on tomorrow, at 12:30 p.m., go into executive session; that there immediately occur a vote on a motion to table the motion to reconsider the vote by which the nomination was rejected; that if that motion to table the motion to reconsider fails, the vote on the motion to reconsider then occur immediately without intervening motion or debate, and that if the vote on the motion to reconsider carries that such vote on the nomination occur 30 minutes after the disposition of the amendment by Mr. BARTLETT to the military procurement bill, with the 30 minutes of time being equally divided between Mr. MAGNUSON and the distinguished Senator from Michigan (Mr. GRIFFIN). This would mean, therefore, that immediately at 1 o'clock in the event the motion to reconsider carried the Senate would return to legislative session and upon the disposition of the Bartlett amendment the Senate would immediately go into executive session and for 30 minutes would debate that nomination, would immediately vote on the nomination and, upon the disposition of that vote, the Senate would resume legislative session and return to the consideration of the military procurement bill.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not wish to have to object, it occurs to me that it would take time there that would run on over into the time set for the Kennedy amendment at 1 p.m. Furthermore, taking this time out on Wednesday, as far as the military authorization bill, would mean it will be that much more time. If we are going to pass it before the recess, we certainly have to stay with it. Will the Senator comment on the time running byond 1 o'clock? He used the term Bartlett amendment. Did he intend to say Kennedy amendment?

Mr. ROBERT C. BYRD. No. The request, if agreed to, would not impinge upon the taking up of the Kennedy amendment, nor would it impinge upon the time allotted for debate on that amendment. Nor would it impinge upon the time for debate on the Bartlett amendment. It would consume a little time, but it may be, let us say, would probably be, even that there will be only

one vote, that the motion to table the motion to reconsider would carry, in which event it would only take 15 minutes.

Mr. GRIFFIN. Does the Senator mind a little dissent to that?

Mr. ROBERT C. BYRD (laughing). Yes.

Mr. STENNIS. At what time did the Senator say the proceeding in executive session would begin?

Mr. ROBERT C. BYRD. We would begin at 12:30, without debate, and immediately have a rollcall vote. If that vote on the motion to table failed, the Senate would immediately, without debate, vote on the motion to reconsider. I think very likely that would be the end of it; but it is possible that a third vote would be required, in which event that vote would not occur until 30 minutes following the disposition of the Bartlett amendment.

Mr. STENNIS. If the Senator will yield further, what is becoming of the Kennedy amendment in the meantime? That is set for 1 o'clock.

Mr. ROBERT C. BYRD. The Kennedy amendment would be taken up at 1 o'clock, would be debated, and would be voted upon.

Mr. STENNIS. Well, the Senator is more experienced than I am. I do not care.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, there is a possibility, I would say, without knowing who is going to be absent or anything else, of taking up the nomination and the vote on it on Thursday, in the event it is necessary to do that, which would not cut in quite so much on the military procurement bill on Wednesday. We would only, then, have the votes on reconsideration, and then we would know whether or not we had to have a vote on Thursday on the nomination. I would be willing to go along with that, even though I do not know what the absentee situation would be.

Mr. ROBERT C. BYRD. Could we agree on a time for a vote, in the event on the motion to reconsider carries, and also agree, in the event the chairman of the Armed Services Committee wishes not to have further interference with action on the military procurement bill tomorrow, that the vote on the nomination itself could occur on Thursday?

Mr. ABOUREZK. Mr. President, let me reserve the right to object on that. There is time reserved Thursday and Friday for the antitrust bill.

Mr. ROBERT C. BYRD. Would the Senator think it would be all right if the vote on the motion to table the motion to reconsider failed? It probably would not take 45 minutes; and the chances are at least 50–50 that the vote tomorrow would be the close of it.

Mr. ABOUREZK. I could not agree; I would have to object without Senators KENNEDY and HART concurring in it, because we were acting together.

Mr. GRIFFIN. Well, then we are back to Wednesday.

Mr. ROBERT C. BYRD. I just want to try to be accommodating here.

Mr. STENNIS. Mr. President, if the Senator will yield, then, to be certain, his request now is just for two rollcall votes tomorrow, which may consume not over 30 minutes, but he is just asking for two rollcall votes?

Mr. ROBERT C. BYRD. I thought we had, or were about to get, an agreement on the whole package. I know the Senator from Mississippi had not objected.

Mr. STENNIS. No, I am not objecting.

Mr. GRIFFIN. We do not want to mislead them, though. In the event we prevail on those first two votes there would be an additional 45 minutes later in the afternoon.

Mr. ROBERT C. BYRD. We understand that.

Mr. STENNIS. On Wednesday or Thursday?

Mr. ROBERT C. BYRD. On Wednesday.

Mr. GRIFFIN. I was willing to shift it to Thursday, but the Senator from South Dakota is not willing.

Mr. STENNIS. What would be the limit then? How much more time would it take?

Mr. GRIFFIN. Forty-five minutes.

Mr. ROBERT C. BYRD. The absolute limit on all three rollcall votes would be 1 hour and 15 minutes, and I think there is a better than 50–50 chance that it will not go beyond the first. But it could.

Mr. GRIFFIN. I hope the Senator from West Virginia is wrong.

Mr. CANNON. He seldom is.

Mr. STENNIS. Mr. President, reserving the right to object, this nomination is a matter the Senate has already taken up, and we want to finish it off, but I do not think we can overemphasize the importance, under our rules, of a number of bills, under the Budget Committee's bill, and resolutions which we have to agree to. This military procurement bill just ought to be disposed of this week, I mean passed, and I judge as a practical matter there is no use to count Friday; there will be a great number of absentees, most probably.

I am willing to stay here Wednesday, Wednesday night, and Thursday, but I want to insist, after this, that this military bill be given preference, subject to the antitrust promises that the Senator has made.

Mr. ROBERT C. BYRD. I think that is fair enough. I agree with the distinguished chairman that the Senator has spent a great deal of time already on the military procurement bill. Senators had an opportunity to call up their amendments yesterday and did not. Fortunately we have been able to get agreements on time with respect to the bill that was named.

I join with the Senator from Mississippi in hoping the Senate can and will complete action on the military procurement bill no later than Thursday, keeping in mind the commitment that we also have to Senator HART, Senator KENNEDY, and Senator ABOUREZK on the antitrust measure.

The PRESIDING OFFICER (Mr. GLENN). Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I have cleared this request with Senators on both sides of the aisle, that the Senate now resume the consideration of the military procurement authorization bill.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, the only thing I want to insure is that the opposition to the antitrust bill has agreed to that, and that they do not want to discuss it any more today, the antitrust bill.

Mr. ROBERT C. BYRD. Both sides have agreed to this request. I have contacted Senators on both sides of the question.

Mr. ABOUREZK. In other words, the Members of the opposition to the antitrust bill do not wish to discuss that any more today? Because this was the day reserved for the antitrust bill.

Mr. ROBERT C. BYRD. They have no objection to this request. I have cleared it with Senators on both sides of the aisle and on both sides of the question.

Mr. ALLEN. Mr. President, reserving the right to object, I would not want the distinguished Senator from South Dakota to assume that the opponents of the antitrust legislation are through talking, or that they do not desire at this time to talk. The Senator from Alabama is against that measure, and wishes to discuss it at length.

The overriding interest right now, however, is getting back on the military procurement bill. It is not that the opposition to the bill does not wish to discuss it. The point is that the overriding interest is to take action on military procurement.

Mr. ROBERT C. BYRD. Mr. President, may I say that I hope the Senator will not mind my taking issue with the one word "overriding." It is not exactly overriding. I have indicated to both sides that the leadership is perfectly willing to go on for the rest of this day on the antitrust legislation; but I have approached both sides to see if it was agreeable, after 5 o'clock, to return to the military procurement bill, and I found that it was agreeable on both sides of the question.

Mr. ALLEN. The Senator from Alabama, of course, has a right to describe military procurement as of overriding interest. That is the way he views it; and it was at the request of the distinguished Senator from West Virginia that we did agree that we would be willing to lay aside the antitrust legislation so that we could get to the other. Apparently the distinguished Senator from West Virginia must feel it is of overriding interest, or he would not have made that request.

Mr. ROBERT C. BYRD. No, no, the Senator from West Virginia does not consider it to be overriding at all.

I have to interpret my own feelings in the matter as I see them. I can understand that the Senator from Alabama might for his purposes wish to interpret them otherwise, but I can assure him

it is not overriding. It is perfectly agreeable with me to continue on the antitrust legislation longer today, as long as any Senator on either side of the aisle wishes to discuss it.

But what I am saying is that I feel I have a duty to try to press forward with both pieces of legislation to the best of my ability. It was with this purpose in mind that I have approached Senators on both sides of the aisle.

I hope we will not delay the Senate now in trying to interpret this or that and trying to put the burden on one side or the other. I take the full responsibility at this time for attempting to go to the military procurement bill, but it is in the interest of making progress on that as well as on the antitrust legislation.

Mr. ALLEN. I understand the Senator from South Dakota was seeking to make it appear that the opponents of the antitrust legislation did not wish to go forward at this time, and the only reason that the Senator from Alabama agreed to go forward with the military procurement legislation was because he felt that the overriding interest was to move on with the military procurement legislation.

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. It is not overriding, but I have to say on behalf of the Senator from Alabama that it was agreeable on both sides that the leadership proceed to take up the military procurement legislation at this time. I found that Senators on both sides were quite willing to continue the debate on the antitrust legislation for the rest of the day also.

Mr. ALLEN. Yes.

Mr. ABOUREZK. The only purpose I rose to reserve the right to object was to make certain that the opponents of this antitrust bill have every opportunity to discuss it, and if they voluntarily give up that opportunity that is, of course, up to them.

Mr. ALLEN. It was at the request of the leadership that we willingly suspended.

Mr. ABOUREZK. It is up to the opposition of the antitrust bill whether or not they wish to accede to the leadership's request. But I simply wish to make sure that Senators have every chance to discuss this bill.

Mr. ALLEN. We appreciate that and hope the Senator will so vote when an effort is made to cutoff debate.

Mr. ABOUREZK. One of these days we will wish to cutoff debate and we want Senators to have every opportunity.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank Senators on both sides of the question for their courtesy and cooperation in acceding to the request of the leadership that the Senate now resume consideration of the military procurement bill.

Mr. STENNIS. Mr. President, may we have enough attention in the Senate that we may hear now on the legislation?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, the unanimous-consent request is agreed to.

The bill will be stated by title.

Mr. ABOUREZK. Mr. President, reserving the right to object, was that——

The PRESIDING OFFICER. The request has been agreed to, unless the Senator objects. It is too late.

Mr. ABOUREZK. It is not too late to reserve my right to object.

The PRESIDING OFFICER. The Chair has ruled on that.

Mr. ROBERT C. BYRD. The Chair has ruled on it, but——

The PRESIDING OFFICER. The Chair had ruled on this and called the clerk to report the bill.

Mr. ABOUREZK. The only thing I wish to clarify is this. If I might obtain a point of information, that means that the order for Thursday and Friday for the antitrust bill to be brought up has not been rescinded because of this request.

Mr. ROBERT C. BYRD. That has not been disturbed.

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. That is the only thing I wished to ask.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

The PRESIDING OFFICER. By unanimous-consent agreement, the Senate will now resume consideration of H.R. 12438, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

AMENDMENT NO. 1695

Mr. TOWER. Mr. President, I call up my amendment No. 1695, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment No. 1695.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . Notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Snyder, Jr. (retired), to a command status as the Oceanographer of the Navy.

Mr. TOWER. Mr. President, this amendment was recommended in the form of separate legislation from Navy, but due to the time and attention required for the authorization bill, the committee has not reached this as a separate item.

What this amendment does is to permit the Navy to assign Rear Adm. J. Edward Snyder, Jr., retired, as Oceanographer of the Navy. Admiral Snyder has already served brilliantly as Oceanographer of the Navy but assumed the retired status as of July 1, 1975. As a technical matter, since the position of oceanographer is a command position, Admiral Snyder cannot be assigned as oceanographer in a retired status without this special statutory exemption.

Mr. President, this amendment involves no additional cost to the Government and is highly desired by the Navy.

At this point I ask unanimous consent to print in the RECORD the official transmission of the proposed legislation from the Secretary of the Navy strongly urging its enactment.

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

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., May 7, 1975.

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

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation "To permit the recall to active duty of Rear Admiral J. Edward Snyder, Jr., upon retirement in a command status as the Oceanographer of the Navy."

This proposal is a part of the Department of Defense Legislative Program for the 94th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The proposed legislation would permit the recall to active duty of Rear Admiral J. Edward Snyder, Jr., USN upon retirement in a command status as the Oceanographer of the Navy.

There are two existing statutes pertinent to this issue:

a. 10 USC 5955: "Retired officers of the Navy shall be withdrawn from command."

b. 10 USC 5982(a): "In time of war, the President, by and with the advice and consent of the Senate, may detail retired officers of the Navy on active duty to the command of squadrons and single ships, if he believes that the good of the service requires that they be so detailed."

The Oceanographer of the Navy is described in U.S. Navy Regulations, 1973, in article 0315 as:

"The Oceanographer of the Navy, under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceanographic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy."

In this capacity he commands the Office of the Oceanographer of the Navy and is the immediate superior in command of the Commander, Naval Oceanographic Office, a field activity of the Oceanographer. In view of this command status and the statutes cited above, a retired officer is not eligible to serve on active duty as the Oceanographer of the Navy.

As director of the Naval Oceanographic Program, the Oceanographer of the Navy is the interconnection of a vast series of complex and disparate activities whose purpose is to explore and to lay the basis for exploitation of the ocean and its boundaries for Naval applications to enhance security and support other national objectives. The exercise of this patent necessarily transcends the precisely defined requirements of national defense in order to be responsible to the broader demands of national security. No more cogent case in point can be cited than the current economic sensitivity to potential offshore resource and energy supplies, with the attendant technological imperatives to develop and protect them. Given this setting of undersea technology and national security, it is a matter of concern that the duties and responsibilities of the Oceanographer of the Navy be vested in an officer who, in addition to the qualities of leadership and character expected of a flag officer, has the requisite tenure to provide continuity of leadership and the technical experience to make effective and cooperative use of the Navy's considerable capital investment in the oceans.

Rear Admiral J. Edward Snyder, Jr., the incumbent Oceanographer of the Navy, will be retired as of July 1, 1975. Throughout the last decade of a distinguished Naval career, Rear Admiral Snyder has been a prime mover in the evolution of federal oceanography, beginning with the landmark deliberations of the President's Scientific Advisory Committee and the Stratton Commission in the Sixties, extending to the current assessment of National Ocean Policy by the U.S. Senate. His involvement has been total and sophisticated to a point wherein his contributions to the national dialogue on the oceans are unique. Accordingly, the Secretary of the Navy considers the recall of Rear Admiral Snyder to active duty in a command status as Oceanographer of the Navy to be in the best interest of the Navy and the Nation.

Cost and Budget Data

The enactment of this legislation will result in no additional expenditures.

Sincerely yours,

J. WILLIAM MIDDENDORF II,
Secretary of the Navy.

Mr. TOWER. The last portion of the Secretary's letter reads as follows, which is highly pertinent:

Throughout the last decade of a distinguished Naval career, Rear Admiral Snyder has been a prime mover in the evolution of federal oceanography, beginning with the landmark deliberations of the President's Scientific Advisory Committee and the Stratton Commission in the Sixties, extending to the current assessment of National Ocean Policy by the U.S. Senate. His involvement has been total and sophisticated to a point wherein his contributions to the national dialogue on the oceans are unique. Accordingly, the Secretary of the Navy considers the recall of Rear Admiral Snyder to active duty in a command status as Oceanographer of the Navy to be in the best interest of the Navy and the Nation.

To make a long story short, Mr. President, this simply enables a retired officer to be appointed to a command position. It is not an unusual or unprecedented thing. Admiral Snyder is a man of unusual talent and ability.

For my part, I have always been concerned about the up and out policy that we have in the armed services. We lose a lot of superior talent that way.

I think that this is an amendment the Senate can agree with.

I may say I discussed this amendment with the distinguished chairman of the Committee on Armed Services and the distinguished chairman of the Subcommittee on Manpower, the Senator from Georgia (Mr. NUNN). And I believe all are in agreement that the amendment should be agreed to.

Mr. STENNIS. Mr. President, I yield such time to the Senator from Georgia as he may wish.

Mr. NUNN. Mr. President, I think this is a good amendment. I have talked to the Senator from Texas about the amendment. It makes sense.

I am afraid, as I told the Senator from Texas, that we have in our up and out policy now in the military too much up and too much out and too quickly, and we are leaving ourselves without the talent necessary to run a complicated, complex technologically oriented Defense Establishment.

So I think this is a sensible move. Certainly Admiral Snyder has demonstrated the capabilities to assist the Navy in this particular endeavor, and I think it makes sense from every point of view. I recommend that our committee and the full Senate accept the amendment.

Mr. STENNIS. Mr. President, I shall take 1 minute to say that it often troubles me very much that very fine talent is being turned out of all the services, so far as that is concerned, while these persons are still in their prime. I think this is the case where legislation is necessary. The Senator from Texas says it ought to be agreed to. For my part I support the amendment.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreeed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1690

Mr. GLENN. Mr. President, I call up my amendment No. 1690, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 37, after line 19 insert the following:

SEC. . Prior to March 1, 1977, the Secretary of Defense shall conduct a study as to how greater utilization of civilian faculty may be accomplished in the service academies, intermediate and senior war colleges. This study shall recommend an equitable ratio between civilian and military faculty in general academic subjects. The report shall identify those subjects in the curriculum classified as in the general academic area. Professional military instructors shall be retained for solely military and naval subjects. The results of this study shall be forwarded to the Committees on Armed Services of the House of Representatives and the Senate.

Mr. GLENN. Mr. President, this amendment is very simple, and it should take only a few minutes. We have cleared it with the leadership, and I believe it is agreeable to them.

The amendment would require a study by the Secretary of Defense as to how we can better utilize civilian faculty in service academies, with particular emphasis in those areas wherein military expertise is not required.

In the military academies now, we can only give a general education. The liberal arts aspects vary from one academy to another. However, there are requirements, for example, for the teaching of literature, English, mathematics, and so on, with the very basics of education, which do not require military instructor expertise to perform.

It has been thought for some time that we would save considerable money if the academies could move toward utilizing their regular civilian instructor staffs that might be available for those basics of education—retaining, of course, the military instruction for military officers who have had more experience in that area.

The necessity to bring officers back and requalify them for this type of advanced instruction in the basics of education is expensive. It means permanent change of station orders. It means moving their families across country and sometimes from overseas. It means retraining and requalifying them to perform the tasks they have been assigned to, which would not be necessary if we could utilize in those basics more of a permanent cadre of civilian instructors and professors.

This amendment would require the Secretary of Defense to conduct a study for that type utilization and make a recommendation for the ratio and the positions in which money could be saved and at the same time give better educational opportunities in the academies because of increased expertise that the civilian faculty would have.

I believe the leadership on both sides of the aisle are prepared to accept the amendment. I do not require a rollcall vote.

Mr. STENNIS. Mr. President, I yield to the Senator from Georgia. This matter relates to personnel.

Mr. NUNN. Mr. President, I have talked to the junior Senator from Ohio, and my staff has talked to his staff about this amendment.

There probably are a considerable number of ways in which we can increase the effectiveness and the efficiency of the dollars spent in training at the academies. The distinguished junior Senator from Ohio is probably better informed on that subject than is any other Member of the Senate.

I believe this amendment would be a positive step in determining whether we can make efficiency and effectiveness and improvements in instruction at the military academies, and I recommend that the Senate and the Committee on Armed Services accept the amendment.

Mr. STENNIS. I support the amendment as outlined by the distinguished Senator from Ohio.

Mr. GLENN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Senator from Ohio (Mr. GLENN).

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, the bill is open to further amendment. The committee is prepared to take up any amendment that a Senator may wish.

Only one amendment is set for a time certain, and that is the Kennedy amendment with respect to the Minuteman III money, and it is set for tomorrow at 1 p.m.

The committee is ready and will be glad to take up any other amendment at this time.

(At this point, Mr. GLENN assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the resumption of consideration of the military procurement bill tomorrow at 9:30 a.m., the distinguished Senator from Colorado (Mr. GARY HART) be recognized to call up his amendment.

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

Mr. ROBERT C. BYRD. There is a time limitation on the Hart amendment of 30 minutes. Presumably, there will be a rollcall vote.

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

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. Is that the amendment pertaining to gas?

Mr. STENNIS. This amendment pertains to the A–7D. The Senator from Texas can explain this amendment.

Mr. TOWER. The Hart amendment would delete the authorization for the procurement of 24 additional A–7D's. It was put in the bill by the committee.

Mr. GOLDWATER. I wanted to make it clear, because Senator HART has at least two amendments. One has to do with gas stored off the end of the runway of Peterson Field in Denver, and the other relates to the A–7.

Mr. TOWER. The amendment referred to is the A–7D amendment.

Mr. STENNIS. Mr. President, there are no other Hart amendments to this bill.

Mr. ROBERT C. BYRD. Mr. President, hopefully, upon the disposition of the amendment by Mr. HART tomorrow, the distinguished Senator from Ohio (Mr. GLENN) or the distinguished Senator from Maine (Mr. HATHAWAY) or the distinguished Senator from Kansas (Mr. DOLE) will be prepared to call up an amendment.

I have discussed this matter with the distinguished Senator from Ohio (Mr. GLENN) and he is going to make every effort, if things can be worked out overnight, to be in a position to call up his amendment at that time. However, this does not bind him at the moment. However, he has indicated that it is his hope that early tomorrow he will be in a position to call up his amendment.

I express the same hope on behalf of Mr. HATHAWAY and Mr. DOLE, but I am in no position to commit any one of the three at this point.

Mr. STENNIS. Mr. President, if the Senator will yield, I believe that we already have a time agreement on the Dole amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. As to the Hathaway amendments—there are several, largely on the same subject—staff members of the committee and his staff have been working on those amendments today and are on the verge of having something special to submit to the Senate. However, other Senators who are interested have not had an opportunity to go into the staff conclusions. They will be ready in the morning, I understand.

The committee is ready on all pending amendments. I appreciate the cooperation of the leadership and of the membership in bringing up these matters. There is no reason why we cannot dispose of a great number of them tomorrow. There is a disposition to agree to a short time, once we can get them lined up and the Senators can be here. I think we can move rather fast tomorrow.

Mr. ROBERT C. BYRD. I hope so.

Mr. GRIFFIN. Mr. President, if the Senator will yield for a question, I do not believe there is any problem, but I want to be sure.

In view of the fact that there is no time allotted for debate and we will proceed right to a vote tomorrow on a motion to table and a motion to reconsider, may it be presumed that such a motion to table and such a motion to reconsider have been offered, in effect, and are encompassed in the agreement, and we will proceed right to a motion to table a motion to reconsider, so that those motions do not have to be made? They are already before the Senate, in the agreement.

Mr. ROBERT C. BYRD. Yes. The agreement assumes, quite correctly, I think, that the motion to reconsider has been made, that the motion to table the motion to reconsider has been made.

Mr. GRIFFIN. And we proceed right to a vote?

Mr. ROBERT C. BYRD. Proceed immediately to a vote on the motion to table.

As I indicated when I presented the request, a Senator on the other side of the aisle has at the desk a motion to reconsider. The Senators on this side of the aisle know that that motion is going to be made. So, rather than go through the motions of making those motions, the Senators have agreed to the votes at the times allotted.

Mr. GRIFFIN. Does the Senator suppose the Parliamentarian understands it that way, too?

Mr. ROBERT C. BYRD. I am sure the Senator would like to have the Chair respond to that.

Mr. GRIFFIN. I make such a parliamentary inquiry.

The PRESIDING OFFICER. For the purposes of this agreement, the question would come on the motion of the Senator from West Virginia to table the motion of the Senator from Maryland to reconsider the nomination.

I am sure that is clear.

Mr. ROBERT C. BYRD. I thank the Chair.

NOMINATION OF S. JOHN BYINGTON—ORDER FOR YEAS AND NAYS

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays with one showing of seconds at any time tomorrow as in executive session on the various votes that may occur in connection with the nomination of Mr. S. John Byington.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

STANDING ORDER FOR PLACEMENT OF PROGRAM IN RECORD

Mr. ROBERT C. BYRD. Mr. President, is there a standing order that the statement of the program will appear just prior to the motion to adjourn daily?

The PRESIDING OFFICER. There is such an order.

Mr. ROBERT C. BYRD. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR THE YEAS AND NAYS—SENATOR GARY HART'S AMENDMENT TO H.R. 12438

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment by Mr. GARY HART to be voted on tomorrow morning.

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

The yeas and nays were ordered.

NOMINATION OF S. JOHN BYINGTON—YEAS AND NAYS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask for the yeas and nays on the votes that will be required, depending upon developments, in connection with the nomination of Mr. S. John Byington.

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

The yeas and nays were ordered.

ORDER FOR YEAS AND NAYS ON AMENDMENTS TO H.R. 12438

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at any time on other amendments prior to the taking up of the Kennedy amendment tomorrow, and that one show of second will be sufficient for any number of votes during the morning, unless there is objection.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with statements limited therein to 5 minutes each.

At the hour of 9:30 a.m., the Senate will resume consideration of the military procurement bill, H.R. 12438. At that time, the distinguished junior Senator from Colorado (Mr. GARY HART) will be recognized to call up his amendment, on which there is a time limitation of 30 minutes, to be equally divided and controlled in accordance with the usual form. A rollcall vote will occur on the disposition of that matter.

On the disposition of that amendment, it is hoped that other Senators will be prepared to call up their amendments, among which are the following: Mr. GLENN's, on which there is a time limitation of 20 minutes, to be equally divided and controlled in accordance with the usual form; Mr. THURMOND's, on which there is a time limitation of 40 minutes, to be so equally divided and controlled; Mr. DOLE, who has a 1-hour limitation on his amendment, to be so equally divided and controlled.

At the hour of 12:30 p.m., the Senate will go into executive session and, without any intervening debate or motion, will vote by rollcall, which will be ordered, undoubtedly, on a motion by the Senator from West Virginia (Mr. ROBERT C. BYRD) to table the motion by Mr. MATHIAS to reconsider the vote by which the nomination of Mr. S. John Byington was rejected on yesterday.

If the motion to table prevails, the Senate will resume legislative session immediately and will pursue further consideration of the military procurement bill. If the motion to table fails, a vote will occur immediately, without intervening debate or motion, on the motion to reconsider the vote by which the nomination of Mr. Byington was rejected on yesterday.

If the motion to reconsider fails, the Senate will immediately resume legislative session and will continue consideration of the military procurement bill. If the motion to reconsider carries, that vote on the nomination will occur 30 minutes following the disposition of the Bartlett amendment later in the afternoon, such 30 minutes being equally divided between both sides on the question.

At 1 p.m. tomorrow, the Senate will proceed to consideration of the Kennedy amendment on the Minuteman missile. There is a time limitation for debate thereon of 2 hours, to be equally divided and controlled in accordance with the usual form. At the expiration of that time, which, if allowed to run, would put the Senate at 3 o'clock p.m., the Senate will vote on the Kennedy amendment.

Upon the disposition of that amendment, the Senate will proceed to the disposition of the amendment by Mr. BARTLETT to the military procurement bill, on which there is a 90-minute time limitation, to be equally divided and controlled in accordance with the usual form.

Mr. President, numerous rollcall votes will occur tomorrow. The first rollcall vote could occur as early as 10 o'clock a.m.

Mr. GOLDWATER. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. Actually, we are all interested in the passage of the military authorization bill. I was wondering if the leader is now prepared to tell this body how late we shall stay in to accomplish that?

Mr. ROBERT. C. BYRD. Mr. President, I cannot respond with specificity to the distinguished Senator. I can only say that the leadership is prepared to stay in late tomorrow evening if it will further the objective of the Senator and the Senate in completing action on the military procurement bill tomorrow evening. I hope that will occur. I have some reason to doubt that that final action will occur tomorrow evening, but as the distinguished chairman of the committee has so appropriately stressed, it is certainly hoped that if action is not completed tomorrow evening, at least an agreement can be reached by tomorrow evening which would see final action on the bill before the Senate recesses for the Memorial Day weekend.

Mr. GOLDWATER. I ask that because those of us who live in the West have a very difficult problem of travel these days. It is getting more and more difficult to get airline reservations to the West. We have been sitting here now, Monday and Tuesday, with no action at all, no action last Friday, nothing on Saturday. I am committed very deeply, and have been all week, in my home State, which commitments I have canceled. I have to be there on Thursday. I do not care personally how late we stay in tomorrow night. I think there have been 30-odd Senators out of this body, at home attending to their fences and so forth. Maybe it would not hurt if we looked forward to a late session so those of us who have made the sacrifice by staying here and doing nothing might be able to make reservations to get home.

I hope that sometime tomorrow night, even if it takes until midnight, we can get rid of this bill.

Mr. ROBERT C. BYRD. I agree with the distinguished Senator. As long as there is some reasonable hope that the Senate is disposed to complete action on this bill tomorrow evening, the leadership is certainly willing to stay to achieve that end.

The distinguished Senator from Arizona has been here and been available for votes and certainly is within his rights in pointing out that various Senators could have called up amendments on yesterday but, for one reason or another, did not choose to do so. I hope that action will be completed tomorrow and, if not tomorrow, certainly on Thursday, keeping in mind our commitment on the antitrust legislation.

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

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. I hate for there to be any inference that we have not been ready to pursue business today.

If all of those who want to get through could just stay here and keep impressing their fellow Senators with the need for it, I think that would have a psychological effect. We got down to the proposition today of being ready to take up a matter and vote on it and dispose of it, but it went off on the idea of postponing it so a trip could be taken and then postponing the vote tomorrow until a certain time. With such actions as that, we are not going to get anywhere.

I think if we come here and stay on the floor and exhort our fellows to be ready, that will do some good.

Mr. ROBERT C. BYRD. Mr. President, the distinguished chairman of the committee (Mr. STENNIS) has certainly done everything within his power to bring matters to a conclusion on the military procurement bill. He has stood ready at all times to debate amendments and even to agree to a firm vote. He stands ready now.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and at 5:55 p.m., the Senate adjourned until tomorrow, Wednesday, May 26, 1976, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, May 25, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Cast your burden on the Lord and He will sustain you.—Psalms 55: 22.

Our Father who art in heaven, in the Earth and in the hearts of men, hallowed be Thy name, Thy kingdom come, Thy will be done in us and in all Thy children. During these days when what we value most seems so often to be at the mercy of what we value least, we pray for ideas great enough, spirits good enough and motives genuine enough to make us more than a match for the mood of our modern movements.

Grant unto us the leading of Thy spirit as we seek for peace and for justice at home and abroad. With faith and fortitude may we live our lives, make our decisions and conduct our business here that coming generations may be thankful for the contribution we are making today.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and without objection, announces to the House his approval thereof.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a resolution of the following title:

H. Res. 462

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Honorable Torbert H. Macdonald, late a Representative from the State of Massachusetts.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

A QUESTION OF PERSONAL PRIVILEGE

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour on his point of personal privilege.

Mr. HAYS of Ohio. Mr. Speaker, the morning press has carried a story stating that the Justice Department is investigating me and my conduct as chairman of the Committee on House Administration on certain allegations that a person is on the payroll for reasons other than working.

This story appeared in the paper on Sunday, and on Sunday afternoon the FBI was out at the homes of staff members questioning them. That, Mr. Speaker, is the fastest FBI inquiry on record; much faster than when the bank I am chairman of was robbed of $122,000 2 weeks ago.

I think what precipitated it was an exchange of letters which I had neglected to put in the RECORD and which I had promised to put in the RECORD, between myself and the Deputy Assistant Attorney General of the United States. I think it is appropriate that I read them to the membership, and I will then place them in the RECORD.

The first letter is from the Deputy Assistant Attorney General or the Assistant Attorney General—that is the title—of the Criminal Division, dated April 6, 1976. It says:

DEPARTMENT OF JUSTICE,
Washington, D.C., April 6, 1976.

Hon. WAYNE HAYS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HAYS: My attention has been directed to the April 1, 1976 CONGRESSIONAL RECORD which quotes you during debate at page 9100 as follows:

"Let me give some evidence. We had two Members in this House who, I believe inadvertently and unknowingly, took some corporate funds from the Gulf Oil Co. One was our colleague from Oklahoma who got $1,000. The other one was our colleague from Pennsylvania on the other side, who got $6,000.

"Our colleague from Oklahoma was prosecuted on an information charge but with respect to the gentleman from Pennsylvania, they allowed the statute of limitations to run. The Deputy Attorney General (sic) who is also from Pennsylvania and also from Pittsburgh according to the press said:

'He is a friend of mine. I could not prosecute him.'

That is the kind of independent Justice Department that we have."

May I take this opportunity to correct your perception in this regard.

Contrary to the suggestion in the quoted passage, I took no part whatsoever in any of the decisions respecting the Congressmen from Oklahoma or Pennsylvania. Nor could I. By law both matters are within the exclusive jurisdiction of the independent Watergate Special Prosecutor's Office and not the Criminal Division.

As to the purported quote from "the press", I must respectfully request from you the source of the quotation so that I may correct the reporter who authored it. Needless to say, no such statement was ever made by me.

Our system of criminal justice depends upon an even-handed process for making decisions as to whether prosecution is justified in any particular case. It is my belief, borne out by my record, both as United States Attorney in Pittsburgh for six years and in my present position, that these decisions must always depend upon the evidence alone and can never be influenced by personal or political considerations. This remains my strongly held personal view and will remain that of the Criminal Division so long as I run it.

It is evident that nothing I say will dissuade you from your apparently low opinion of this Department at the present time. But inasmuch as you have seen fit gratuitously and without foundation to impugn my integrity, I would request—having no other means of redress—that you have the courtesy to place this letter in the CONGRESSIONAL RECORD.

Very truly yours,
RICHARD L. THORNBURGH,
Assistant Attorney General.

I am handing the letter to the Clerk.

My reply was somewhat late, due to the Easter recess. It was dated May 6, 1976, to Mr. Thornburgh, and it says:

Mr. RICHARD L. THORNBURGH,
Assistant Attorney General, Department of Justice, Washington, D.C.

DEAR MR. THORNBURGH: This is in response to your letter of April 6, 1976 regarding my statement in the Congressional Record of April 1st pertaining to the Gulf Oil corporate contributions and the selective prosecution of those Members of Congress alleged to have received such contributions. Please excuse the delay in responding to your letter as I was away for the Easter Recess.

You make a number of points in your letter. First, that my statement regarding your friendship with Congressman Heinz is inaccurate, and request the source of my information; second, that you lack jurisdiction in this case; and last, you request that your letter be placed in the Congressional Record.

First, I would call your attention to the *Philadelphia Evening Bulletin* of Friday, March 12th, wherein you yourself are quoted as saying, "If the Justice Department were responsible for the case, I would recuse myself"—r-e-c-u-s-e. That is a new word for me. I thought it was a misprint, but there is such a word—"because of a 10-year friendship with John Heinz." The story further goes on to indicate that John Heinz was chairman of your own unsuccessful bid for the U.S. House of Representatives and in fact, contributed several thousand dollars to the campaign. I hardly think that I have misrepresented your relationship with Congressman Heinz.

As to your claim that you lack jurisdiction, I can only say that you missed the point. The fact remains that one Member of Congress, a Democrat, was prosecuted while another Member of Congress, a Republican, was not prosecuted for exactly the same alleged offense. The American people are too smart to ignore this blatant lack of impartial justice. If, in fact, the Special Watergate Prosecutor has jurisdiction, you might try to find out why he has taken no action. Surely he must be accountable to someone in the Justice Department, or is he so independent that he answers to no one?

Lastly, I will be happy to place your letter in the Record as you requested along with my response and the article from the *Bulletin*. However, I stand by my original position that such blatant unfairness—which allowed for the prosecution of Democratic Congressman James R. Jones on the same charges for which the Administration allowed the statute of limitations to run for Republican John Heinz III—does nothing to enhance the people's faith in American justice.

Sincerely,

WAYNE L. HAYS,
U.S. Congressman.

I put this letter down for the reporter to check his notes against.

I do not have all of the data here, but there have been statements in the press that the prosecutor, the Federal prosecutor, from Philadelphia, who is a Republican, resigned because he was told by Mr. Thornburgh to get Mayor Rizzo.

In fact, his exact quote as the press carried it was: "Get that s.o.b. Rizzo." I do not know whether he did say that or whether he did not. The fact remains that I have not researched it. I have had

a letter from Mayor Rizzo or from his staff saying that it is so. I wish to place the article in the RECORD.

Mr. Speaker, I ask unanimous consent for permission to place in the RECORD at this point an article from the Philadelphia Evening Bulletin dated March 12, 1976, relative to this subject matter and an article from the Sunday Bulletin dated February 1, 1976, headed "2 Former Pa. Prosecutors Clash Over Perjury Ruling."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The articles referred to follow:

[From the Evening Bulletin, Mar. 12, 1976]

THORNBURGH: CANNOT PROBE GULF FUNDS

(By Gerald J. McCullough)

The U.S. Justice Department has no current authority to investigate a political scandal involving the Gulf Oil Corp., Assistant Attorney General Richard L. Thornburgh said yesterday.

Thornburgh said the Gulf scandal, which has become an issue in the 1976 Pennsylvania Republican primary election, is entirely in the hands of the Watergate special prosecutor's office.

The scandal involves some $10.3 million in illegal corporate political funds which were allegedly distributed to dozens of congressmen and senators.

SCOTT AND HEINZ

The recipients allegedly included outgoing Senate Minority Leader Hugh Scott (R-Pa) and U.S. Rep. H. John Heinz 3d, of Pittsburgh, a candidate for the GOP nomination to succeed Scott.

Thornburgh's role in the handling of the Gulf investigation has been questioned by George R. Packard, a former Bulletin editor, who is also seeking the GOP nomination for the Senate seat.

Former Philadelphia District Attorney Arlen Specter, a third candidate seeking the GOP nomination for the Senate seat, also has talked of the failure of law enforcement officials to prosecute, but has refrained from questioning federal officials.

Packard this month sent a letter to U.S. Attorney General Edward H. Levi asking why Heinz, who admitted receiving $6,000 from Gulf in 1971 and 1972, had escaped federal scrutiny.

In the letter, Packard noted that the special prosecutor's office had indicted U.S. Rep. James R. Jones (D-Okla), for failing to report a similar contribution of between $1,000 and $2,000 in 1972.

FRIEND OF HEINZ

Packard also noted that Thornburgh, who heads the Justice Department's criminal division, was a friend and political ally of Heinz in Pittsburgh.

Thornburgh said yesterday that the congressional authorization, which established the special prosecutor's office, specifically prevented him from taking jurisdiction of the Gulf matter.

"When the special prosecutor's office was established, the idea was to separate the Justice Department from the investigation of the Watergate scandal," said Thornburgh, who was in Philadelphia yesterday to address the Philadelphia Bar Association.

"Congress specifically gave the special prosecutor's office responsibility for 1972 campaign abuses and matters related thereto," he said.

"Congress also ordered that the operations of the special prosecutor's office be totally separate and apart from the Department of Justice."

CITES FRIENDSHIP

Thornburgh said he has no communication with Special Prosecutor Charles F. C. Ruff concerning the Gulf investigation.

"If the Justice Department were responsible for the case, I would recuse myself because of a 10-year friendship with John Heinz," said Thornburgh, a former U.S. Attorney in Pittsburgh. Thornburgh said that Heinz was chairman of his own unsuccessful campaign for Congress in 1966 and contributed about $3,000 to the race.

Heinz disclosed last December that his office received a $4,000 contribution from Gulf in 1972 and a $2,000 contribution from Gulf in 1971. He said he was not personally aware of the contributions.

Heinz wrote a personal check this month to the Gulf firm to repay the illegal contributions.

The once busy and heavily manned special prosecutor's office now has only two full-time attorneys on its staff and both are reportedly working on the Gulf case.

Ruff works in the office on a part-time basis.

[From the Sunday Bulletin, Feb. 1, 1976]

2 FORMER PA. PROSECUTORS CLASH OVER PERJURY RULING

(By L. Stuart Ditzen)

Washington—Two of Pennsylvania's best known former prosecutors came into conflict here last week when one—Samuel Dash—accused the other—Richard L. Thornburgh—of the following:

"Incompetence, carelessness or indifference . . . shallow and skimpy analysis . . . creating the appearance of impropriety . . . unexplainable negligence . . . (conducting) a flimsy and unprofessional investigation . . ." and,

Permitting a suspected perjurer to succeed in "flouting the lawful authority" of the Federal Power Commission in a case involving natural gas supplies.

Dash is former chief counsel to the Senate Watergate Committee and one-time district attorney of Philadelphia.

Thornburgh is assistant attorney general in charge of the Justice Department's Criminal Division and former crime-busting U.S. attorney in Pittsburgh.

EXPERT WITNESS

Dash's attack came in the form of "expert witness" testimony he gave before the subcommittee on investigations of the House Committee on Interstate and Foreign Commerce.

At issue was whether a Texas businessman had perjured himself last March before the FPC.

The businessman, Sidney T. Walker, vice president of the Mitchell Energy Corp., of Houston, Tex., had been called to the FPC to explain why his company had failed to meet its contract deadlines to supply natural gas to a pipeline company.

Dash and Thornburgh agreed that Walker did not reply factually to questions at the FPC. The difference of opinion revolves around whether Walker should be prosecuted.

Walker's testimony in March, 1975, was given during an FPC investigation of whether natural gas suppliers had purposely held back on deliveries in late 1974 in order to benefit from a FPC-approved rate increase that took effect in January, 1975.

Walker showed up at the FPC without his company records—although the records had been subpenaed—and told the FPC he didn't have any records.

Later, the House subcommittee opened its own inquiry and discovered that Walker had detailed records that explained his firm's inability to supply gas at contracted deadlines.

The subcommittee recommended to the Justice Department last summer that Walker's case be examined for possible perjury and obstruction of justice.

On Jan. 14, Thornburgh sent a letter to the subcommittee chairman Rep. John E. Moss (D-Calif) declining to prosecute Walker on the grounds that the facts were not strong enough.

Piqued, the subcommittee hired Dash to review the facts and give an opinion of Thornburgh's decision.

Dash testified that Thornburgh had given "shallow and skimpy analysis" to the case and his decision not to prosecute Walker "reflects a surprising degree of incompetence, carelessness or indifference."

FLOUTING CHARGED

Dash said:

"The case represents a serious decision by a congressional subcommittee to seek the assistance of the Justice Department to enforce the criminal law so a regulatory agency and a congressional committee can more effectively perform their functions."

But, he said, "the record in this case leaves no doubt about one thing—Mitchell Energy Corp., through its representative, Sidney T. Walker, succeeded in flouting the lawful authority of the Federal Power Commission."

Dash raised the question of possible conflict of interest, saying Walker "may be at the moment a member of a favored class by the present Administration. He is a representative of the powerful energy industry which the Administration courts and is loath to offend.

"This raises the question that . . . there may be conflicts of interest. This may not be such a case. Unfortunately, it creates the appearance of such a case."

Thornburgh declined to respond to Dash's comments. He said through a spokesman that he would let his decision on the case stand on the contents of his Jan. 14 letter to Moss.

In his letter, Thornburgh said the full record of Walker's testimony before the FPC and the later findings of the subcommittee were reviewed. He said three other employes of the Mitchell firm were called before a grand jury.

Thornburgh said he didn't think it was possible to prove that Walker intended "to obstruct the Federal Power Commission proceeding."

He said Walker appeared to have been "ill-prepared and possibly confused" when he testified before the FPC.

Thornburgh said perjury charges could not be brought against Walker because his alleged false answers were in response to "imprecise" questions by FPC attorneys.

Dash disputed the idea that Walker was confused before the FPC.

"I have read the record thoroughly and have found that Mr. Walker was anything but ill prepared or confused," Dash said. "He seemed never at a loss for an answer . . . Indeed, he was an unshakeable witness."

Dash also said numerous persons who knew details about Mitchell Energy Corp.'s operations and records were never interviewed by the Justice Department.

"The failure to talk to these witnesses is not mere omission or inadvertence," Dash said, "but unexplainable negligence."

The only other thing I can say at this time, Mr. Speaker, is that yesterday I made a decision. I was unable yesterday to get in touch with Chairman FLYNT, who was enroute to Georgia, but I got in touch with him this morning, and I prepared a letter. I told him verbally and I have in writing asked his Ethics Committee to investigate all the allegations concerning me. I said that I will be glad to appear before them and have any of my staff appear before them if they want.

Until that time, I am studying whether I have any grounds at all for a lawsuit under the Supreme Court decision in Sullivan against the New York Times—I am speaking from memory—in which case the Court said in effect that any Member of Congress or any public official by running for office and accepting that office laid himself open to any statement that anybody wanted to make about him so long as it was not done maliciously.

Now, I am told by three of the best lawyers here in this House as of yesterday that that is about the toughest thing there is to prove in any court of law. I am meeting this afternoon with one of the best lawyers in town on that subject, and I will lay the case out to him and I will be guided by his advice. My best guess, however, is that if I spend $50,000 to file a suit and perhaps an untold additional amount, if I have it, to fight it, in view of that decision, I would lose it.

So it looks as though I will have to take my case to the Ethics Committee and to the people of my district. I regret the unfavorable publicity brought down on this House, which I love and admire and respect, but I would ask you to read other newspapers aside from the Washington Post. I would respectfully suggest that you find out what Frank Sinatra said about the Judith Exner matter, which might apply in many cases.

Mr. Speaker, I do want to say in closing that any Member of this House or of the other body is wide open to anyone who wants to make malicious statements about him and who wants to write a book or wants to get in Playboy magazine. The statements do not have to be true necessarily for any of those purposes.

Mr. Speaker, I yield back the balance of my time.

MONITORING OF THE CONCORDE SOUND LEVELS

(Mr. PREYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PREYER. Mr. Speaker, along with the gentleman from California, Mr. LEO RYAN, chairman of the Subommittee on Conservation, Energy, and Natural Resources of the Committee on Government Operations, I had the opportunity of observing the recording of the sound levels of the Concorde landings yesterday. The recordings were made at an official FAA monitoring site approximately 1½ to 2 miles from the end of the runway.

I thought the Members would be interested in the unofficial readings, along with those of subsonic aircraft that arrived imediately before or after the Concorde.

The unofficial readings, in order of the plane arrivals, were as follows:

Boeing 727, 113.2 decibels.
Beechcraft Bonanza, 108 decibels.
Douglas DC–9, 112 decibels.
British Concorde, 116.5 decibels.
French Concorde, 112.7 decibels.
Boeing 707, 118 decibels.

The FAA plans to monitor every Concorde flight during the 16 months' trial period and to make monthly reports on environmental effects of the Concorde available to the public.

This should assure that any final decision on Concorde will be made on a solid data base.

UPON INTRODUCTION OF A RESOLUTION TO EXPRESS THE SENSE OF THE HOUSE OF REPRESENTATIVES IN THE STORAGE OF HELIUM BY THE GOVERNMENT

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, the necessity for the development of new techniques and alternative energy resources to meet the Nation's vast energy needs is something which we as Members of Congress must face daily. In the first session of this Congress, I introduced the Helium Storage Act of 1975, a bill intended to meet those projected energy needs by conserving and storing a vital natural resource—helium.

H.R. 1503 would authorize and direct the Secretary of the Interior to store non-Federal helium in the Government underground storage facility near Amarillo, Tex. Since introduction of this bill, the Bureau of Mines, after years of delay and numerous lawsuits by helium conservation contractors, saw fit to begin offering contracts to store privately owned helium. I commend the Bureau of Mines for that action. However, after this initial and what I believed to be a giant step forward, I find that the amount of helium being contracted for storage is minimal. Certainly, the negligible amount presently being contracted will be nowhere near enough to supply the expected needs of the Nation for this vital natural resource in the coming years. The exhaustion of our helium resources which are vented into the air if not conserved and stored would wipe out critical research efforts in the fields of low temperature and solid state physics, as well as superconductive powerlines and magnets.

Therefore, Mr. Speaker, I am introducing a resolution today to express the sense of the House of Representatives that the President of the United States should direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere. I am hopeful that my efforts as well as those of my colleagues in the Senate, particularly Senator DOMENICI who was successful in having a similar resolution approved by the Senate on May 13, 1976, will result in a concerted effort by the Government to store and conserve helium in the future.

PROVIDING FOR CONSIDERATION OF H.R. 10138, YOUNG ADULT CONSERVATION CORPS ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1209 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1209

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10138) to create the Young Adult Conservation Corps to complement the Youth Conservation Corps. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. LONG of Maryland. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. HALEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 301]

Abzug	Giaimo	Rees
Allen	Goldwater	Reuss
Anderson, Ill.	Gonzalez	Rhodes
Andrews, N.C.	Goodling	Riegle
Ashley	Hamilton	Risenhoover
AuCoin	Hébert	Rodino
Bell	Helstoski	Roncalio
Bergland	Hinshaw	Rose
Bingham	Hungate	Sarbanes
Boggs	Jarman	Satterfield
Breaux	Jones, Ala.	Scheuer
Brown, Mich.	Jones, Tenn.	Schneebeli
Butler	Karth	Schulze
Carter	Landrum	Stanton,
Cederberg	Litton	James V.
Clay	McCloskey	Steelman
Conlan	McKay	Stuckey
Conyers	Madden	Sullivan
de la Garza	Mazzoli	Symington
Dent	Miller, Calif.	Teague
Derwinski	Mills	Thornton
Diggs	Mineta	Udall
Duncan, Oreg.	Morgan	Walsh
Edwards, Ala.	Mosher	Waxman
Erlenborn	Neal	Weaver
Esch	Nix	Wydler
Fisher	O'Hara	Young, Alaska
Flynt	O'Neill	Zeferetti
Ford, Tenn.	Patten, N.J.	
Fraser	Quillen	

The SPEAKER pro tempore. On this rollcall 344 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further pro-

ceedings under the call were dispensed with.

YOUNG ADULT CONSERVATION CORPS ACT

The SPEAKER pro tempore. Prior to the rollcall the Chair had recognized the gentleman from Florida (Mr. PEPPER) for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1209 provides for an open rule, with 1 hour of general debate on H.R. 10138 to be equally divided and controlled by the chairman and ranking minority member of the House Committee on Education and Labor. After general debate has been completed, the bill shall be read for amendment under the 5-minute rule. House Resolution 1209 makes in order the consideration for amendment of the committee substitute now printed in the bill as an original bill.

The Young Adult Conservation Corps Act, which I cosponsored, complements the Youth Conservation Corps enacted in 1970. The bill would create a year-round program to provide employment and other benefits to young adults while reducing the large inventory of conservation work and completing many urgently needed other projects of a public nature on the lands and waters of the Nation.

The total appropriation authorized by the bill for fiscal years 1977 through 1981 is $9,150 million. An estimated 1,200,000 jobs would be provided over that 4-year period.

Young adults ages 19 to 24 shall be employed under the law a maximum period of 12 months, either in one continuous period or two or more periods which together total 12 months and shall be paid the current Federal minimum wage set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938. Preference for employment shall be given to those individuals residing in counties having an unemployment rate equal to or in excess of 6 percent for 3 consecutive months, as determined by the Secretary of Labor.

The legislation also extends the grant program for State projects required by section 104 of the act to allow State participation in the development and preservation of non-Federal public land and water within the States.

The Secretaries of the Interior and Agriculture are instructed to formulate a plan to implement the act and to submit such a plan to the Congres not later than the 240th day following enactment for approval by either House within 60 days. The plan is to give priority to control of insects, diseases, soil erosion, floods and forest fires, trail and campground improvements, reforestation and timber stand improvements on public lands of the United States.

Mr. Speaker, I recall the great depression of the thirties when President Franklin D. Roosevelt proposed the Civilian Conservation Corps. This program provided, as we will recall, 3 million jobs for young men and enriched our land with the completion of many parks and conservation projects.

Mr. Speaker, the assets conserved more than any other was the lives and health and the character of the young men who got the benefit of that CCC program.

Since that time, unemployment especially among minority youth has continued to concern the Congress and it has been exacerbated by the recent recession. There is no dispute about the fact that a large percentage of the unemployed youth are school dropouts, and the chief of police of the city of Miami told me that 9 out of 10 of the school dropouts were, shortly after they dropped out of school, incarcerated in programs under the jurisdiction of the courts because of their commission of serious crimes. I have been told further that 50 percent of the young people who are involved in the juvenile courts for serious crimes eventually wind up in the major penal institutions of this country. There is no dispute about the fact that a large percentage of unemployed youth are school dropouts and the idleness and despair of these young people drive many of them to the commission of crime. According to the FBI Selected Crime Index, a study of total arrests during 1973 revealed that youth under the age of 25 accounted for 55.2 percent of the total arrests recorded nationally. The index includes crimes of murder, forced rape, theft, and auto theft. Juveniles under the age of 18 accounted for 44.8 percent of the total arrests in the Nation and 50.8 percent of all arrests involving property.

The Young Adult Conservation Corps Act, I am confident, will have a significant impact on the reduction of crime.

Mr. Speaker, I want to say that having been chairman of the House Select Committee on Crime under the authority of this great House, I have discovered that the most productive returns that we get for the expenditure of public moneys with respect to crime is money spent toward the prevention of crime.

We all know that we have got to have courts, and I hope the Committee on the Judiciary—if I may say so here with respect—will very shortly report out the omnibus judges bill so that there will be the necessary judges in the Federal courts of this country to handle the criminal cases that are pending before those courts. Of course, we need courts; of course, we need law enforcement officials; of course, we need penal institutions; of course, we need instruments of reform, but as I say, I believe experience all over the country indicates that the best return we get on the dollar spent against crime is in the prevention of crime.

We must try to keep these young people from becoming criminals, getting involved in crime, and the best way to do that is to try to turn their lives from a negative approach, which leads to crime, to a positive approach, which leads to good citizenship and the making of valuable contributions.

Before our committee there was a witness who told of two instances which I think might be of interest. One was a juvenile judge in Fort Lauderdale, Fla., by the name of Judge Orlando. This judge took 10 young people out of the juvenile court and put them into a program of special instruction having to do with maritime affairs. Now, remember, these boys had bad records in the juvenile court of Judge Orlando. After they got into this maritime training program, at the end of 11 months the judge said that not one of them committed any crime; not one of them had dropped out of the training program; one of them had gotten a job paying $5,000 per year in Orlando, Fla., and the other 11 were approaching graduation, having learned something that would enable them to get a decent job when they got out. The point was that after 11 or 12 months they had all stayed in the program, and were headed for a good life.

The second instance was that of a nationally known man who made a lot of money in the realty field. That man took five boys who had bad records, and with one assistant accompanying them, took those five boys on a 6-month trip from the Pacific to the Atlantic by canoe. Not a single one of those boys dropped out of the program. Not one was involved in crime during the course of that 6 months, and the probability was that he may have turned those boys around and made useful citizens out of them instead of dangerous criminals.

So, this bill we have here today is very meaningful, not only toward the public land and waters of this country, but for conserving—even more importantly—the youths of this country. This Congress must provide programs to take our Nation's unemployed youth off the streets, off unemployment insurance, off food stamps, and off welfare.

This legislation provides one means to do this by putting these young people to work on projects that are essential to the preservation of our Nation's resources, and will benefit all America. I hope, therefore, Mr. Speaker, that this rule will be adopted by the House and that we may proceed to the consideration—and I hope the enactment—of this very meaningful program brought out by the Committee on Education and Labor.

Mr. PEPPER. Mr. Speaker, I now yield to the able gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman from Florida for yielding to me, and for his explanation of the rule and the bill. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1209 provides for the House to resolve itself into the Committee of the Whole for consideration of H.R. 10138, the Young Adult Conservation Corps Act, under a 1-hour, open rule. The rule further makes in order the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for purposes of amendment.

The objective of H.R. 10138 is to create the Young Adult Conservation Corps, an expansion of the Youth Conservation Corps. The Secretaries of Interior and Agriculture are instructed to extend the Youth Conservation Corps to make possible year-round employment of young adults ages 19 to 24. To carry out such work projects as control of insects, dis-

eases, soil erosion, floods, and forest fires, trail and campground improvements, reforestation, and timber stand improvement on public lands in the United States, the Secretaries are authorized to submit a plan to Congress not later than the 240th day following enactment for approval by either House within 60 days.

Enrollees in the corps will be paid for a maximum of 12 months at the current Federal minimum wage. Preference for employment will be given to those individuals residing in counties having an unemployment rate equal to or in excess of 6 percent for 3 consecutive months. Finally, the bill extends the grant program for State projects to allow State participation in the development or preservation of non-Federal public land and water within the States.

The estimated cost of this legislation is $9.150 billion over the next 4 years. It is my understanding, however, that amendments will be offered when the bill is considered on the floor to reduce this authorization level.

Mr. Speaker, there are no objections to the passage of this rule of which I am aware; and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10138) to create the Young Adult Conservation Corps to complement the Youth Conservation Corps.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10138, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10138, a bill to create the Young Adult Conservation Corps to complement the present Youth Conservation Corps, which provides employment to youths age 15 through 18 for no more than 90 days during the summer months.

The purpose of this legislation is to provide year-round employment for young adults, age 19 to 24, in environmental work on public lands of the United States. This bill represents a major national commitment to place unemployed young Americans in job opportunities in conservation activities that currently go unfilled. The provision of meaningful employment for young adults should alleviate the growing rate of crime among our jobless youth.

There is a backlog of unmet needs for improvement in the national parks, in reforestation, in insect, flood, disease, and erosion control, and forest fire fighting. The bill under consideration today provides the vehicle for matching out-of-work young people with jobs that, absent this legislation, would go undone.

There is ample precedent for this measure. First, we have the example of the highly successful Civilian Conservation Corps initiated during the depression by President Franklin D. Roosevelt. That first Conservation Corps served this Nation well in the 1930's by providing much-needed productive jobs for the unemployed. The results of this early program can still be seen today in our national parks and other public lands.

The American Forestry Association, testifying before the Manpower, Compensation, and Health and Safety Subcommittee on November 20, 1975, stated that some of the greatest gains on national forests and other public lands in American history were made by the Civilian Conservation Corps. The saving of human resources through the availability of work opportunities in the CCC is incalculable, but certainly it is of equal importance.

In 1970, this subcommittee considered, and Congress passed, a pilot Youth Conservation Corps, Public Law 91-378, patterned after the earlier CCC. The pilot program provided gainful summer employment for young people age 15 through 18 in the national parks, forests, and other public lands and waters. This program proved so successful on the national level that in 1971 Congress passed Public Law 92-597 which added a pilot grant program for State projects.

By 1974, it was readily apparent that the Youth Conservation Corps had demonstrated a high degree of success as a pilot program. Accordingly, Congress passed Public Law 93-408 to make the YCC a permanent program to further the development and maintenance of the natural resources by the youth of America, and in so doing to prepare them for the ultimate responsibility of maintaining and managing these resources for the American people.

Today, this committee is bringing before you H.R. 10138, a bill which will augment the existing summer program aimed at serving the group of Americans who face the greatest problems in finding productive employment—young adults. Pages 1 and 2 of the committee report No. 94-1146 detail the devastating statistics on youth employment. During 1975, the jobless rate of young people age 20 to 24 was 13.6 percent. The official estimate of the unemployment rate for young people age 16 to 19 was 19.9 percent.

These statistics are no less than a national disgrace. What these figures cannot adequately portray are the young lives that are wasted or the hopes and ambitions that are frustrated because no meaningful work opportunities are available. Such frustrations and thwarted ambitions often doom these young Americans to a life of crime, and the repercussions of their criminal activities adversely impact our entire society.

H.R. 10138 would provide these young people with jobs in conservation projects on public lands of the United States. In addition, grants can be made to States to assist them in developing projects to employ young adults for preservation and maintenance of non-Federal public lands and waters within the States.

The manpower, compensation, and Health and Safety Subcommittee held 2 days of hearings on H.R. 10138 and related bills in November 1975. The bill was reported by the subcommittee on April 29, 1976; and, on May 6, 1976, H.R. 10138, as amended was reported by the full committee.

The bill will be administered by the Secretaries of the Interior and Agriculture. The current Summer Youth Conservation Corps is administered by these two departments, and the experience gained with the YCC will insure the efficient and rapid implementation of this new program. Let me assure my colleagues that H.R. 10138 will not alter the present summer YCC program nor is it the intention of this committee that appropriations for the present YCC be diminished or that the Departments of Interior and Agriculture reduce their efforts in administering the YCC.

One amendment adopted by the full committee provides that, in addition to young adults age 19 through 23, young people ages 16 through 18 who are high school graduates are also eligible. In the case of young people age 16 through 18 who have dropped out of school, sections 202(1)(B) and 204(1)(B) authorizes the Secretaries of the Interior and Agriculture to establish criteria to determine that such individuals did not drop out of school for purpose of obtaining employment in the Young Adult Conservation Corps.

It is the intent of the committee to provide useful work opportunities for young adults age 16 through 18 since many of these teenagers are unemployed. However, the bill is not designed to encourage dropouts to interfere with young people receiving high school education. It is important, therefore, that the departments' secretaries who administer this act carefully review applications of young adults age 16 through 18, who have not completed high school, to insure that such individuals did not leave school for the purpose of obtaining employment in the Young Adult Conservation Corps.

The committee believes that this new 12-month program for young adults will have two desired results. First, to the extent that the young people enrolled in the program would have been unemployed, on welfare roles, or food stamps, H.R. 10138 will have a positive social effect by providing productive employment and giving young adults work experience and firsthand knowledge of the many activities that need doing in the Nation's public lands.

Second, the consequences of the work of these young adults will be of lasting benefit to all Americans. The many tourists, for example, who will visit our national parks and forests in this Bicentennial Year may find, much to their dismay, that such facilites are understaffed, that paths and trails and bridges are in disrepair, that water is polluted, and there are inadequate facilities to accommodate backpackers and other tourists. It is tragic that in this great country which is blessed with such beautiful and diverse resources that the administration's budget belt-tightening is hindering the enjoyment of these natural wonders.

There has been some criticism that this bill does not meet the needs of disadvantaged youth, nor does it train young people for long-term jobs. Let me say that we already have legislation in effect designed to serve the disadvantaged youth through training and work experience. I thoroughly support the programs under the Comprehensive Employment and Training Act and believe that the administration should join me in advocating a massive infusion of funds into CETA for its youth employment programs.

The bill before us is designed to provide an additional and different type of employment opportunity for young adults—an opportunity not provided under CETA. Because the conservation projects will be conducted in national parks and public lands, this program is rightly administered by the Departments of the Interior and Agriculture rather than the Department of Labor which is responsible for CETA programs. H.R. 10138 does target its efforts at areas of high unemployment by giving preference to young adults who reside in counties which have an unemployment rate of 6 per cent or more for 3 consecutive months.

Finally, this bill will enable all regions of the country to have Young Adult Conservation Corps projects through a grant program to States for projects to provide employment to young adults to develop, preserve, and maintain non-Federal public lands and waters within the States. This will be an incentive for those States which do not have large Federal parks or other Federal lands to develop their own projects to employ young adults.

I urge my colleagues to support H.R. 10138, it is time for this Congress to declare its commitment to meet the needs of millions of young adults for meaningful employment and to simultaneously help reduce the backlog of work on our public lands.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I certainly want to compliment the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) for his leadership in the enactment of this very important legislation.

Mr. Chairman, I am pleased to rise in support of H.R. 10138 which would create the Young Adult Conservation Corps to provide a year-round program of employment for young adults in conservation projects on our Nation's public lands and waters.

The Young Adult Conservation Corps is patterned after the existing Youth Conservation Corps program. I am sure all of us are familiar with the overwhelming success and popularity of the Youth Conservation Corps through the individual projects within our own States. The Youth Conservation Corps was originally enacted by the Congress in 1970 as a pilot program to provide employment during the summer months for young men and women in conservation work in Federal forests and parks. Young men and women between the ages of 15 and 18 years of age work, earn, and learn together by doing projects which further the development and conservation of our natural resources. The Corps is open to youth of both sexes and youth of all socioeconomic and ethnic backgrounds.

Because of the unqualified success of the Youth Conservation Corps, the Congress in 1974 made it a permanent program and expanded it to include State participation for conservation programs on non-Federal public lands and waters. States are eligible to receive this grant which provides 80 percent Federal funding with only 20 percent State matching.

The purpose of H.R. 10138 is to complement the Youth Conservation Corps by creating a year-round program called the Young Adult Conservation Corps to provide employment and other benefits to young adults in conservation projects on our Nation's public lands and waters. H.R. 10138 would serve the dual purposes of alleviating the chronic unemployment situation among young adults while at the same time reducing the backlog of work on our public lands and waters.

According to the Department of Labor, the overall unemployment rate for young adults aged 20 to 24 was 13.6 percent in 1975. The unemployment rate for minority youths is much higher. While these young people go jobless, the backlog of conservation work on our public lands continues to increase. H.R. 10138 would provide the opportunity for effective and productive employment for our young adults between the age of 20 to 24.

I am also pleased that the bill allows for State participation in the Young Adult Conservation Corps with the same matching requirements provided under the Youth Conservation Corps. I hope all States will take advantage of this important new program.

For these reasons, I urge my colleagues to vote for H.R. 10138.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I thank the gentlewoman from Hawaii (Mrs. MINK) for her comments.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to commend the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) for his leadership in this very important matter and for his statement.

I support H.R. 10138.

H.R. 10138 reinstitutes the concept that was so successful during the depression under the name of the Civilian Conservation Corps, the CCC. President Roosevelt created the CCC to combat the idleness and despair that attended the massive unemployment of the day. Three million young people regained their self-respect along with regular paychecks and steady work. In the process, our national parks and forests were bettered immeasurably.

Today, in the midst of the current recession and despite the slow, painstaking drop in unemployment nationwide, unemployment remains high in certain regions and for certain parts of the population. Most heavily represented in the latter group, as my own area is in the former, is youth. In the 16 to 19 age group nationally, 19.9 percent are unemployed. In the grouping, 35.4 percent of nonwhite boys and 38.5 percent of nonwhite girls are without jobs. In the 20 to 24 age group, the national unemployment rate is 13.6 percent; unemployment for nonwhite males is 22.9 percent, for nonwhite females 22.5 percent.

Mr. Chairman, while our Nation's youth are idle, projects ranging from major reforestation to garbage collection are put off or neglected because of the lack of people to do them. Many of these needs cannot be met by members of the highly successful Youth Conservation Corps because the projects in question are seasonally unreachable by YCC workers. Often too, activities require peak and weekend concentrations of labor that neither park service nor YCC staff can handle.

The needs on both sides of this equation, therefore, are such that a Young Adult Conservation Corps to complement and assist our present effort in the national park system is greatly needed. My own experience with the CCC convinces me that such a program can be rewarding, richly rewarding, for these young people and, in particular, for the millions of Americans who use our park and forest system each year. In this year of our celebration of the Nation's 200th birthday, when so many more Americans and foreign visitors will be using these great natural resources, it behooves us to make a greater effort to make the Bicentennial an occasion truly worthy of the buildup we have given it. I believe that the Young Adult Conservation Corps will assist us in our Bicentennial housekeeping. More important, it will relieve the pressure we now experience in so many of our national recreational facilities in serving those who use them. Most important of all, the YACC can further dampen the impact of unemployment as it reinforces the self-respect of the youths who will be involved in its operations. I urge a favorable vote on this outstanding proposal. Its worth is well established by its predecessor organizations. May we all be able to enjoy the fruits of the YACC's operations in the near future.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. DOMINICK

V. DANIELS), for bringing before the committee such an important piece of legislation.

To my way of thinking, one of the great failures of the Congress has been its refusal to inaugurate an effective conservation program for the public lands and forests for the improvement, operation, and maintenance of our public parks, utilizing the hundreds of thousands of young people 16 years of age through 25 years of age who are out of school, unemployed and looking for job opportunities.

In 1961 the House Education and Labor Committee reported my bill H.R. 8354 to authorize training and employment programs through the establishment of a youth conservation corps. Although no action was taken by the full House, the following year the House Education and Labor Committee reported my bill H.R. 10682 to accomplish this purpose. Only on a small scale did we finally authorize youth conservation work in the national parks and forests as a component of the Jobs Corps. In 1962 the number of youth between the ages that would benefit from such legislation that were out of work and out of school were 700,000, reflecting an unemployment rate for that group of 13 percent. As we consider this legislation the corresponding numbers for youth unemployment at this time are even more significant—an unemployment rate of almost 20 percent.

Every year each of us can point to situations in which it would have been greatly to the public benefit if we had in place a youth conservation corps. During the past several weeks a prolonged dry spell has produced a serious threat of fire in the Daniel Boone National Forest and the actual number of outbreaks have exceeded any of those that I can recall in the past two decades. Our Nation's forests, our Nation's streams, our Nation's soil lying within our public forests and lands are a precious trust that we owe future generations an obligation to preserve and enhance. Our youth are also a precious trust which we must not waste when the opportunity for constructive employment, useful training presents itself in conservation and preservation, public work or our public lands and forests.

Two years ago in a bill sponsored by the gentleman from Washington (Mr. MEEDS), myself and others, we passed on a small scale the Youth Conservation Corps bill for the summer months. But this is the first legislation that will enlarge upon that experience and give us a year-round program.

Mr. Chairman, this is an outstanding piece of legislation and I would urge each member of the committee to support it.

Mr. Chairman, H.R. 10138 creates a year-round program of work projects on the public lands and waters of the United States. Those eligible are all young adults age 19 to 24, and those age 16 to 19 who have completed high school or have otherwise left school and can satisfactorily demonstrate that they did not do so in order to seek employment under this act. The type of work to be performed will include: erosion control and flood damage projects; recreation development, rehabilitation and maintenance; wildlife habitat improvements; range management improvements, tree nursery operations, planting, pruning and thinning; forest insects disease controls; road and train improvements; wildlife preservation; and general sanitation, clean-up and maintenance of public lands. All projects are required to be relatively labor intensive and productive.

The work in national parks and forests will be administered by the Departments of Interior and Agriculture, respectively. A certain percentage of the funds appropriated under this legislation will be set aside for distribution to States in order for them to establish similar kinds of programs in State parks, forests and other State lands and waters. The targeted amount of this set-aside is 30, but this may be subject to later adjustment if, in the reports setting forth plans for implementing this legislation, the Secretaries of Interior and Agriculture recommend a different figure which, in turn, is accepted by the Congress.

Section 202 of this bill establishes the eligibility requirements for employment. In addition to the age requirements I have already mentioned, the bill requires that applicants be determined to be physically capable of carrying out the work of the Corps, that they may be employed for not more than 12 months, and that a preference for employment be given to young adults residing in counties having an unemployment rate of 6 percent or more.

Section 203 establishes the type of work to be undertaken, which is as I have already described, and establishes the authority of the Secretaries of the Interior and Agriculture to operate these programs to provide transportation, lodging, and other services and equipment deemed necessary or appropriate. They are also directed to use military and other Federal facilities, where appropriate, which have unused space available for housing Corps members. This section also requires that young adults be paid not less than the Federal minimum wage.

Section 204 enables States to establish projects and programs on non-Federal public lands and waters within their boundaries similar to those being conducted by the Secretaries of Interior and Agriculture on Federal lands and waters. The section requires that 30 percent of the funds appropriated each year be reserved for this purpose, subject to such adjustments as Congress may later make after receiving the recommendations of the Secretaries of Agriculture and Interior.

Section 205 requires the Secretaries to jointly prepare and submit a report to the President and the Congress on February 1 of each year detailing the activities carried out under this new title for each fiscal year. This report should also contain their recommendations for any changes they deem appropriate in the operation of the program.

Section 206 directs the Secretaries of the Interior and Agriculture to prepare a plan to carry out the activities authorized by the new title. The plan must contain estimated annual costs, the procedure for selecting candidates, and a list and description of the proposed work projects along with the site locations and facilities. The Secretaries have been instructed to plan for the employment of 100,000 young adults during the first year of operation, 300,000 during the second year, 400,000 during the third year, and 500,000 during the fourth year.

Section 207 contains authorizations of appropriations—$50 million is authorized to be appropriated for the start-up costs of planning, site preparation, et cetera. The bill, as reported, contains specific dollar authorizations, but these will be stricken by an amendment to be offered by Mr. QUIE which will substitute in their place authority to appropriate "such sums as may be necessary."

Mr. Chairman, the unemployment statistics among our young people are staggering. It is so important that we find work for these people, and I can think of very few things that would be more rewarding or satisfying than to perform useful and needed projects on the public lands and waters of the United States. The pride and sense of accomplishment that comes from performing a worthwhile job well is something we should nurture wherever we can. I urge your support for this bill.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I want to thank the distinguished gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor, for his support and contributions toward this legislation.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I rise in support of this bill.

With the amendments to be proposed by Messrs. PERKINS, QUIE, and MEEDS, I believe it can be a fitting vehicle for providing jobs and—hopefully—job training for a group of young people just starting out.

Like many of our Members, I entered the world of work during the depression. In my case there was no work.

It was a period of hopelessness, of frustration.

And it was a time in my life when a job—any job—was beyond my grasp.

I am a product of the Civilian Conservation Corps, and the months spent in the group provided the means of keeping body and soul together.

One of my primary objections to public service projects is that they are dead-end jobs, providing no lasting benefit to the jobholder or the taxpayer.

We are in a period now when we must decide whether Federal policy will encourage maintenance of our free market economy. Too much attention is being devoted to a patch-and-paste approach.

I remain committed to private sector job creation but this bill is an exception.

While I question the cost estimate of the Congressional Budget Office, and believe the jobs can be provided at a lower figure, there are certain positive features in the legislation.

Highly desirable projects in our National Parks and National Forests will be completed.

Young men and women will acquire

some skills, and will know the satisfaction of reward for work performed.

It is my intention to support this bill if not incumbered by unacceptable amendments, and urge my colleagues to, also.

It is unusual for me, Mr. Chairman, to support public service jobs because they usually lead to a dead end, or that has been my experience, but I was a member of the CCC. I might add also, Mr. Chairman, that I had an extra stint with them because I was the pitcher on the baseball team.

But that was a good program and I believe this is a good program. I believe this will take the people that the gentleman from New Jersey has been alluding to off the streets. I believe those people can do a productive job in this type of environment.

As the gentleman from Kentucky (Mr. PERKINS) said, there is a great need at the present time for us to enhance our forests and our national parks. I think this is good legislation. I think this is good legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I thank the gentleman from Virginia (Mr. DAN DANIEL) for his comments. I wish to assure the gentleman that I am personally well aware of the fine work done by the Civilian Conservation Corps in the 1930's. In fact, I was responsible for assisting and helping many young men enroll in that program. I have seen those young men return home to my district and become some of the leading citizens in the community.

Mr. DAN DANIEL. Mr. Chairman, may I say further that it provided this Member the means of holding body and soul together. I thank the gentleman for his efforts.

Mr. QUIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, later on when we get into the amending process, I am going to offer some amendments that I think will correct the difficulty I have with H.R. 10138 and in talking to the Members on both sides of the aisle I think we have got it worked out so that there will not be any great controversy over the amendments that I will offer, but I will talk about them later.

Mr. Chairman, let me talk first at this time to indicate to the Members that I think the concept of the legislation is good. I thing the concept is good for two reasons. The first reason is that we have on public lands in this country, federally owned, where work needs to be done that is not being accomplished. For instance, the planting of trees. Right now about half of the land that is cut over because the timber is ripe and is harvested is being replanted; 3 million acres needs to be replanted. The rule of thumb, as I understand it, is that about 30 percent of the forest lands of this country are privately owned and produce about 70 percent of the timber, and that about 70 percent of the forest land is publicly owned and produces only about 30 percent of the timber. Part of the reason for this undoubtedly is that the more productive forest lands may be privately held, but if we did provide the kind of work for the improvement of the forest lands that is needed I believe we could dramatically increase the amount of timber produced in this country.

If any of the Members here have talked to some of the homebuilders who have been around town this week, they will know that the price of timber is going up, and those prices will continue to move upward if we continue to handle the public timberland the way we have been doing in the past, the prices will keep going up more and more because we will not have enough timber.

It will represent a tremendous asset for this Nation if we would produce more timber on the publicly held lands. If we were to consider only the production of timber, this bill would be a good bill, but one only has to go to our national parks to see that many are overpopulated by visitors and it is a very difficult matter in these national parks to keep the pollution down and to handle them in a way that will not destroy our national parks. The same is true with some of the wilderness areas and other jurisdictions of our Forest Service that are being used for recreational purposes.

We need people to go out and police the campsites in order to make certain that they are handled right so that they will not be ruined by too many people, by too many horses, or by any other thing that is destroying them.

The second reason for this bill is the employment of young people that we recognize that of the unemployed in this country, which stands at 7½ percent, half of them are below the age of 25. I repeat half of the unemployed are below the age of 25. This bill addresses itself to those individuals, and many young adults are having a difficult time getting employment. Many unemployed over 25 are sort of waiting out the slowdown of the economy so that they can get called back onto their old jobs again. But of those unemployed under 25, most have not been employed before, or have only held dead end jobs.

But the opportunity for employment in this program, under the Young Adult Conservation Act is to gain work experience and work skills. We combine work on public land which needs to be accomplished and young people who need employment so I think we have an excellent piece of legislation here.

It has been bothering me for years as I have seen the Forest Service reduce the summer employment of young people and reduce the effort on maintaining trails, reduce their effort on erosion control, reduce their effort really on improving timber stands. The Department of Agriculture, in just the Forest Service alone could employ youth totaling 260,000 man-years right now without any additional preparation. With funds appropriated, they are ready to hire right now.

The Department of the Interior indicates they could hire about 750,000 man-years. Also the bill also adds here at the beginning of the program that 30 percent of the money will be used for State forestation and State parks.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

In full committee I had to oppose this particular piece of legislation. I did so primarily because there was a tremendous buildup in expenditures from $50 million to $9.1 billion, over a period of 4 years. It appeared to me that we were going about the whole thing in reverse. The need was now and the need may not be in 1978 and 1979.

If the gentleman's amendment is adopted, I understand it would call for funding of this particular year's operation.

Mr. CHAIRMAN. The time of the gentleman has expired.

Mr. QUIE. Mr. Chairman, I yield myself 2 additional minutes, and I yield to the gentleman from Pennsylvania.

Mr. GOODLING. We would have to then come back after we see how it is working and how the economy is moving for any future requests. For that reason, then, even though I realize that we are not going to create permanent jobs through this effort, we are going to take the chance that we can provide jobs for young people at the present time so that they can do something constructive, rather than provide opportunities for them to continue a life of pot, frustration, and destruction. If the gentleman's amendment is approved, then I can wholeheartedly support the program for our initial year's effort to see whether or not we can make a difference at this particular time.

Mr. QUIE. I thank the gentleman. What the gentleman is referring to is that we have the $50 million that is in the budget resolution and, therefore, the $50 million for planning and getting started on these sites in this bill is within the budget resolution.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I was wondering was there any testimony before the committee by the Department of the Interior or the Department of Agriculture with respect to BLM and Forest Service lands, say, on timber thinning or stand improvement, and so forth, whether this work could be done so they could get farther with the same amount of money if they just allowed them to contract out to subcontractors, and not actually run a conservation corps, but if the forest rangers had the funds and could subcontract out the jobs, the end result would be the same.

Mr. QUIE. I do not recall on that. If the gentleman from Washington would like to respond to that question, I will yield to him. That is on the question of the difference in cost by running it through the Young Adult Conservation Act as compared to contracting it out. My own information that I have outside of the testimony would be that it would be less expensive under the Young Adult Conservation Act.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I will yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

The gentleman is absolutely correct. It would be substantially less expensive this way, and it would also fill the other need which the gentleman from Minnesota discussed, that is, the unemployment of young people below the age of 25.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Idaho.

Mr. SYMMS. I appreciate the gentleman yielding.

I was just wondering about this. The gentleman from Washington says it is substantially less expensive but it is hard for me to fathom how it would be when we would have to pay to transport the worker from Baltimore, Md., to headquarters in Idaho on something like this.

Mr. QUIE. If the gentleman will stop right there, there is no requirement in this bill that we would have to pay the transportation of the person from Baltimore, Md. out to Idaho.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. QUIE. Mr. Chairman, I yield myself 3 additional minutes.

Mr. SYMMS. Mr. Chairman, if the gentleman will yield further, the gentleman from Washington may be right. I know there is a great deal of work that could be done on timber stand improvements in our national forestland. What we are trying to get at is, does the forest ranger have a few employees turned over to him or are they working for the Department of HEW?

Mr. QUIE. They will work for the forest rangers.

Mr. SYMMS. So the ranger would have slots for those jobs and people could apply for the jobs. But it would not be done on the basis of subcontracting out to do so much timber, or something like that?

Mr. QUIE. That is right.

Mr. SYMMS. I thank the gentleman for the clarification.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first let me compliment the gentleman from Minnesota for supporting such an important piece of legislation.

The gentleman well knows that the timber stands and the ripe timber in the national forests and in the national parks today are to a great extent over-ripe and much of it is just falling down. Without being cut up or marketed or anything else this timber represents millions of dollars every year which is going to waste because of this situation. We should have done something about this problem years ago, but we have neglected to do anything about the ripe timber that is just falling down in the forests and parks.

To my way of thinking this alone will save the Government tremendous amounts of money in the long run. Unless we go about it this way and have the crews on hand through the Young Adult Conservation Corps, we are not going to have the people to do the conservation work that needs to be done in the national forests and the national parks. The proof of the pudding is the fact that nothing has been done along this line except to a very limited degree over the past 15 or 20 years.

Is my statement correct?

Mr. QUIE. Yes, I would say the gentleman is correct.

I have indicated earlier that if this was the only thing in the bill that it would be very worthwhile but let me add for the gentleman from Massachusetts, and I want to point out to Members from other areas as well, that this may be closer to home than some of the Members may realize. One point is the Fish and Wildlife Service will be able to pick up some of the young adults, and while Federal forests or national parks may not be in the area of the gentleman, there may be a river where the Fish and Wildlife Service has a responsibility in part and they will be able to hire some of the younger people.

Also some of the Members in the rural areas of America have noted the tremendous work the Soil Conservation Service has done. The Soil Conservation Service has been pulled down to a point where they do not have the personnel necessary to do the work to prevent soil erosion, and other soils work. They too would be able to use some of these young people in the Soil Conservation Service.

I am laying this out for the other Members so they will understand there is really a very worthwhile work that the young people of this Nation can do to help our country and this program will not have the problems that makes Public Service Employment of the Comprehensive Employment and Training Act so expensive, ineffective and generally a waste of Federal money.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to join the gentleman in the well. I cosponsored this bill with the gentleman from Washington (Mr. MEEDS).

Mr. Chairman, I rise in support of the bill to create the Young Adult Conservation Corps (H.R. 10138).

I am so pleased to see a piece of legislation that I have advocated ever since I entered this Congress in 1959 come to the floor. We have moved in all directions to counter our serious rate of unemployment. However, we have yet to come up with a program that will do more than create "make-work" jobs. Passage of the Public Works Capital Development and Investment Act of 1976 (H.R. 12972) which was the resurrected title I of the vetoed major public works bill is a positive step forward. That legislation will result in the construction of public buildings that will last for a long time. We are still using many of the buildings erected during the WPA programs in the 1930's and 1940's. This is the most effective manner to combat unemployment. It results in an obvious benefit to those employed and a substantial return on investment for taxpayers.

This is exactly what the legislation before us will do. Just as the WPA was the successful predecessor of our modern public works programs—the CCC or civil conservation corps is the predecessor of the legislation now before us. Just as I was cosponsor of the public works bill, I am a cosponsor of this legislation to create the Young Adult Conservation Corps.

We have been pleased at the tremendous success of the Youth Conservation Corps which employs young Americans across the country on projects to restore the natural beauty of our wildlife reserves and national parks during the summer months. This legislation will serve as a means to maintain our national parks and wildlife refuges on an annual basis.

It is most important to note that the jobless rate among the 20- to 24-year-olds is now in excess of 13.5 percent nationwide. This legislation could serve to reduce that rate by employing these young citizens in our national parklands, by teaching them important skills and substantially assisting the maintenance programs on these Federal lands. At present, the national parks are severely understaffed. The conditions that exist in some areas are deplorable. I urge Members to read the report at pages 2–4 which describes the serious conditions in our national parks.

I should now like to just highlight one point made in the report which illustrates the need for this legislation. Montana's Glacier National Park had 72 permanent personnel and 291 part-time seasonal personnel in 1963 to handle and "pick up after" 800,000 visitors. In 1975, the visitors had doubled to 1.6 million while full time staff decreased to 56 and part-time personnel were cut to 273. The end result is obvious. The parks are not being adequately patrolled for fire hazards, grounds are not being adequately maintained, and necessary bridges and buildings are not being repaired. This condition must not continue.

This legislation can solve an urgent need. The Director of the National Park Service so aptly described the state of affairs when he said, "the Service has a case of growing pains just at the point when our fiscal policy prescribed belt tightening." This legislation will work to reverse the problem in our national parklands as well as reducing a tremendously high rate of unemployment suffered by young Americans. Additionally, this legislation will teach skills that can be used after the employee leaves the program.

I have been an advocate for employment legislation since my early days in the Massachusetts Senate in the early 1950's. I have always been concerned about the effectiveness of the Comprehensive Educational and Training Act—CETA—because it did not seem to be responsive to the needs of the people in several programs. For a long period of time during our most severe periods of unemployment, CETA was all we had. It is certain that our main objective is to put food on the table. However, our next consideration must be to make the employment effective for the employee and beneficial to the taxpayer. This legislation is responsive in all three regards.

I urge my colleagues to adopt this legislation.

I thank the chairman.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, first, let me thank the gentleman from New Jersey, the chairman of the subcommittee and the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Minnesota (Mr. QUIE) for their invaluable help in the passage of this legislation.

Mr. Chairman, 40 years ago, when this Nation faced a more critical problem than it does today, President Roosevelt proposed an overwhelmingly sensible approach to one aspect of that problem, the aspect of unemployment. That solution was the Civilian Conservation Corps, which I think is one of the better programs that the Government has ever been involved in. The monuments of that program still stand as near as Skyline Drive in Virginia and as far as the mountains of Alaska. But more important was the permanent enrichment of the lives of those who were touched by that program; those who became later our national leaders, as we saw one of our colleagues, a former Member. His life and the lives of other people were made meaningful because of that program and our land was enhanced manifold. The productivity of the land and the productivity of the people paid for the CCC program many times over.

Now, we are not in as bad a condition today as we were in the 1930's, but unemployment among young people is almost as bad today as it was then. The unemployment rate of young people below 25 years of age is almost triple the national average, almost triple. Among young blacks and young black females it is as high as 40 percent. These young people are languishing on street corners, in unemployment compensation halls, in food stamp lines. They would much rather be doing something productive. At the same time, there are countless jobs that need doing in this country. There are three and a half million acres in the national forests alone which have been cut over and never replanted. We could increase the allowable cut in our softwood areas by up to 40 percent by the right kind of management, which could be done by members of the Young Adult Conservation Corps in this bill. We need to rehabilitate thousands of miles of trails in our parks and national forests. We need to build campgrounds and parking areas. Every year millions of tons of good fertile soil is washed out to our seas and oceans and our estuaries, which could be prevented by soil erosion control programs, and the State and local lands are the same.

As the gentleman from Florida pointed out, 55 percent of all the indexed crime in this country in 1973 was committed by young people under the age of 25.

On the program "Meet the Press" a reporter asked six of the Nation's chiefs of police if they could do one thing, just one thing to cut crime in the major cities of this Nation, what would it be. Four of the chiefs said, "Put young people to work." Four of the six hardbitten chiefs of police, whom one might have expected to say, "Bigger police forces, more lights, more cars, more jails," said, "Put young people to work." That is the single most important thing that could be done.

Now, I am not saying that this bill is going to cure all the problems of crime and unemployment in the Nation—obviously, it will not—but it addresses itself to that age group which is most involved in crime today. More than 83 Members of this House of Representatives, bipartisan support, agree with these chiefs of police, and have cosponsored this legislation or legislation similar to it such as that sponsored by the gentleman from Oregon (Mr. DUNCAN), who sponsored one of the bills considered by the committee. I want to commend and thank him for his help and support.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 3 additional minutes to the gentleman from Washington.

Mr. MEEDS. These bills are copied after the experience of the Youth Conservation Corps and the old Civilian Conservation Corps of the thirties. They will take young people between the ages of 19 and 24 off the streets and put them into project jobs on Federal and State lands.

This bill starts modestly with a plan. In other words, we did not come here and ask to place all these young people in these jobs immediately, but we want a plan developed which shows where the projects are going to be, what kind they are, how the selection is going to be made, and so forth. Then, that plan comes back to us here in the Congress and it will be implemented later. In the first operational year, we ask jobs for 100,000 young people; in the second year, 300,000; the third year, 400,000; and in the fourth year, 500,000. That is a total of 1.2 million young people, which seems like a lot, but the Forest Service alone has a backlog of needed work of 1 million man-years.

They will work for 12 months at a minimum wage, and 30 percent of the funds will be available for State-Federal cost sharing programs. I want to emphasize that this is not a program to take jobs from people who already have jobs, nor is it a program to take jobs from those who might conceivably have jobs in the future, under almost any circumstances. These are jobs that are not presently being done, and it is not contemplated that they will be done. They are jobs which need to be done to improve the resources of this Nation.

It is not in competition with the State, county, and municipal employees. It is not in competition with those who have jobs.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to my colleague from Washington.

Mr. PRITCHARD. Mr. Chairman, I want to compliment the gentleman from Washington for his leadership in bringing this measure before the House. The potential benefits for people and for the forest areas, not only of the Nation, but particularly the Northwest, are just invaluable.

I have not been enthusiastic about Federal jobs, but if there is one area where it makes just plain good sense, this is it. I compliment the gentleman in the well because he has been a leader in bringing this legislation to the floor. It is a tribute to the good work and good sense he has shown in the Congress.

Mr. MEEDS. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

Mr. QUIE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman from Minnesota for yielding to me.

Mr. Chairman, I just wanted to take this time to indicate that there will be an amendment proposed by the gentleman from Minnesota which will make such sums the amount, rather than the specific dollar amounts, which are enumerated in the bill.

I think this is a good idea because we do not really know the exact cost of this program. We costed it out with some estimates, at $7,000 per enrollee-year. We think it possibly can be done for less than that. In any event, that plan is going to come back from the Forest Service, from the Interior, telling us where, when, how, and how much it will cost. I think it is better to reserve the sums until such time as we know what sums will really be necessary, and I will therefore support the amendments offered by the gentleman from Minnesota.

Finally, Mr. Chairman, this is, I think, the single best opportunity that this Congress will have to respond to the twin problems in our society, youth unemployment and the degradation of our natural resources. This program puts young people to work at jobs that need doing.

Mr. GONZALEZ. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. QUIE. I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, the bill we have before us today which I have also sponsored, the Young Adult Conservation Corps Act, is probably one of the most important pieces of legislation we will consider in this Congress because it brings hope to many unemployed young people across this land.

Through this legislation we will employ young adults between the ages of 19 and 24 on a year-round basis. There are jobs on public lands such as reforestation, trail and camp ground improvement and insect, flood, and disease control that need to be done. These are labor intensive jobs which I am sure many of our unemployed young people will be more than happy to do.

And while I feel this is an excellent program and support it completely, I cannot help feeling that we need to expand this program. According to U.S. Department of Labor statistics, an estimated 2,266,000 of our young people between the ages of 19 to 24—the ages covered under this new program—were unemployed as an average during 1975. Yet the legislation we are considering today would only

provide for the employment of 100,000 persons during the first fiscal year of operation and 300,000, 400,000, and 500,000 persons in the 2d, 3d, and 4th fiscal years respectively. While this is indeed a good beginning, it would still leave approximately 1,766,000 young people between the ages of 19 to 24 unemployed. Therefore, I would hope that this would be just a beginning toward a more comprehensive program to help solve one of our Nation's most critical problems.

I believe that we should be considering a program that provides jobs in other fields as well. We should be considering having young people working in community services where they can assist the social agencies in our urban and rural areas, lending their aid to the needy who seek help through these agencies. These young people who are so eager to feel a part of our society by being productive could also help out in clinics and other medical facilities as well as assist in day care centers and schools.

Of course, the main drawback to such a wide range program is the cost. But can we afford to be so cautious in investing in the future of our young people, and with them our Nation?

When we consider what the criminal justice system and welfare cost our society today, should we not consider the possibility that if we had adequately employed those presently in prison or receiving welfare when they were young and had given them a direction for the future perhaps our efforts would have proven to be cost effective?

I am sure most people would agree that it would be better to spend tax money on a program to provide jobs than to spend the same money on rehabilitating a criminal or drug addict. And while it is extremely hard to adequately measure the effectiveness of job corps programs I think that the success of the program in the thirties speaks for itself. We have many successful adults in our society today who I am sure give credit to the Civilian Conservation Corps for helping them keep their self-esteem during those troubled times.

Mr. Chairman, we cannot afford to waste the energy and skills of the young people in our Nation who have an honest desire to work and contribute to their communities. Let us give them this opportunity through a meaningful program that will fulfill their hopes and ambitions for a brighter tomorrow.

Mr. QUIE. Mr. Chairman, I yield back the balance of my time.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, you will remember, as I do, that in the first few hours of the 94th Congress, the Democratic majority proposed that the establishment of additional and necessary public service jobs made more sense than providing additional funds for economically nonproductive and personally unsatisfying unemployment compensation.

Today, we have an opportunity to put our words into actions in a way which is consistent with the American spirit and tradition.

I rise in support of the Young Adult Conservation Corps Act for I represent a large number of Rhode Islanders who, from firsthand experience, remember the social benefits and the economic boost which was provided in an era of high unemployment by the old Civilian Conservation Corps.

Unemployment in the State of Rhode Island is now in double figures and it is my feeling that the Young Adult Conservation Corps will again be a timely attack on the high unemployment statistics, not by the back door with broader compensations but by the direct approach of providing jobs to those who need and want them.

The Young Adult Conservation Corps will not only reduce the backlog of conservation projects on public land. The Corps will take from the unemployment lines those individuals who deserve a decent start and, importantly, will give all Americans a renewed hope that Congress is active in addressing the needs of our Nation. I strongly urge the passage of this legislation.

Mr. GAYDOS. Mr. Chairman, I rise in support of H.R. 10138, the Young Adult Conservation Act, legislation which I was proud to cosponsor with many of my colleagues in this House. I wish to commend my good friend and colleague, the gentleman from the State of Washington, LLOYD MEEDS, for his leadership in bringing this bill before us today.

H.R. 10138 is directed at solving two of the most pressing problems of our society today: First, the need for widespread conservation activities, such as reforestation, soil erosion, flood control, and fire prevention on public lands; and second, the lack of sufficient employment for those young Americans in the 16 to 24 age bracket, where unemployment is most serious.

The legislation before us seeks to build on the existing Youth Conservation Corps which was initially enacted into law in 1970 as a pilot program to provide summer employment for young Americans between 15 and 19 performing conservation work for the U.S. Departments of Agriculture and Interior.

The success of this program is attested to by the fact that the original act has been twice amended and expanded so that now States are eligible for Federal grants to provide summer employment for teenagers, 16 to 19, for conservation work on non-Federal public lands and waters.

The bill before us does not disturb this existing program, but rather seeks to provide year-round conservation work in both Federal as well as state lands and waters for those young Americans age 19 to 24, or age 16 to 19 in the case of persons who have completed or left high school. Preference would be given to those persons living in counties with high unemployment. Those selected for the program would be eligible for up to one year of employment.

The genesis for this legislation is obviously that embodied in the Civilian Conservation Corps—CCC—which spanned the period 1933–42.

Many of us here today remember the CCC as a very popular and highly successful program which provided benefits to many young Americans and preserved the very fragile fabric of so many American families suffering from excessive unemployment of the 1930's. Furthermore, the value of the work performed by the 3 million young Americans who enrolled in the program far exceeded the total cost of the program of $2.3 billion. It has been estimated that the value of the work performed in reforestation, plant disease and insect control, forest fire control and prevention and the treatment of soil erosion exceeded $100 billion. The program was terminated in 1942 simply because the available source of manpower ceased to exist; it was siphoned off by the needs of the Armed Forces, national defense industries, and the farm community to substantially expand agricultural production.

During the 34 years since the termination of the CCC, the conservation needs of the Nation have been at best only partially met. As a result, there is today a growing need for conservation work in the national forests and national parks of, by a conservative estimate, in excess of 1 million man-years of work for reforestation, timber management, soil control, and fire prevention and control. The tremendous demand for forest products places an even greater urgency on the need for an immediate conservation program. Thirty-three percent of the land area or 754 million acres of the United States is forest land. One hundred and eighty-three million acres are located in the national forest system, which contains 50 percent of the Nation's standing softwood used for housing and construction. It is estimated by the U.S. Forest Service that by the year 2000, the demand for timber products will almost double. If we are to meet this demand, we must begin immediately, a massive reforestation and timber management program, which involves relatively unskilled but highly labor-intensive jobs.

In addition to the work on Federal lands, there is a substantial backlog of similar conservation work on State-owned lands.

Mr. Chairman, one of the more enduring legacies of the Vietnam war is the feeling of alienation and cynicism of too many of the youth of America who experienced the tragedy of national divisiveness during their teenage years. Narcotic addiction and an ever-increasing crime rate has been the plight of too many young Americans who have lost faith in their country.

Many observers of our society contend that the young Americans of the Vietnam era are a "lost generation." Only the passage of time will prove if this assessment is correct. In any case, I am convinced that this Nation cannot endure another "lost generation" of young Americans who are unable to participate in and contribute to our society. Current unemployment rates for those age 16 to 19 are 19.2 percent and age 20 to 24 are 11.8 percent, while the overall unemployment rate is 7.5 percent. As of

April 1976, according to the Department of Labor, there are over 3 million unemployed youth aged 16 to 24. These statistics clearly indicate the possibility of many young Americans who fell prey to the "hopelessness" of the 1960's to again be victims of "joblessness" during the seventies. It is a fact that 4 million young American women and men will be attaining the age of 19 each year for the next 8 years. With the rapidly rising costs of postsecondary education, a smaller percentage of these will be able to attend college. Thus, lacking the necessary skills with which to perform a job, many of these young Americans will be forced to join the ranks of the unemployed.

Some critics of this legislation argue that the problem of youth unemployment should be solved through the existing Comprehensive Employment and Training Act—CETA—not the present bill. I submit this misses completely the true purpose of the legislation before us, which is to initiate an immediate program to conserve the natural resources in our Federal and State timberlands. Admittedly, as an ancillary benefit, participants in the program will learn certain skills, but the bill before us is not a manpower training bill; nor is it a comprehensive youth employment bill. Instead, it is directed primarily at the immediate problem of preventing further deterioration of our Nation's timber resources. The need for such conservation work is clear. The plight of our unemployed youth is a fact no one can ignore. H.R. 10138 is an attempt to preserve our Nation's timber resources while at the same time providing gainful employment for many of our unemployed youth.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, many of the previous speakers have stated that this bill is patterned after the old CCC bill. The Civilian Conservation Corps did do some great work in instilling discipline into the young men of America.

Is it contemplated that we in this program should still place emphasis on discipline?

Mr. GAYDOS. Mr. Chairman, to respond to the gentleman's question, I would hope that would be the intent that is incorporated in this legislation. I think it is proper to presume that we are going to have discipline, we are going to have dedication to hard work.

In responding further to my friend, the gentleman from Missouri, I would like to conclude by saying that I do not know and I do not think any Member in this House or anybody in this Nation knows of a program that would respond to the immediate needs along the lines of what the gentleman suggests. This is not just a make-work type of program but one that would inculcate in the participating individual the elements of work ethics to which the gentleman refers.

I believe the country is sorely in need of this type of a program. I want to compliment the gentleman for his ability to get right down to the marrow. That is exactly what we are trying to do.

Mr. Chairman, as I mentioned before, I submit that this program we have before us is not a comprehensive youth employment bill per se, but instead it is directed primarily at the immediate program of preventing further deterioration of our Nation's timber resources. We could stop right there. However, the side purpose of the bill is an attempt to solve, after a fashion, the unemployment problem of which so many of us have been speaking. The plight of our unemployed youth is a fact no one can ignore in this country. This bill is obviously an attempt, as I see it, to preserve our Nation's timber resources while at the same time doing what we should do to provide meaningful employment.

Mr. Chairman, in recent weeks, this House has approved legislation authorizing $3 billion for NASA and $7 billion for ERDA, to carry out research for more efficient use of the Nation's resources. Can we at the same time allow our timber resources to steadily deteriorate? Can we ignore the plight of so many young Americans who are unemployed?

I submit the answers to both questions is a resounding no! Passage of the bill before us will be a clear and unequivocal message that Congress is willing to invest the necessary funds first to preserve our timber resources and to provide meaningful jobs for our unemployed youth.

I urge my colleagues to give their full support to this legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, I support H.R. 10138, the Young Adult Conservation Corps Act.

I think that in Rhode Island, my own State, we have so much unemployment, so many young people out of work, that not only would this provide jobs for people all over the country, young people in particular; but it would give them the incentive to work in the fresh air atmosphere outdoors.

Today we have a newly elected speaker of the Rhode Island General Assembly, John Skeffington, who was a member years ago of the CCC, the Civilian Conservation Corps.

As the previous speaker mentioned, there have been many distinguished citizens, not only in this Congress but all over the country, who worked hard in tough times.

We are in tough times today. Rhode Island is one of the highest unemployment areas of the Nation.

Mr. Chairman, I welcome this legislation. I support it, and I am glad that I am on the committee.

Mr. ANDERSON of California. Mr. Chairman, in August of 1970, I was pleased to support the legislation that established the Youth Conservation Corps, and today I will vote "aye" on the Young Adult Conservation Corps Act. From what I have read and heard, the program is a success. Congress evidently believes so, because the program's appropriation has been increased in each succeeding fiscal year.

Mr. Chairman, major legislation is under consideration by both Houses on the broad subject of managing our forests. Simultaneously, I understand the Forest Service has a reforestation backlog of 3 million acres that will penalize future generations if it is left undone. This, coupled with the upkeep problems our National Park Services are already experiencing, are reasons why this program should be expanded to our Nation's 285 parks.

Moreover, other vital environmental work such as timber stand improvement, forest firefighting, trail and campground improvement, and insect, flood, disease, and erosion control will reduce the unemployment rate among our Nation's youth.

Mr. Chairman, everyone talks about jobs, and getting the kids off the streets and into a meaningful job. I believe this act will do just that—get kids off the streets, and give them meaningful jobs to work.

Mr. DRINAN. Mr. Chairman, I would like to indicate my strong support for the Young Adult Conservation Corps Act, H.R. 10138. I am a cosponsor of this legislation, whose dual purpose is to increase employment opportunities for young adults while substantially contributing to conservation efforts in our national parks and forests.

The inherent logic behind this bill is unassailable. The overall unemployment rate for young adults is frighteningly high, reaching nearly 14 percent for all individuals between the ages of 20 and 24. As far as minority groups in this age level, the joblessness rate actually reaches 22 percent. Yet while these young people are jobless, jobs that need doing on public lands go undone. The Forest Service has a reforestation backlog of 3 million acres that will penalize future generations if left undone. And many other worthy projects await the implementation of this fine program.

Mr. Chairman, I am enthusiastic about the Conservation Corps Act due to the fact that the basic program has already been proven in a very successful pilot program. Patterned after the Civilian Conservation Corps of the 1930's, the Youth Conservation Corps Pilot program was passed by Congress in 1970 to provide summer employment on our public lands for approximately 3,000 young people. Like the CCC before it, the YCC proved to be an unqualified success. In hearings before the Education and Labor Subcommittee on Select Labor, nothing but praise for the YCC came from the Departments of Agriculture and Interior, YCC staff personnel, the National Wildlife Federation, and those who participated in the program. It is therefore proper that we expand significantly the scope of the program.

I believe, Mr. Chairman, that the Conservation Corps will provide a significant stimulus to our economy and reduce our chronic unemployment problem. Youth unemployment has been especially exacerbated by the recent recession. Nearly half of the total unemployed are under the age of 25, amounting to 3.7 million persons according to the 1976 report of the Joint Economic Committee. I am

afraid that unless something is done that this prolonged recession might threaten to spawn a large disenchanted group of young adults who are out of work and become alienated from society.

Not only is youth unemployment an economic problem for this country, but it becomes a crime problem as well. In 1975, there were 71,947 arrests for violent crimes and 190,629 arrests for nonviolent crimes in the 20 to 24 age group. Studies have shown that where extended idleness exists for young people with very few opportunities for employment, the crime rate registers corresponding increases. Obviously, the price our society must pay in both dollars and damaged lives is immense.

Mr. Chairman, this bill is especially exciting because it will not only provide jobs for young adults, but will also lead to significant improvements in our national parks and forests. The situation in our national parks has grown critical, with vital reforestation, trail and campground improvement, timber stand improvement, and flood and erosion control projects simply not being done. Many of the National Park Service's 285 parks' recreation areas and historic sites are rapidly deteriorating. As a result of its inadequate budget, the National Park Service has not been able to keep pace with the improvements which are necessary to maintain adequately America's national parks and forests.

A few examples might illustrate the current situation. In the Shenandoah National Park in Virginia, the park service was unable to meet many safety and health requirements for visitors. Consequently, many of the streams are so polluted that campers have to boil the water before drinking it. In 1963, Montana's Glacier National Park had 72 permanent personnel and 291 seasonal employees to cope with 800,000 visitors. Yet by 1975, the visitors had doubled to 1.6 million, while permanent staff had been cut to 56 and seasonal employees to 273. Last summer, 1,000 people at Oregon's Crater Lake National Park contracted severe gastrointestinal problems from drinking contaminated water.

Through the legislation which we consider today, Mr. Chairman, I am hopeful that the Young Adult Conservation Corps will be able to rectify many of the problems which we now face in our national parks and forests. The Conservation Corps will become a year-round complement to the existing summer-only Youth Conservation Corps. The program will employ persons between the ages of 19 and 24, with some provision made for hiring youths over the age of 16 in cases where the individual has completed high school or left school. Employment will begin on June 1, 1977, for a maximum of 1 year on conservation projects on public lands to diminish the backlog of relatively labor-intensive projects. Priority in employment will be given to those persons living in counties where the unemployment rate exceeds 6 percent for a period of 3 months.

The Departments of Interior and Agriculture will be involved in soliciting work projects which can be readily developed by the Conservation Corps. The Secretaries of those Departments will be directed to give priority to projects involving reforestation, timber stand improvement, fighting forest fires, trail and campground improvement, and control of insects, disease, soil erosion, and floods.

Other projects in which Corps members may be employed would include tree nursery operations, wildlife habitat improvements, range management improvements, recreation development, and general sanitation and cleanup. Corps employees would be paid no less than the Federal minimum wage and would be housed, to the extent practicable, where existing residential facilities are available.

Under the provisions of the Young Adult Conservation Corps Act, 100,000 young people will be employed in the first year of operation in 1977. In the second, third, and fourth years, 300,000, 400,000, and 500,000 persons respectively will be hired for conservation work.

Mr. Chairman, it is a pleasure to vote in favor of legislation such as this. H.R. 10138 will provide many employment opportunities to our jobless youths and it will help us make many needed improvements in America's parks and forests. In view of the great success of the Conservation Corps pilot program, I am sure that we can expect great things from the enactment of the Young Adult Conservation Corps Act.

I therefore urge my colleagues to lend their overwhelming support to the House passage of this important economic and environmental legislation.

Mr. DUNCAN of Oregon. Mr. Chairman, I am pleased today to have the opportunity to voice my support for H.R. 10138, the Young Adult Conservation Corps. It is a program, a bill, and an idea that I deem extremely important.

In the darkest days of the depression-ridden thirties the Roosevelt administration recruited an army of young men from the Nation's troubled cities and sent them to work in the forests of the West. They were paid a dollar a day plus board to build trails, fight fires, plant trees, and do other conservation work. CCC proved to be one of the best of the depression fighting agencies.

Inspired by that program and motivated by the severe unemployment problems facing this country, I introduced in June of last year H.R. 7962 entitled the Civilian Conservation Corps Act of 1975. The motivations that led to the creation and introduction of that legislation have not dissipated. H.R. 10138, the Young Adult Conservation Corps, has the same basic characteristics and goals not only of my bill but of the original CCC program of the 1930's. I support it wholeheartedly.

We know the program will work. The model set down by the CCC program, the YCC program, and in the State of California, the Ecology Corps have proven this true.

I see three principal objectives which this legislation will accomplish. From each of these three, collateral and incidental benefits will follow. Each objective represents an attack on a major problem facing the country today. These three major problems are:

First. Unemployment;

Second. A rising crime rate; and

Third. The poor and deteriorating conditions of the great natural resources of this country—forests, rangelands, outdoor recreation facilities, timberlands, and water resources.

In spite of all that this Congress has done, unemployment is still at an unacceptably high rate in this country. Among youths these figures skyrocket to over 20 percent and among youths of minority groups even higher. These jobs are labor-intensive and the money provided will not go for equipment and buildings, but rather predominantly into the payroll. Its success will be limited only by the funding that we are able to provide for it, because there is virtually no limit to the amount of productive work that needs to be done.

Carl Rowan, the Washington Star columnist, recently questioned six of the Nation's top police administrators from six of the Nation's largest cities, asking them one simple question:

If you had to recommend one thing, one action the country could take to combat the rise of crime, what would it be?

None suggested more prisons or greater law enforcement or better prison rehabilitation. All six of these officials agreed that efforts to reduce unemployment in the central cities among young men, especially minority young men under the age of 25 years, would be one of the most effective means of reducing the crime rate.

Our resource agencies have long gone underfunded, as they strive to compete with all other Government programs for a share of the Federal tax dollar. As a result of inadequate capital investment coupled with excessive use in the past, our outdoor recreational facilities have deteriorated; millions of acres lie fallow and unproductive because we have not spent the money and made an effort to replant our dwindling timber supply; millions of acres of rangelands today carry ridiculously low allotments of livestock because they have been overgrazed. Passage of this legislation gives us a tool at a relatively small expense to use our human resources to replenish and restore our natural resources.

My CCC bill and Congressman MEEDS' YACC bill are similar though not identical. Pride of authorship of the former does not diminish my support for the latter. I have been pleased to work with my distinguished friend from Washington, with Congressman DANIELS of New Jersey, with the majority leader and others in furtherance of the basic concept. Congressman PERKINS, the chairman of the full committee, deserves our gratitude, if this program succeeds, as I am confident it will.

Nevertheless, there are a few places in which it can be improved and as it passes through the Senate and the conference, doubtless it will be. For example, the cost of each job is high. Many more young peole could be served if, instead of paying minimum wages, we followed the lead of the California Ecology Corps and paid $100 a month—or some such fiigure—plus room, board, clothing and medical care.

Unlike many of the jobs we have created in the public sector, these jobs will produce forests and ranges, pure water, wildlife, trails, roads, recreation, and similar facilities. But the best product of all will be the men and women it will produce to take their place in our society as useful, productive citizens. Graduates of the CCC leaven all walks of life in my State of Oregon from government, through the ranks of labor, to the board rooms of the business community. As it was with the CCC, so will it be with the YACC.

I urge the support of all Members for this fine piece of legislation.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 10138, the proposed Young Adult Conservation Corps Act.

This bill would accomplish two outstanding purposes. First, it would provide a means of completing many current public land and water development projects that tragically remain undone. Second, it would provide America's youth with an opportunity to earn financial income for performing respectable, meaningful, and vital jobs that contribute to the improvement and maintenance of America's natural resources and environment.

The unemployment statistics marshaled by the Education and Labor Committee to spell out the need for this legislation are at once a shock to our sensibilities and a call to action. During 1970, the unemployment rate for those aged 20 to 24 was 13.6 percent. For youths aged 16 to 19, the rate was an incredible 19.9 percent. The figures for nonwhite young people were substantially higher.

The implications for society in these distressing figures are far-reaching. Not only is society being deprived of the use of an energetic part of its potential work force, but, as the Education and Labor Committee points out, there is a strong relationship between reducing unemployment among young people and reducing the crime rate.

At the same time as we are experiencing this dangerously high unemployment rate among young adults, there are scores of vital environmental tasks—conservation and restoration plans and projects—that have long been suspended, but need to be carried out if present and future generations of Americans are to enjoy the recreational pleasures offered by our parks and campsites, and if they are to be confident that raw materials will continue to be available for our thriving industries. Literally millions of acres of national forests and parks are in need of attention in such areas as reforestation, trail and campground improvement, and basic park maintenance.

The program which the committee has proposed to address these twin needs is not an untried concept. It builds on the already existing pilot program, the Youth Coservation Corps, which since 1970 has employed some 3,000 youths each summer to work on public lands at tasks similar to those contemplated in H.R. 10138. The target age group has been expanded, the period of employment lengthened to a year, and the number of participants increased substantially. Approximately 1.2 million young people would be employed for 1 year over the 4-year authorization period contained in the bill.

The rewards of H.R. 10138 benefiting America's youth, benefiting America's land and water sites, and benefiting all present and future generations of American's are too numerous to ignore.

I therefore urge my colleagues to recognize the merits of having a year-round Young Adult Conservation Corps and give their full support to H.R. 1013.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of this measure to establish a year round Young Adult Conservation Corps. It will solve two problems that we in the Redwood Empire have been faced with for years: A rising unemployment rate among our youths and a need for manpower to care for our parks and forest lands.

My district is caught in a situation common to many western States. It is highly rural where the unemployment rates are traditionally higher than in urban centers. It is also made up of millions of acres of public lands—parks, forests, and seashores—that have received inadequate attention and care because of inadequate funding and a "galloping growth" of visitors seeking recreation and access to our forests and rivers.

These two problems offer a perfect solution to one another. Where facilities need repairing and trash needs emptying, where trails and campsites need relocating and improvements, and trees need replanting, where additional patrols and attendants are needed to assist visitors and discourage vandalism, and where forest fire fighting, insect, flood, disease, and erosion control are sorely needed—in all these areas we can put our unemployed youths to work, and keep them out of the streets and out of trouble. I have been working with our local officials on watershed conservancy programs. This YACC program will dovetail very well with our objectives.

In 1975 there were 17,281 youths between the ages of 16 and 19 that were arrested in violent crimes and 380,972 were arrested for burglary, motor vehicle theft and larceny. When youths reach the age group of 20 and 24 things remain just as bleak—71,947 arrests for violent crimes and 190,629 for the same nonviolent crimes as their younger counterparts.

The price we are paying is immense and the Young Adult Conservation Corps is the type of program which can greatly reduce this loss in dollars and this waste of young lives.

The YACC's forerunner has been an unqualified success. In dollar figures nearly 75 percent of every dollar appropriated for the Youth Conservation Corps is returned in the value of work accomplished by the program. And this new program—which will employ young adults ages 19 and 24 and will attack the "pockets of poverty" where unemployment is particularly high—has every chance of being equally if not more successful.

Mr. ROSTENKOWSKI. Mr. Chairman, I would like to voice my strong support for H.R. 10138, the Young Adult Conservation Corps Act. This bill will not only further our conservation efforts and the effective management of our national resources but, more importantly, will create hundreds of thousands of jobs for our young people between the ages of 19 and 24.

We are all well aware that unemployment among our Nation's youth is three times the national unemployment average for all other age groups. We cannot afford to let this continue. The youth of America is one of our greatest natural resources. Idleness and joblessness can only militate against the achievement of a meaningful and productive life for our youth.

This is why I have unhesitatingly cosponsored this beneficial piece of legislation. The success of the pilot program, which was initiated in 1970 and was subsequently made permanent, clearly illustrates that a program like this can work effectively. I hope that my colleagues will join me in support of this important legislation.

Mr. ESCH. Mr. Chairman, although I intend to support the legislation before us, provided the amendments offered by the gentleman from Minnesota are agreed to—I strongly believe that this legislation fails to deal with the real problems of youth unemployment in this country.

The problem of youth unemployment resides not so much in the rural areas but in our Nation's cities where youth unemployment particularly among minorities and black youth runs as high as 70 percent. Such unemployment cannot be resolved by simply offering an opportunity to work in the forests for a year. First, it is unlikely that such youth could afford to leave their families and second, I doubt that such a program would even appeal to them, if they could afford to leave home.

Youth unemployment is much more complex than H.R. 10138 envisions. The Nation has been experiencing rates of unemployment among youth which has exceeded 10 percent for over a year and over 15 percent for the better part of a decade. Unemployment among minority youth continues to run as high as 40 percent. The problems encountered by youth seeking productive work are many and include a dwindling pool of semiskilled jobs, racial discrimination, the relocation of industries outside our cities and the failure of our education system to relate more closely with the changing job market.

In addition, society and government policy discriminates against youth. Civil service, minimum wage, union hall practices, workers' compensation and a variety of other barriers exist to youth seeking productive employment. Youth are not looking for make-work, short-term jobs that do not enhance their future employability. But if we are to look at the facts, this is all they are getting. The rate of job turnover among youth—and significantly among those in their first job after leaving high school—is astronomical. Youth are simply finding that the entry level jobs offer neither valuable training nor opportunities for significant advancement.

Among youth who have dropped out of school, the problem is exacerbated by a

lack of education and training. To many, the only avenue open where some profits seem possible is crime—and in this respect the number of crimes committed by such youth is staggering. Nearly half of the major crime in the country is committed by youth under the age of 18.

What this Congress really needs to do is to address the problems of youth by working to provide attractive career-oriented job opportunities close to home which stimulate youth to continue their education. Such youth will not benefit either in the short or long run, by taking a year off to work in the Nation's forests, inasmuch as such work, while enlightening, does little to prepare them for the realities and demands of the labor market. In addition, such a program would seem to encourage youth to drop out of school rather than encourage them to stay in school.

H.R. 10138 not only fails to recognize the need, but fails to target resources into those youth who need the assistance the most—namely those from families without the resources to let their children leave for a year, and fails to target the funds where the youth unemployment problem is the greatest—in our inner cities.

During the consideration of H.R. 10138, I attempted to offer what I believe to be a much more sensible approach to the problems of the young. Entitled the "Youth Incentive Act," my proposal established a year-round employment training effort targeted into areas of highest youth unemployment and creates incentives to both the public and private sectors to place youth in long-term jobs which hold out real career prospects.

My effort would work through the established CETA mechanism, but calls for a coordination of all existing youth efforts—vocational education, community groups, the employment service—to wage a full-scale effort on the problem.

Under my proposal, a youth who participates in schooling and education would be provided an opportunity to work 20 hours a week to supplement his or her income—to allow that young person to continue in school. This is patterned after the highly successful work-study program which now serves a large number of disadvantaged youth trying to make their way through college.

During the summer months, youth would be able to work up to 40 hours a week not only in Government-sponsored jobs but in jobs sponsored by the private sector as well.

My effort was prevented by a parliamentary ruling in full committee and has been ruled nongermane by the Rules Committee. I, personally, cannot understand how my proposal, which really targets in on the problem of youth unemployment and even provides the opportunity to become members in a young adult conversation corps, would be ruled nongermane. It seems to be that this Congress has long ignored the real needs of youth and not to allow Congress to act when youth unemployment continues to go unabated seems to me to be the height of folly—and irresponsibility.

Simply stated, I wish to point out that in no way will H.R. 10138 resolve the youth unemployment problem. If, in the years ahead, we wonder why our youth continue to find it difficult to gain meaningful productive jobs, we will only have to look back to the action taken here today to see where our priorities were when we had a real opportunity to act.

Mr. BIAGGI. Mr. Chairman, I rise in full support of H.R. 10138, the Young Adult Conservation Corps Act of 1976. As a member of the House Education and Labor Committee which drew up this bill, I feel its adoption today will continue the already impressive record of this committee on behalf of trying to deal with this nation's most serious economic problem—unemployment.

This bill seeks to deal with the one segment of our population which has suffered tremendously from unemployment, the young people between 16 and 24. It is estimated that they comprise almost half of the unemployed of this Nation. The overall unemployment rate for young adults between the ages of 20 and 24 is 13.6 percent, almost twice the national average. The rate for nonwhite men and women of this age bracket is running as high as 23 percent. For young persons between the ages of 16 and 19 the overall unemployment rate national average. The rate for nonwhite young men and women running to 38 percent. In the near future thousands more young people will be flooding already overcrowded job markets seeking employment. Many will be turned away to face the prospects of a long, hot and unproductive summer.

As the unemployment rate among the young people of this Nation continues its ascent—so too does the crime rate. It has been estimated that more than 40 percent of all serious crimes in this Nation are committed by persons under the age of 25. Many of these crimes are economic in nature including robbery. Many of these crimes are caused by the poverty and idleness created by the inability and resultant frustration experienced by these individuals seeking employment. We are hoping to turn the corner on this problem with this bill today.

The basic purpose of this legislation is to extend to young adults the provisions of the highly successful Youth Conservation Corps. In addition to extending its coverage to young adults, the bill seeks to provide a year-round program of gainful employment for the youth of this Nation.

There will be those who view passage of these types of bills with skepticism, as they feel that the jobs created will be of no practical value either to the jobholder or the Nation. This argument with respect to this bill is totally without foundation. In addition to providing new employment opportunities, H.R. 10138 will help to reduce the large backlog of unfinished conservation work in this Nation. Included among these projects are a reforestation backlog of some 3 million acres, as well as important tree planting programs. In addition, due to an unexpectedly large onslaught of visitors to our national parks, additional [illegible] and maintenance personnel are needed. These could be provided under H.R. 10138.

There has been some criticism raised about the costs of this legislation. Frankly it is high, but must we set a price on a bill which will be of such practical value to the economic futures of young Americans? The taxpayers of this Nation are already paying for the costs of crimes committed by young people. The costs involved with this bill would represent a far better investment of the tax dollar, for it will bring a more tangible result, new jobs for the young people of this Nation. Most young people would prefer to be employed earning their own money. For many, the pursuit of employment has been hindered by an absolute lack of opportunity. Let us open those closed doors and allow the young people of this Nation to experience the practical value of work. The young people of today will be the leaders of tomorrow. Let us show them a Nation which is concerned with their future. A vote for H.R. 10138 will be an important demonstration of support for their cause.

Mr. BADILLO. Mr. Chairman, we have before us today a measure which urgently needs our attention and full support, H.R. 10138, the Young Adult Conservation Corps Act. This important legislation, which is identical to a bill which I cosponsored, is a small, but vital step toward ameliorating the severe unemployment problem in this country. It has a twofold purpose: First, to provide 1-year employment for many young adults and second, to employ them on conservation and environmental projects which are underfunded and overburdened. Youngsters from 19 to 24 years old would be employed to reduce the backlog of these programs and assist in the national conservation effort. They would be working in such essential areas as sanitation, range management, control of insects and disease, wildlife habitat improvement, reforestation, and many more.

H.R. 10138 would authorize $50 million for the planning of the activities proposed in the bill, for the preparation of site locations, and facilities. It would authorize $9.1 billion for fiscal year 1977 through 1980, employing 100,000 for the first year of operation, 300,000, 400,000, and 500,000 for each year thereafter, for a total employment of 1,300,000 youngsters at the minimum wage. Participants, who would receive housing, food, transportation, medical, and other benefits, would be given preference if they resided in a county with 6 percent or more unemployment. This measure is geared to provide jobs for the most needy. Youth unemployment is the highest of any age group, and is most concentrated in the cities. Jobs are simply not available to the city youth. They need to have access to stimulating, interesting jobs which would keep them off the streets, and instead of receiving governmental income support, these youngsters would be contributing to the betterment of our national conservation efforts while earning an income.

I am greatly concerned with the amendment to strike the specific dollar authorizations in this measure, and provide instead for sums as needed. This

would, in my estimation, render the bill meaningless, for adequate funding would never be achieved and the program's effectiveness would be drastically reduced.

There are thousands of youngsters yearning for job opportunities all across the Nation who would welcome this chance to improve and enrich not only the national conservation effort, which is badly in need of their assistance, but themselves as well. It is for this reason that I wholeheartedly support this measure, and hope that with the help of my colleagues, we will enact this crucial legislation at the designated funding levels.

Mr. ASHBROOK. Mr. Chairman, I rise in opposition to H.R. 10138, the Young Adult Conservation Corps Act. This legislation would create another new and duplicative Federal program with an astronomically high price tag.

If any Americans are still wondering why the Federal Government has run up such large deficits lately, they need only take a look at the bill before us today. It is one more in a long line of budget-busting pieces of legislation pushed by the liberal majority.

H.R. 10138 would authorize $9.1 billion over the next 4 years. I repeat, $9.1 billion. This is the height of fiscal irresponsibility. A bill with such excessive spending should have been laughed out of committee and thrown into the garbage heap where it belongs.

Yet even this vast amount of money would be insufficient to accomplish the goals of the program. The Congressional Budget Office estimates that if the proposed job targets are to be reached, the program would cost $13 billion to operate during the next 4 years. The authorization levels fall $3.2 billion short of the estimated cost, even assuming an additional 7.5 percent that could be contributed by States under the grant program.

The cost factor is not the only problem with this legislation. There is also a serious problem of duplication. We already have laws on the books to help the unemployed, in particular the Comprehensive Employment and Training Act. Yet here we are considering the creation of another Federal program with a high cost and an accompanying increase in the Federal bureaucracy.

Finally, H.R. 10138 is the wrong approach to the unemployment problem. We will not beat unemployment and revitalize our economy by spending billions of taxpayers' dollars on make-work public service jobs. This is just a rehash of the same wrong-headed liberal economic theories that we have heard for 40 years.

The answer—the only real answer—to the unemployment problem is a revitalized free enterprise system. We need to get people working in private business and industry. These are permanent jobs, unlike the temporary nature of public service jobs. That is why I have cosponsored the Jobs Creation Act, which would accelerate the formation of the investment capital that is needed to increase job opportunities and productivity in the private sector.

I urge the defeat of this costly piece of legislation that will do little to solve the unemployment problem.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 10138, the Young Adult Conservation Corps Act.

Throughout this long recession, the highest rate of unemployment has consistently been recorded for teenagers and young adults. Youths of minority background have been especially hard hit. Their unemployment rate has hovered around 25 percent for many months.

Statistics show that youths in the 16- to 24-age group commit a disproportionately large share of the crime. Much of this antisocial behavior stems from a feeling of being left out of the mainstream of society. Once these youths are given a decent job, once they have a stake in our society, they tend to dramatically curb their antisocial behavior. Thus, the provisions of H.R. 10138 will not only offer jobs to the group hardest hit by this recession, but it will also help to stem the growing crime rate.

Specifically, the bill provides year-round employment to persons between the ages of 19 and 24. Those who have left high school may qualify when they are 16. These young adults will work on the backlog of labor intensive projects which would have been completed earlier if funds had been available. Also, individuals living in counties whose unemployment rate exceeds 6 percent for 3 months will receive priority consideration when they apply for the program.

Second, the bill provides that the Secretaries of Interior and Agriculture will select the projects to be completed by the corps. The bill establishes the criteria which are to be used in selecting the projects. Each project is to be labor intensive, have already existing work plans or be undertaking plans which could be readily developed, and be in a State which would allow the work to commence promptly.

Each participating young adult will be paid at least the prevailing Federal minimum wage for his work, and will be housed whenever possible in existing residential facilities.

Finally, H.R. 10138 authorizes $50 million which the two Secretaries are to use to implement the provisions of the bill. The authorized life of the program is 4 years, and it will provide job opportunities for 1.3 million young adults.

Mr. Chairman, during the Depression, I worked as a member of the Civilian Conservation Corps. My experiences with the CCC showed me that hard work on useful projects can instill a sense of pride and worth that might otherwise be lacking in the participating individuals. I am sure that others who worked in the CCC feel as I do—that their work helped instill a sense of values which they have carried with them throughout their lives. The bill before us could provide the same benefits to a new generation of young adults. Therefore, I urge my colleagues to support the passage of H.R. 10138.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

That this Act may be cited as the "Young Adult Conservation Corps Act".

SEC. 2. The Act entitled "An Act to establish a pilot program in the Departments of the Interior and Agriculture designated as the Youth Conservation Corps, and for other purposes", enacted August 13, 1970 (84 Stat. 794; 42 U.S.C. prec. 2711 note; 16 U.S.C.A. 1701–06) (hereafter in this Act referred to as the Youth Conservation Corps Act), is amended by adding at the end thereof the following new title:

"TITLE II—YOUNG ADULT CONSERVATION CORPS

"POLICY AND PURPOSE

"SEC. 201. The Congress finds—

"(1) that unemployment levels are excessively high among young adults;

"(2) that young adults have minimal or no job experience, and that considering our country's current economic situation, these young adults have a limited opportunity of gaining the necessary job experience, training, and fundamental skills required to enter the labor force at a competitive level;

"(3) that as a result of the high unemployment levels of this age group our country's social service resources are being unnecessarily drained, and the Government is losing tax revenues;

"(4) due to their limited opportunities, crime rates are higher among young adults;

"(5) that there are large inventories of conservation work and other work of a public nature within the national park system, the national forest system, States, municipalities, and other public land and water areas of the United States which require large amounts of labor and relatively small capital investments; and

"(6) that much of the conservation work and other work of a public and environmental nature on the lands and waters of the United States, such as reforestation, timber stand improvement, fighting forest fires, trail and campground improvements, and control of insects, diseases, soil erosion, and floods, can only be accomplished during certain seasons or by a year-round work program.

It is, therefore, the purpose of this title to complement the highly successful Youth Conservation Corps and to provide employment and other benefits to young adults who would not otherwise be currently more productively employed while reducing the inventory of conservation work and completing many other projects of a public nature on the lands and waters of the United States. This title shall in no way limit the requirement set forth in the Employment Act of 1946 (15 U.S.C. 1021 et seq.) that the Federal Government promote maximum production and purchasing power in the Nation's economy. This title supplements and extends the provisions of title I of this Act and does not limit or repeal any existing authority provided by title I of this Act.

"EXTENSION OF YOUTH CONSERVATION CORPS

"SEC. 202. The Secretary of the Interior and the Secretary of Agriculture (hereafter in this title referred to as the 'Secretaries') shall jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults. Section 102 of this Act applies to the extended Corps under this title, except that individuals employed as Corps members under this title—

"(1)(A) shall have attained age nineteen but not attained age twenty-four or (B) shall have attained age sixteen (or completed

high school) but not attained age nineteen, in the case of individuals who have left school and who give adequate assurances, under criteria established by the Secretaries, that they did not leave school for the purpose of obtaining employment under this title;

"(2) shall be physically capable, as determined under regulations established by the Secretaries, to carry out the work of the Corps;

"(3) shall be given preference for employment if they reside in counties having a rate of unemployment equal to or in excess of 6 per centum for three consecutive months, as determined by the Secretary of Labor; and

"(4) may be employed for a total period of not more than twelve months, with such maximum employment period consisting of one continuous twelve-month period or of two or more periods which together total twelve months.

"SECRETARIAL DUTIES AND FUNCTIONS

"SEC. 203. (a) Section 103 of this Act, relating to the duties and functions of the Secretaries, applies to this title, except that in administering this title the Secretaries shall—

"(1) place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available;

"(2) employ such individuals in such projects as but not limited to—

"(A) tree nursery operations, planting, pruning, thinning, and other cultural measures;

"(B) erosion control and flood damage;

"(C) wildlife habitat improvements;

"(D) range management improvements;

"(E) recreation, development, rehabilitation, and maintenance;

"(F) forest insect disease control, road and trail improvements and wildlife preservation; and

"(G) general sanitation, cleanup, and maintenance of State and public lands;

"(3) in determining appropriate work projects for Corps members, give priority to projects that—

"(A) are relatively labor intensive;

"(B) have work plans or for which work plans could be readily developed;

"(C) may be initiated promptly; and

"(D) are productive;

"(4) to the maximum extent practicable employ such individuals in areas where existing residential facilities are available;

"(5) to the maximum extent practicable employ such individuals in activities similar to activities of those employed in seasonal and part-time employment, in the case of the Secretary of the Interior, in the National Park Service, Bureau of Outdoor Recreation, the United States Fish and Wildlife Service, the Bureau of Reclamation, the Bureau of Land Management, and the Bureau of Indian Affairs, and, in the case of the Secretary of Agriculture, in the Forest Service and the Soil Conservation Service, respectively; and

"(6) determine rates of pay for Corps members by giving consideration to housing, transportation, food, medical, and other direct benefits of employment (except that supplies and equipment shall not be benefits of employment), but in no event shall the resulting rates be set at less than the current Federal minimum wage, set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938.

"(b) In carrying out this title, the Secretaries shall provide, to the maximum extent practicable, that Corps members under this title shall not, at the same time, share common facilites or work on common projects with Corps members under title I of this Act.

"EXTENSION OF GRANT PROGRAM FOR STATE PROJECTS

"SEC. 204. (a) The Secretaries shall jointly extend the grant program for State projects required by section 104 of this Act so as to provide increased employment to young adults to develop, preserve, and maintain non-Federal public lands and waters within the States, as defined in section 104(a) (and such employment may include employment on projects which assist the selective cutting and thinning of timber on such lands for essential fuel purposes). Sections 104 (a), (b), and (c) of this Act apply to the extended grant program for State projects under this title, except that for the purposes of this title, each grant application shall contain assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted—

"(1)(A) shall have attained age nineteen but not attained age twenty-four, or (B) shall have attained age sixteen (or completed high school) but not attained age nineteen, in the case of individuals who have left school and who give adequate assurances, under criteria established by the Secretaries, that they did not leave school for the purpose of obtaining employment under this title;

"(2) shall be physically capable, as determined under regulations established by the Secretaries;

"(3) shall be given preference for employment if they reside in counties having a rate of unemployment equal to or in excess of 6 per centum for three consecutive months, as determined by the Secretary of Labor;

"(4) be employed for a total period of not more than twelve months, with such maximum employment consisting of one continuous twelve-month period or of two or more periods which together total twelve months; and

"(5) shall be paid at the rate set under section 203(a)(3).

"(b) Thirty per centum of the sums appropriated to carry out this title for any fiscal year or for the period beginning July 1, 1976, and ending September 30, 1976, shall be made available for grants under this section for such fiscal year or for such period, respectively.

"(c) The States, in employing young adults in the extended grant programs authorized by this section, shall have the same duty, with respect to common facilities and projects, as is imposed on the Secretaries under section 203(b).

"SECRETARIAL REPORTS

"SEC. 205. The Secretaries shall prepare jointly and submit to the President and the Congress reports detailing the activities carried out under this title. The first such report, covering the period from the date of enactment of this title until September 30, 1976, shall be submitted not later than January 1, 1977, and reports covering fiscal years ending on September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, shall be submitted not later than January 1, 1978, January 1, 1979, January 1, 1980, and January 1, 1981, respectively.

"TIME PERIOD FOR PLANNING AND PREPARATION

"SEC. 206. (a) During the period beginning on the date of enactment of this title and ending March 1 1977, the Secretaries shall prepare a plan to carry out the activities authorized by this title and prepare the site locations, facilities, and equipment selected in the plan. Such plan shall contain an estimate of the annual costs of carrying out the activities authorized by this title, a procedure for selecting candidates for the extended Corps, a list and description of the work projects initially selected by the Secretaries for the extended Corps to carry out under this title, and a list and description of site locations, facilities, and equipment initially selected by the Secretares for work camps to be used by the extended Corps under this title. In preparing such plan, the Secretaries shall plan for a capacity of the extended Corps to employ one hundred thousand young adults under this title during its first fiscal year of operation, three hundred thousand young adults during its second fiscal year of operation, four hundred thousand young adults during its third fiscal year of operation, and five hundred thousand young adults during its fourth fiscal year of operation. In selecting work projects for the extended Corps, the Secretaries shall give priority to reforestation, timber stand improvement, fighting forest fires, trail and campground improvements, and control of insects, diseases, soil erosion, and floods. In selecting facilities for Corps work camps, the Secretaries shall utilize existing facilities, including military facilities, whenever possible.

"(b) No young adults shall be employed in the extended Corps under section 202 and no grants shall be made to the States under the extended grant program of section 204(a) until June 1, 1977.

"(c) The Secretaries shall submit to the Congress the plan they prepared pursuant to subsection (a) on March 1, 1977. If neither House of Congress disapproves such plan within sixty days after its submission, such plan shall be deemed approved.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. (a) There is authorized to be appropriated to the Secretaries for preparing the plan required under section 206 of this Act, and for preparing the sites, facilities, and equipment selected in such plan, $50,000,000 for the period beginning on the date of enactment of this title and ending on the two hundred and fortieth day after such date.

"(b) There are authorized to be appropriated to the Secretaries for carrying out this title $700,000,000 for the first fiscal year during which young adults are employed under this title, $2,100,000,000 for the second fiscal year during which such young adults are so employed, $2,800,000,000 for the third fiscal year during which such young adults are so employed, and $3,500,000,000 for the fourth fiscal year during which such young adults are so employed. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated.".

SEC. 3. The Youth Conservation Corps Act is further amended by—

(1) inserting immediately after the enacting clause the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) redesignating sections 1 through 6 as sections 101 through 106, respectively:

(3) striking out "section 6" in section 104(d) (as redesignated by clause 2 of this section) and inserting in lieu thereof "section 106"; and

(4) striking out "Act" each place it appears in sections 101 through 106 (as redesignated by clause 2 of this section) and inserting in lieu thereof "title".

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On page 17, strike subsection (b) beginning on line 16 and ending on line 20 and substitute in lieu thereof the following:

"(b) Of the sums appropriated under section 207(b) for the fiscal year beginning October 1, 1976, not more than twenty-five per centum shall be made available for grants under this section. Of the sums appropriated under section 207(b) for the fiscal year beginning October 1, 1977, thirty per centum shall be made available for grants under this section. Amounts reserved for this section in any subsequent fiscal year shall be determined by the Congress after receiving the recommendations of the Secretaries of Agriculture and Interior in the report required by section 205. Legislation containing the recommended amounts shall be reported by the House Committee on Education and Labor and the Senate Committee on the Interior within 90 days from the date such report is referred to them."

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, this amendment was drafted in consultation with my colleagues on the other side of the aisle.

The amendment will keep the 30 percent of the funds reserved for the States for the beginning of the program; and as the program develops and the study has been completed that we asked of the Secretary of Agriculture and the Secretary of the Interior, that then the Congress make a determination, in subsequent years, as to the percentage that will go to the States.

Right now we have not seen a program operate other than about a $10 million one in the YCC, and we do not know really the mix there would be if we appropriate, say, $200 million or $400 million.

Second, Mr. Chairman, as this program expands, we do not know who can expand their own programs the fastest and the most wisely the State or the Federal program. Therefore, we need that information which will come from the study by the two departments.

Mr. Chairman, the 30 percent set aside for States will stay for the first 2 fiscal years, and after that the Congress itself, through the Committee on Education and Labor, will determine the mix. It may turn out to be more than 30 percent, and it may turn out to be less than 30 percent.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the gentleman from Minnesota (Mr. QUIE) has already indicated to this House, this amendment was discussed with the majority of the committee. The amendment was worked out between us, and I wish to report that it is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. QUIE: On page 18, line 3, strike all after the word "Congress" down through "respectively." on line 11, and substitute in lieu thereof the following: "a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate for changes in the percentage of funds allocated to States under section 204(b)."

On page 18, line 14, strike the word "March" and substitute in lieu thereof "February".

On page 19, line 19, strike the word "March" and substitute in lieu thereof "February".

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Also, Mr. Chairman, at the bottom of that page there are two conforming amendments, and I ask that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, there is a requirement of a secretarial report each year and then, subsequently, there is a planning and preparation period. What this amendment does is to make them all come due on February 1st so that it will be February 1 of next year that the planning and preparation will be available and then each year thereafter we will get a report on the operation of the program by February 1.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I am happy to yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I would like to say to the distinguished gentleman from Minnesota that these amendments are satisfactory to this side of the aisle.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On page 20, line 2, immediately after the word "plan" insert the follwing: "(utilizing persons eligible for employment under this title, where practicable)".

Mr. QUIE. Mr. Chairman, as the Members may have learned from the general debate, there is the development of a plan and preparing sites and facilities. What this amendment does is to provide that the young adults can be hired in this period for the preparation of sites and facilities.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, this amendment was presented to the chairman and I have examined it. We think it is a very good amendment and that it is a constructive amendment. It is acceptable on this side of the aisle.

Mr. QUIE. I thank the gentleman from New Jersey.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On page 20, line 5, strike subsection (b) and substitute in lieu thereof the following:

"(b) There are authorized to be appropriated in addition to the amounts appropriated under subsection (a) such sums as may be necessary for the fiscal year beginning October 1, 1976, and for each of the three succeeding fiscal years, for the purpose of carrying out this title."

Mr. QUIE. Mr. Chairman, what this amendment does is to authorize whatever sums the Congress may appropriate for each fiscal year in the operation of the program. The unreasonable goals of $700 million the first year to $3.5 billion the fourth are dropped. It leaves remaining the $50 million set aside for the planning, that is in subsection (a). It also provides that the program can operate in fiscal year 1977. It seems to me that if they can get started, it would be well to let the young adults be hired rather than having to wait until the first of October 1977.

I will yield to the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

Mr. DOMINICK V. DANIELS. Mr. Chairman, this amendment was discussed with the majority side of the committee and the language is acceptable to this side of the aisle.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman from Minnesota (Mr. QUIE) has been offering a series of amendments that clarify and restrict the legislation we are now considering and I think it would be appropriate for me to ask the gentleman from Minnesota as to whether he is going to offer a clarifying amendment in regard to the language on page 15, line 18, subsection (6)?

It reads:

Determine rates of pay for Corps members by giving consideration to housing, transportation, food, medical, and other direct benefits of employment (except that supplies and equipment shall not be benefits of employment), but in no event shall the resulting rates be set at less than the current Federal minimum wage, set forth in

section 6(a)(1) of the Fair Labor Standards Act of 1938.

That section I would state to the gentleman from Minnesota is unclear to me. Does that mean that the youth shall receive not less than the minimum wage and that housing, transportation, food, medical, and other direct benefits shall be deducted from the minimum wage; or does that mean that they will be paid the minimum wage, plus being furnished housing, transportation, food, medical, and other direct benefits?

Mr. QUIE. I will say to the gentleman in response to his first question as to whether I was going to offer an amendment, the answer would be no. In the committee I offered an amendment that it should be "not more than" rather than "not less than," but it was defeated and this language was adopted.

As one reads the language, one can see that when it permits the housing, transportation, food, medical, and other benefits of employment to be taken into consideration, the department that is handling the program can subtract whatever such costs amount to from the minimum wage. They can pay more than the minimum if the skill of the person deems that they should pay more. However, they can subtract from that the amount of the housing that they believe should be charged to the young adult, also the board, and transportation and medical benefits.

Mr. ICHORD. If the gentleman will yield further, then it means that they could be paid more than the minimum wage, but the housing and transportation in that case would be deducted.

Mr. QUIE. Not just in that case, but even in the case of paying the minimum wage or more they can deduct transportation, housing, board, and medical services.

Mr. ICHORD. Does the gentleman mean it is possible under this legislation for the agency to pay the minimum wage, plus personal housing, transportation, food, and medical?

Mr. QUIE. It would not be possible for them to do that. It could be possible for them to pay the minimum wage minus housing, transportation, and so forth but they are not required to subtract a specific amount. But I would expect that when one looks at a young person who lives next to the site, who lives at home where he pays his own transportation, pays his own housing, and pays for his own food, and then receives the minimum wage, in order for that to be equitable where the Forest Service provides for others the housing and board, then they ought to subtract that board and room from the pay of the individual so their treatment will be the same as for one who lives at home. I would expect that either the people would be paying their own transportation costs or else possibly transportation could be paid and then would have the cost deducted from their pay.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I agree with the interpretation that the gentleman from Minnesota has set forth, but I would like to add that certainly that minimum wage will be paid, and where there are additional expenses, the expenses in most instances would be taken care of also.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MEEDS, and by unanimous consent, Mr. QUIE was allowed to proceed for 2 additional minutes.)

Mr. MEEDS. Mr. Chairman, will the gentleman yield further?

Mr. QUIE. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I can certainly envision instances of certain programs like the program pointed out where the minimum wage would be ample and that no deduction would be taken because there would not be transportation and housing. But in some instances young people will be involved in very difficult manual labor, and I think it is essential that in this program young people be compensated a reasonable wage, because in this society what we receive for our endeavor is sometimes the mark of that endeavor, and it is necessary that young people know they are doing something meaningful.

Mr. QUIE. Mr. Chairman, if I could just use my time for a moment, I would like to ask the gentleman from Washington a question. Right now in the Forest Service some individuals who begin their first year are paid about the minimum wage, and they pay for their own transportation to get there; they pay for their own board; and they pay for their own room. These individuals who might be working right next to young people hired under this act should not receive less in compensation taking into consideration housing, board, transportation, and medical costs. Would the gentleman comment on that?

Mr. MEEDS. If the gentleman will yield further, I can understand the distinction the gentleman makes, and I think he draws that parallel between two very easily understandable examples. But I am just trying to make it clear that my intent certainly is that young people be compensated reasonably, and if we give them the minimum wage and then deduct a lot of things which come to a big cost, it would not bring that up to a reasonable wage, and then I think it should be more, or those deductions should not be made.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WHITE, and by unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding.

By setting forth a minimum wage, then, if a youngster should work, say, 9 hours, he would be paid the minimum wage for 8 hours and time-and-a-half for the extra hour. He would be paid overtime for that.

Mr. QUIE. That is correct.

Mr. WHITE. I see. I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened very carefully to the debate on both sides of the aisle regarding this legislation. I know that the bill has a certain amount of political sex appeal, if I may be permitted to use that word in the context of recent events. Nevertheless I think we ought not to delude ourselves about the amendment now pending before the committee. The gentleman from Minnesota has offered what he calls a compromise amendment dealing with the annual amounts of money authorized in this bill. The authors of the bill when it came out of the committee—and as I understand it when the amendments were offered by the gentleman in the committee, the majority defeated his attempts to deal with this section—wanted to spend $9.1 billion ove period of 4 years. That was their estimate.

We have a Congressional Budget Office and when they were asked, as our rules now require, to estimate the cost of this bill they said it would be closer to $13 billion over the same period of time. CBO estimated it would cost roughly $10,000 annually for each enrollee in this program. The Federal Government will be paying each one of the persons who registers and works under this program $10,000, which compares favorably with what an individual can receive under the unemployment or welfare programs in most areas.

Of course the argument is advanced that the people in this new program will do some good in improving our national parks and forests.

I serve on the National Parks and Recreation Subcommittee of the Committee of the Interior and the Fish and Wildlife and Environment Subcommittee of the Merchant Marine and Fisheries Committee, and I dispute the gentleman from Washington when he says this program will save money or be more efficiently administered by going through this new bureaucratic procedure than it would if we simply increased the amounts for each one of these existing agencies. I think this bill should have been referred sequentially to the Interior and Insular Affairs Committee so we could have looked at it.

Now, the pending amendment does nothing more than substitute "such sums" for the following figures: $700 million for the first year, $2.1 billion for the second year, $2.8 billion for the third year and $3.5 billion for the fourth year. It is, I am sure, the intention of the authors of this bill to push as hard as they can to obtain full funding for this program over the years ahead. Strangely no comment has been made in this debate about the Humphrey-Hawkins bill that is going to cost many billions to make the Government the employer of last resort. The present bill goes part of the way toward that goal.

I think we must consider the fact that

this Government is operating this year at a $75 billion deficit. This Congress unwise fiscal policy has caused inflation and the recession in which we now find ourselves. And this bill is more of the same kind of patent medicine when a serious change in treatment is needed. If we really want to provide jobs for the unemployed, let us do so by putting our economic house to order.

I think the gentleman is offering an amendment which is nothing more than cosmetic and which will not do much to help the economy or to help the taxpayers.

Mr. QUIE. If the gentleman will yield, it does remove what looks like a goal so people cannot come in and say we are not fully funding. I have no doubt appropriations the first year for instance will be far less than $7 million, especially since the YCC is costing about $10 million at the present time. This is the route we need to go, I believe, and it seems to me it is wrong to make false promises. I think the bill before my amendment made false promises. Also this program will not cost $10,000 per employee.

If we pay the minimum wage, plus housing, plus transportation, plus board, that is going to be a tremendous income. If we fly people as we did in the OEO programs from Baltimore to Seattle and from Seattle to Florida and all over the country it could be $10,000 per enrollee, but if it is taken into consideration to deduct housing, deduct board, deduct transportation, and deduct medical it will be self-policing. That is the way it is written now, and it will be self-policing and it will be much less expensive.

I do not see how the Federal Government, looking at what it is doing now, for instance, with the Forest Service having 28,000 summer employees, would be doing any differently than we are doing presently with summer hires.

The reason we just did not increase the authorizations to the departments themselves is that there is a tendency of the American people to deal with things instead of people; so the departments now contract for less labor-intensive-type organizations. This is going to move it toward more relatively labor-intensive operations. Also, there is a tendency to use appropriations for other purposes than reforestation and other work this bill addresses. For that reason I think this is far superior than additional financing to the various departments.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Chairman, I would like to make one additional point: every time the Federal minimum wage law has been increased by Congress, some of us have tried to seek exemptions for young people seeking summer and other seasonal employment, so they could go to work at lower wage rates than the rates employers would be willing to pay to more skilled workers. Every time the suggestion has been made, the committee has voted it down. The labor unions have opposed it. I can see a direct correlation in my district where young people are being put out of work by Congress passing ever higher minimum wages that the employers cannot pay. So it is the Congress which makes unemployment; when you pass ever higher minimum wages. And now you come back with a bill to spend $9 billion and to create employment for the very people for whom you have caused unemployment. This action is the very kind of issue that is making Mr. Carter, Governor Reagon, Governor Brown and the rest successful in their condemnation of big Government. They are rightfully attacking the same programs that failed to work in the thirties. It is why they are being listened to by the American people and the Congress is being held in ridicule.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PRESSLER

Mr. PRESSLER. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PRESSLER:

(1) On page 11, line 22 after "," delete and".

(2) On page 11 line 24 after "investments" insert ", and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(3) On page 14 following line 18 insert "(F) shelterbelt maintenance".

(4) On page 14 line 19 change "(F) to "(G)".

(5) On page 14 line 21, change "(G)" to "(H)".

(6) On page 14 line 22 following the word "lands" add "and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(7) On page 16 line 14 after "purposes" insert ", and private lands where publicly assisted conservation projects, such as shelterbelts, exist".

(8) On page 19 line 10 after "fires," insert "shelterbelt maintenance,".

Mr. PRESSLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. PRESSLER. Mr. Chairman, the purpose of my amendments is to allow the persons employed under this act to work on privately owned land on which there are shelter belts of trees or other conservation projects. My reading of the bill is that only publicly owned lands would qualify as a place for employees under this act to work.

Mr. Chairman, I would like to point out that a recent GAO report on action needed to discourage removal of trees that shelter croplands on the great plains are becoming so great that the trees planted on private lands in the 1930's are dying out. The cost of farmland is so great that farmers are not replanting shelter belts. The result is a substantial threat to top soil and the general environment in the Plains States.

Also, in many congressional districts there is not sufficient public land to provide employment without transporting the young people great distances. For example, many shelter belts on private lands are closer to unemployed youth. The weeding and care of trees is a necessary element—whether the trees are on public land or private land.

This would provide good employment, and it would also very much preserve the topsoil in the areas concerned. The benefits derived from privately owned shelter belts, on which private farmers must be taxed as well as carry on extensive maintenance efforts, include but are not limited to conservation of soil through reduction of soil blowing, conservation of moisture through the control of water, and snow conservation and enhancement of wildlife resources, conservation of energy through protection of farm buildings, protection of crops, orchards, livestock, and enhancement of the natural beauty of our landscape.

I would like to point out that many shelter belts in the Middle West are now approaching 40 years of age, and the farmer has borne all the cost. He has taken land out of production, maintained necessary fence, nursed the trees, and in some cases replaced dead ones. Often, he has allowed the public to hunt on his land. On top of this, he has paid the taxes.

It would seem to me very logical that this bill be expanded to cover private lands on which there are projects which have been approved for publicly assisted conservation projects, of which the best example might be shelter belts of trees.

Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, first, I very reluctantly oppose the amendments offered by the gentleman from South Dakota because I know he supports this program and the concepts of the program, but I am afraid that the amendments would inject into this program something which we do not need, especially at this time.

First, there is ample work that needs to be done on Federal lands alone without going onto private lands. As the gentleman from Minnesota pointed out, as the statistics indicate, the Forest Service has 1 million man-years backlog of work that needs doing. The Department of the Interior probably has another 750,000 man-years. The parks and other agencies just of the Federal Government have many man-years of work which needs to be done, so we really would not even have to go off the Federal lands, even if we funded this program to the full extent that the gentleman from Maryland is worried about, every year.

We could carry it out on Federal lands and use every bit of the authorization thereunder. But, 30 percent of these funds are available to the States additionally, and when we take the backlog of things which need doing on public lands within the States, we have many hundreds of thousands, if not millions, more man-years of labor which needs to

be performed just on the public land. So, there is no need to go to the private lands.

Lastly, the injection into this public service work of enhancement of private property is an issue which we can very well do without. Perhaps after more study, perhaps after a lot of very tough regulations and safeguards, perhaps we should be talking about enhancing private property. However, No. 1, when we have gotten so much public property that needs enhancing, and such a little program, I do not think we have to worry about it. Secondly, the gentleman's amendments do not have the safeguards to assure that private gain will not result from this public expenditure.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Chairman, the gentleman makes some excellent points, but I would like to ask, what about parts of the country, where there are unemployed youths, which are not adjacent to public lands? Also, would it not be wise to encourage more development of conservation projects such as shelter belts and trees on privately owned lands in areas of the country where transportation—and I think we have already pointed out that transportation would be only a small part of this bill, if any—so in parts of the country that are not adjacent to public lands, where we have large numbers of unemployed persons, such as in parts of my district, that are not adjacent to publicly owned lands.

Mr. MEEDS. I will respond to the gentleman by saying that I am not aware of any area in the United States which is not within the scope of this bill, reasonably adjacent to public lands, upon which these kinds of programs can be carried out.

We have provisions for transportation in the legislation, where that is necessary, to carry out the program, and I do not fear at all that there are public lands close enough to the population centers upon which this kind of work can be done.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding.

Mr. Chairman, as the bill is written now, anything that the Soil Conservation Service does to provide technical assistance, they could hire a young person to do.

What the gentleman is proposing to have done on the shelter belt is going beyond what the Soil Conservation Service has the responsibility of doing.

Mr. MEEDS. That is correct.

Mr. QUIE. All that needs to happen is to have one young adult work for one wealthy rancher and the program is discredited.

But I think we should at this time say also that the gentleman from South Dakota is to be commended for his concern over the shelter belt, because without the shelter belt we will have the wind blowing again in the Midwest, as happened in the 1930's. I commend the gentleman's concern about this and his attempt to bring about some support to have those shelter belts not only continued as they are, but even expanded against the dry conditions which may be coming.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Chairman, I think it is imperative that when the Secretary of Agriculture gets around to writing regulations that we make very sure that he carefully understands that no State will be penalized in any way, shape or form because of the lack of public lands when it comes to employment. I think that will reassure him somewhat in that regard.

Mr. MEEDS. I am sure we will find ample programs on public lands, both Federal and State public lands, and the young people from all parts of the country will have an opportunity to enroll in this program.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is not contemplated that any of the enrollees who are assigned by the Department of Agriculture to do soil conservation work will be deprived of working where the soil conservation work is currently being performed, whether it be on private property or public property, where work of a public nature is essential to prevent erosion. So there are instances, with soil conservation workers, where the enrollees may work on private property. I think we should make that perfectly clear.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. I thank the gentleman for yielding.

Mr. Chairman, under this program the Soil Conservation Service can run a program under one of the approved agencies under the Department of Agriculture, and it could use its people in capacities in that program in which it can presently use them, but it could not take a crew of young people out to enhance private property, which is a function it cannot now do.

Mr. PERKINS. I agree with that interpretation. The real mission of the Soil Conservation Service is to prevent erosion, in order to serve the general welfare of the entire public. That is the reason it is necessary, on occasion, for the Soil Conservation Service to do some work on private property.

Mr. MEEDS. If the gentleman will yield further, that is technical advice at this time.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding.

It is true the Soil Conservation Service sets foot on private land. The same way with the Forest Service. Nothing is to prevent them from actually setting foot on private land. This bill provides that anything the Soil Conservation Service does now, they can continue to do with these young adults.

What the gentleman from South Dakota is wanting is for these young people to do work with shelter belts which the Soil Conservation Service is not engaged in. An example is cutting the weeds in a shelter belt that might kill newly planted trees.

This is always the responsibility of the farmer. This applies also to the actual cost of putting in the trees, actually planting the trees. The Soil Conservation Service does not pay any of that cost.

This amendment goes further than that. It would not be limited to shelter belts. Right now the Soil Conservation Service provides technical assistance. They would be able to continue to do that. They can run the level on terraces, and the young people can help do that; they can handle the chains and do the measuring properly. But they could not under this act do other than what the employees of these two Departments—Agriculture and Interior—do now.

Mr. PERKINS. Mr. Chairman, I agree with the gentleman from Minnesota (Mr. QUIE). The gentleman has stated the facts accurately.

The CHAIRMAN. The question is on the amendments offered by the gentleman from South Dakota (Mr. PRESSLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PRESSLER. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from South Dakota (Mr. PRESSLER) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

AMENDMENTS OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer two amendments and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. DODD: Page 17, line 8, after the word "months" insert "or if such data is not kept by counties, such other statistical area basis as is used within that State".

Page 13, line 18, after the word "labor" strike out the semicolon and insert ", if such data is not kept by counties, such other statistical area basis as is used within that State"

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Chairman, let me just say at the very outset that I would like to take this opportunity to congratulate the gentleman from Washington (Mr. MEEDS), the gentleman from New Jersey (Mr. DOMINICK V. DANIELS), and the gentleman from Minnesota (Mr. QUIE) on bringing forth this legislation. This is an excellent piece of legislation that deserves the support of all Members who are truly interested in fighting unemployment in this country. As has been pointed out, the largest single group of unemployed people is our youth. This bill will do much to alleviate this problem.

These amendments that I have are technical in nature.

There are States, my own State of Connecticut, for example, which do not use counties as a basis for developing statistical data. My amendment, very simply will allow those States that use basis different from counties for developing statistical data, and that are suffering unemployment of 6 percent or more within that area, to qualify for this program.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I believe these are good amendments, and I think the gentleman from Connecticut (Mr. DODD) has made an important point.

Mr. Chairman, we accept the amendments on this side.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the gentleman from Connecticut (Mr. DODD) brought this question up with the chairman of the subcommittee. As a result, the amendments that have been proposed are acceptable to the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut (Mr. DODD).

The amendments were agreed to.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to express my strong support for this bill to create a Young Adult Conservation Corps. We are all well aware of the great successes of the Youth Conservation Corps. This bill would extend that program by providing similar opportunities to the young people of our Nation who are too old to participate in the YCC.

When this Nation faced an even grimmer economic situation in the 1930's, the Congress created a Civilian Conservation Corps, known to many simply as the CCC. Through this program, the Federal Government was able to provide meaningful work for many Americans while at the same time, providing valuable service in the field of conservation. This program worked. It contributed to the country's economic recovery and to individual income maintenance. Many of our national and State parks and forests were improved and protected through the dedicated efforts of members of the CCC.

Remembering the successes of the Civilian Conservation Corps, the Congress, 6 years ago, established a pilot program under the name Youth Conservation Corps. Young men and women age 15 through 18 were employed during the summer months to perform outdoor work on various public lands and other public projects. This program gave many young people the opportunity to have a summer job near their homes in which they would feel that they were making an important contribution to their fellow citizens through improvement of our natural resources. Once again, this approach met with substantial success. Subsequently, the Congress made the program a permanent program for young people.

Mr. Chairman, I believe a proven program of this type should be expanded during this time of economic instability to give other individuals a similar opportunity to earn a living wage and at the same time contribute to the preservation of our environment. For this reason, I have joined in sponsoring legislation (H.R. 10601), identical to the bill before us today, which would create a Young Adult Conservation Corps for young adults between the ages of 20 and 24.

There are nearly 2 million young people in this age bracket who were out of work this past summer. Their unemployment rate of 13.6 percent exceeds the national rate. The need for this type of program, not only for job creating aspects, but also for conservation aspects, is well demonstrated. As only one example, I mention the fact that the Forest Service has a reforestation backlog of nearly 3 million acres. This would be the type of program which could easily be completed by a Young Adult Conservation Corps.

I hope that this House, recalling the outstanding record of the Youth Conservation Corps, will fully recognize the prospects of fulfilling a national need and will expand this concept to include this program for young adults.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: Page 12, line 5, after the word "flood" add "and other natural disasters".

Mr. WHITE. Mr. Chairman, I submit this amendment in order to cover a gap or an omission in the bill in the event other natural disasters occur, such as tornadoes, earthquakes, and other such events in which the corps would be needed in order to be of assistance in such disasters.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the gentleman from Texas (Mr. WHITE) has discussed this amendment with the committee. We feel that the amendment is an improvement to the bill and the amendment is acceptable on this side of the aisle.

Mr. QUIE. Mr. Chairman, would the gentleman yield?

Mr. WHITE. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the amendment is acceptable on this side of the aisle.

Mr. WHITE. I thank the gentlemen from New Jersey and Minnesota.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this particular time to express my commendation of the distinguished gentleman from the State of Washington (Mr. MEEDS), the prime sponsor of this legislation. I might also point out that the gentleman also was the original architect of the Youth Conservation Corps which has worked out so well over the past 5 years.

Mr. Chairman, I heartily recommend that all Members of this body support the legislation, H.R. 10138, that we have before us now. In my opinion this is a splendid piece of legislation which will provide year-round employment to young adults in worthwhile conservation activities that currently need to be done. The bill will not only alleviate the unemployment situation which is so severe among our young adults, but will also alleviate a serious situation, in my opinion, by permitting the performance of worthwhile essential conservation work which will cost substantially less this way than if we contracted for it privately.

I also wish to thank the distinguished chairman of the full Committee on Education and Labor (Mr. PERKINS) as well as the ranking minority member of said committee, Mr. QUIE, for their hard work and assistance in the development of this legislation. Their cooperation and help is much appreciated.

Mr. PATTISON of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in full support of this measure.

We are agreed that we must do something about the problem of unemployment now—that we cannot wait for a slow economic recovery to magically provide enough jobs. The question is: What is the best way to accomplish this goal? I believe that creation of a Young Adult Conservation Corps is one good answer.

First, it creates new jobs. It does not merely shift the cost of employment from local government to the Federal Government. One of the main weaknesses of the CETA program is that local officials too often simply lay off regular staff and replace them with CETA people. But this not only fails to increase employment, it also bypasses the Civil Service System and discriminates against laid-off municipal workers.

Second, it is aimed at young people. The group hit hardest by unemployment is the 18- to 23-year-olds. Unemployment is especially harmful to them, because they need jobs to learn the skills they will use the rest of their lives. The labor-

intensive projects of the corps would fit their needs well.

Third, the CCC idea has the approval of the American people. Many remember the useful work accomplished under this program in the 1930's. They recognize that it is not a "make work" program, that these jobs need to be done, and that they would not otherwise be done.

Admittedly, jobs provided under this bill are "dead end" jobs. That is bad for 37-year-old fathers. But it is fine for 18- to 23-year-olds. They desperately need work and work experience, with the dignity, skills, and good habits such jobs can provide.

And this also means that the Young Adult Conservation Corps would not have the same problem of continuity that public employment plans do. Once these are started, they are almost impossible to stop. If you eliminate or reduce them, you take jobs directly from the market. You are right back where you started. But the Conservation Corps can be phased out without harm to the economy.

A CCC program is not the long-term answer to the unemployment problem. But it will create jobs for thousands of young people. It will accomplish work that needs to be done. It will help promote economic recovery. It will prepare young people to move into permanent jobs in a healthy economy. I urge your support of this legislation.

Mr. DOWNEY of New York. Mr. Chairman, Franklin D. Roosevelt when accepting the nomination for the President of the United States from the Democratic Party on July 2, 1932 stated:

> We know that a very hopeful and immediate means of relief, both for the unemployed and for agriculture will come from a wider plan of the converting of many millions of acres of unused land into timberland through reforestation . . . in so doing, employment can be given to a million men . . .

President Roosevelt's plan was initiated in 1933 with the establishment of the Civilian Conservation Corps which provided work for jobless men in reforestation, road construction, the prevention of soil erosion and the construction of national parks and flood control projects.

The CCC was a success—it relieved acute unemployment by allowing thousands to work on conservation programs already authorized and planned. The benefits that have accrued to the Nation in the form of roads, forests and park lands is without measure. The immediate benefit of employing thousands of young men in a time of dire economic need was clear.

We have a bill before us today that would creat a Young Adult Conservation Corp similar in scope and intent to the plan Franklin Roosevelt set in motion 44 years ago.

The program we are considering today would employ young adults between the ages of 19 and 24 for a maximum of 1 year to work on conservation projects which would otherwise be carried out if adequate funding were made available. Priority employment will be given to those persons living in counties where the unemployment exceeds 6% for a specific period of time.

Mr. Chairman, we have important jobs that need to be done in our national forests, parks and wildlife refugees—jobs and work that will improve and protect these most precious of our publicly owned resources.

And we have thousands of young men and women without jobs who are willing to do these important and necessary jobs.

Let the experience of the past be our guide. The CCC accomplished its ends without administrative conflict or difficulty until its termination in 1943. I urge my colleagues to support this worthy legislation before us this day.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it disturbs me that one of the principal justifications advanced by those in favor of this bill is that the creation of a Young Adult Conservation Corps will benefit society by decreasing youth alienation and crime. This simply is not true. By creating such a program we are merely dealing with symptoms of a larger problem and not attacking the cause.

In my opinion, the cause of crime committed by certain younger persons within our society is the breakdown of the traditional American values and institutions which have been built up over these past 200 years. The same is true for the sense of alienation which afflicts some of our younger citizens.

There is ample, if not overwhelming, evidence in support of my position. We see a divorce rate, and the resultant break up of the basic family unit, which is soaring out of sight. For those families, which somehow manage to remain intact, there is increasing parental disobedience which is oftentimes encouraged by forces and pressures from the outside.

There is an increasing permissiveness running rampant within our school systems. Students can attend classes if they want and so choose. Rules are either not made or else existing rules and guidelines are not enforced.

We see a criminal justice system which is spinning hopelessly out of control. Good laws which are made to govern public conduct are observed more in the breach than in fact. The handcuffs have been removed from the criminals and placed on law enforcement officers and agencies. Then we have the spectacle of judges who repeatedly turn hardened criminals loose on pretrial release programs so that more crimes can be committed and more people hurt. Should a criminal be convicted, he is all too often placed on probation with little or no supervision.

Perhaps most significantly there is a lack of spiritual and religious feeling. We, as well as our children, must recognize that we exist only by God's grace and at his pleasure. Churches are openly and publicly attacked; those who acknowledge God as their Creator are mocked. Children are not allowed to pray in public schools, and it is conceivable that further restrictions will be placed upon religious worship.

Family, fair and just laws which are vigorously enforced, together with our spiritual heritage, are just a few of the things which have made our Nation great. They alone can curb and eventually eliminate youth alienation and crime.

Mr. Chairman, I submit that legislation of this type is not the appropriate vehicle to solve the problems to which I have addressed these remarks. We are simply putting an ambulance at the bottom of a cliff, when we should be building a fence or a restraining wall at the top. Let us work to restore our past.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 10138, to create the Young Adult Conservation Corps to complement the Youth Conservation Corps, pursuant to House Resolution 1209, he reported the bill back to the House with an amendment adopted by the Committtee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. QUIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 291, nays 70, not voting 70, as follows:

[Roll No. 302]

YEAS—291

Adams	Breckinridge	Cornell
Addabbo	Brodhead	Cotter
Alexander	Brooks	Coughlin
Ambro	Broomfield	D'Amours
Anderson, Calif.	Brown, Calif.	Daniel, Dan
	Brown, Mich.	Daniels, N.J.
Anderson, Ill.	Brown, Ohio	Danielson
Andrews, N.C.	Broyhill	Davis
Andrews, N. Dak.	Buchanan	Delaney
	Burgener	Dellums
Annunzio	Burke, Calif.	Diggs
Ashley	Burke, Fla.	Dingell
Aspin	Burke, Mass.	Dodd
Badillo	Burton, John	Downey, N.Y.
Baldus	Burton, Phillip	Downing, Va.
Baucus	Byron	Drinan
Beard, R.I.	Carney	Duncan, Tenn.
Bedell	Carr	Early
Bennett	Chisholm	Eckhardt
Bevill	Clausen, Don H.	Edgar
Biaggi		Edwards, Calif.
Biester	Cleveland	Eilberg
Blanchard	Cochran	Emery
Blouin	Cohen	Esch
Bolling	Collins, Ill.	Evans, Colo.
Bonker	Conable	Evins, Tenn.
Bowen	Conte	Fary
Brademas	Corman	Fascell

Fenwick	Long, La.	Rogers
Findley	Long, Md.	Rooney
Fish	Lott	Rose
Fithian	Lundine	Rosenthal
Flood	McClory	Rostenkowski
Florio	McCormack	Roush
Flowers	McDade	Roybal
Foley	McEwen	Ruppe
Ford, Mich.	McFall	Russo
Ford, Tenn.	McHugh	Ryan
Forsythe	McKinney	St Germain
Fraser	Madigan	Santini
Frenzel	Maguire	Sarasin
Frey	Matsunaga	Scheuer
Fuqua	Meeds	Schroeder
Gaydos	Melcher	Sebelius
Gibbons	Metcalfe	Seiberling
Gilman	Meyner	Sharp
Gonzalez	Mezvinsky	Shipley
Goodling	Mikva	Shriver
Grassley	Miller, Ohio	Shuster
Green	Minish	Sikes
Gude	Mink	Simon
Guyer	Mitchell, Md.	Sisk
Hagedorn	Mitchell, N.Y.	Skubitz
Hall	Moakley	Slack
Hammer-schmidt	Moffett	Smith, Iowa
	Mollohan	Solarz
Hanley	Moorhead, Pa.	Spellman
Hannaford	Mosher	Staggers
Harkin	Moss	Stanton, J. William
Harrington	Mottl	
Harris	Murphy, Ill.	Steed
Harsha	Murphy, N.Y.	Steiger, Wis.
Hawkins	Murtha	Stephens
Hayes, Ind.	Myers, Ind.	Stokes
Hays, Ohio	Myers, Pa.	Stratton
Hechler, W. Va.	Natcher	Studds
Heckler, Mass.	Neal	Symington
Hefner	Nedzi	Talcott
Heinz	Nolan	Taylor, N.C.
Hicks	Nowak	Thompson
Hightower	Oberstar	Traxler
Hillis	Obey	Treen
Holtzman	O'Brien	Tsongas
Horton	O'Hara	Ullman
Howard	Ottinger	Van Deerlin
Hubbard	Patten, N.J.	Vander Jagt
Hughes	Patterson, Calif.	Vander Veen
Hutchinson		Vanik
Hyde	Pattison, N.Y.	Vigorito
Ichord	Pepper	Wampler
Jacobs	Perkins	Waxman
Jeffords	Pettis	Whalen
Jenrette	Peyser	White
Johnson, Calif.	Pickle	Whitten
Johnson, Colo.	Pike	Wiggins
Johnson, Pa.	Pressler	Wilson, Bob
Jordan	Preyer	Wilson, C. H.
Kasten	Price	Wilson, Tex.
Kastenmeier	Pritchard	Winn
Keys	Quie	Wirth
Kindness	Railsback	Wolff
Koch	Randall	Wright
Krebs	Rangel	Wydler
LaFalce	Regula	Yates
Lagomarsino	Reuss	Yatron
Leggett	Richmond	Young, Fla.
Lehman	Rinaldo	Young, Ga.
Lent	Roberts	Young, Tex.
Lloyd, Calif.	Roe	Zablocki

NAYS—70

Abdnor	Goldwater	Michel
Archer	Gradison	Milford
Armstrong	Haley	Montgomery
Ashbrook	Hansen	Moore
Bafalis	Henderson	Moorhead, Calif.
Bauman	Holland	
Beard, Tenn.	Holt	Nichols
Breaux	Jones, N.C.	Passman
Brinkley	Jones, Okla.	Paul
Burleson, Tex.	Kazen	Poage
Chappell	Kelly	Robinson
Clancy	Kemp	Rousselot
Clawson, Del	Ketchum	Runnels
Collins, Tex.	Krueger	Smith, Nebr.
Crane	Latta	Snyder
Daniel, R. W.	Levitas	Spence
Derrick	Lloyd, Tenn.	Steiger, Ariz.
Devine	Lujan	Symms
Dickinson	McCollister	Taylor, Mo.
English	McDonald	Teague
Eshleman	Mahon	Thone
Evans, Ind.	Mann	Waggonner
Fountain	Martin	Wylie
Ginn	Mathis	

NOT VOTING—70

Abzug	Boland	Conyers
Allen	Burlison, Mo.	de la Garza
AuCoin	Butler	Dent
Bell	Carter	Derwinski
Bergland	Cederberg	Duncan, Oreg.
Bingham	Clay	du Pont
Boggs	Conlan	Edwards, Ala.
Erlenborn	McKay	Satterfield
Fisher	Madden	Schneebeli
Flynt	Mazzoli	Schulze
Giaimo	Miller, Calif.	Stanton, James V.
Hamilton	Mills	
Hébert	Mineta	Stark
Helstoski	Morgan	Steelman
Hinshaw	Nix	Stuckey
Howe	O'Neill	Sullivan
Hungate	Quillen	Thornton
Jarman	Rees	Udall
Jones, Ala.	Rhodes	Walsh
Jones, Tenn.	Riegle	Weaver
Karth	Risenhoover	Whitehurst
Landrum	Rodino	Young, Alaska
Litton	Roncalio	Zeferetti
McCloskey	Sarbanes	

The Clerk announced the following pairs:

Mr. Hébert with Mr. Whitehurst.
Mrs. Boggs with Mr. Cederberg.
Mr. Zeferetti with Mr. Edwards of Alabama.
Mr. Mineta with Mr. Allen.
Mr. Bergland with Mr. Derwinski.
Ms. Abzug with Mr. Howe.
Mr. Boland with Mr. McCloskey.
Mr. Dent with Mr. Bell.
Mr. Duncan of Oregon with Mr. Erlenborn.
Mr. Giaimo with Mr. du Pont.
Mr. Hamilton with Mr. Quillen.
Mr. Rodino with Mr. Butler.
Mr. Stack with Mr. Conlan.
Mr. Udall with Mr. Hungate.
Mr. Mazzoli with Mr. Mills.
Mr. Litton with Mr. Carter.
Mr. Miller of California with Mr. Risenhoover.
Mr. O'Neill with Mr. Landrum.
Mr. Bingham with Mr. Sarbanes.
Mr. AuCoin with Mrs. Sullivan.
Mr. Jones of Tennessee with Mr. Jarman.
Mr. Morgan with Mr. Schneebeli.
Mr. Nix with Mr. McKay.
Mr. Rees with Mr. Thornton.
Mr. Roncalio with Mr. Satterfield.
Mr. Riegle with Mr. Jones of Alabama.
Mr. Helstoski with Mr. Schulze.
Mr. James V. Stanton with Mr. Walsh.
Mr. Weaver with Mr. Steelman.
Mr. Burlison of Missouri with Mr. Stuckey.
Mr. de la Garza with Mr. Young of Alaska.
Mr. Clay with Mr. Karth.
Mr. Conyers with Mr. Madden.
Mr. Fisher with Mr. Flynt.

Mr. HOLLAND and Mr. JONES of Oklahoma changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXTENDING EDUCATIONAL BROADCASTING FACILITIES PROGRAM

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9630) to extend the educational broadcasting facilities program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 12, after "university" insert: "or other educational or cultural institution which is affiliated with an eligible college or university".

Page 8, line 21, strike out "June 30, 1976," and insert: "September 30, 1977,".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia would explain to us what this is all about.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, H.R. 9630, which was passed by the House on January 30, 1976, is a short and simple bill but nonetheless an important one. It authorizes appropriations for the public broadcasting facilities grant program which is administered by the Department of Health, Education, and Welfare. For that program, $7.5 million is authorized for the transitional fiscal period; and $30 million is authorized for fiscal year 1977.

The bill also authorizes the appropriation of funds for telecommunications demonstrations projects. For that program, $1 million is authorized for fiscal year 1976, and $250,000 is authorized for the transitional fiscal period.

The bill creates separate priorities for radio and television in the public broadcasting facilities grant program. In addition, the bill requires that the Secretary of Health, Education, and Welfare closely coordinate the administration of his functions outlined in this bill with both the FCC and the Corporation for Public Broadcasting.

The Senate passed this bill with two minor amendments on May 13, 1976:

The first Senate amendment is to section 4(a) of the bill and it proposes to broaden the eligibility of applicants under that provision to include other educational or cultural institutions which are affiliated with an eligible college or university.

The second Senate amendment to the bill (section 8) changes the authorization fiscal year from 1976 to 1977 for the telecommunications demonstration program.

I recommend that the Members of the House unanimously agree to the two minor Senate amendments and send this legislation to the President for his signature.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, those are the only two differences?

Mr. STAGGERS. Those are the only two differences.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the distinguished committee chairman giving this explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12945, HOUSING AUTHORIZATION ACT OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1214 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1214

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945) to amend and extend laws relating to housing and community development, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Banking, Currency and Housing now printed on page 24, line 3, through page 37, line 12, notwithstanding the provisions of clause 5, rule XXI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12945, the Committee on Banking, Currency and Housing shall be discharged from the further consideration of the bill S. 3295, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 12945 as passed by the House.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1214 is the rule providing for the consideration of H.R. 12945, a bill to amend and extend laws relating to housing and community development.

It is an open rule, providing 2 hours of general debate divided in the customary manner.

The resolution waives points of order, under clause 5, rule XXI, which could otherwise be raised against portions of the bill and one committee amendment. The rules of the House prohibit appropriations in legislation reported by committees other than the Committee on Appropriations.

I should stress that there are no actual appropriations, in the normal sense, in this bill. The problem arises when committees undertake comprehensive review and revision of programs whose appropriations are running. Under the precedents, an authorization which has the effect of making funds available for new purposes not possible at the time the appropriations measure was enacted, are construed to be appropriations.

This is not an unusual situation and—in the absence of any indication of intent to bypass the appropriations process—neither is the waiver unusual. The Committee on Appropriations offered no objections to the granting of a waiver of points of order.

The rule also makes it in order to discharge the Committee on Banking, Currency and Housing from further consideration of S. 3295, to strike all after the enacting clause and insert, in lieu thereof, the text of H.R. 12945 as passed by the House. This will clear the way for the other body to ask for a conference.

Up to this point, the resolution is identical to House Resolution 1187 previously reported by the committee. At the time the committee first met, neither the Committee on Rules, the Committee on Budget, nor the Committee on Banking, Currency and Housing was aware of a possible violation of the Budget and Impoundment Control Act (Public Law 93-344).

It was subsequently learned that section 20 of the bill is in violation of section 401(b)(1) of the Budget Act:

(b) Legislation Providing Entitlement Authority.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

Section 20 of the bill provides that certain housing assistance programs shall not be used for the purpose of determining eligibility or benefit levels under SSI. Enactment of the provision as reported would automatically result in the obligation of additional moneys not subject to the budget process. As such the section is an "entitlement" within the meaning of the act and a point of order could be raised against consideration of the bill.

An agreement was reached under which the Committee on Banking, Currency and Housing will offer an amendment to the section which will delay the effective date until October 1, 1976, the beginning of the next fiscal year.

And the chairman of the Committee on Budget, based on the agreement, has indicated his support for the waiver. In his letter to the chairman of the Committee on Rules, the gentleman from Washington noted:

I am advised that the Committee on Banking, Currency and Housing is prepared to offer a floor amendment to change the effective date of the provision in order to comply with the Budget Act. Thus, I would not oppose a waiver of the point of order under section 401(b) to permit floor consideration of the various provisions of the bill on the merits.

I would stress, Mr. Speaker, that—had the section been introduced in the form in which it is expected to pass—no waiver would be required.

Based on this agreement, the Committee on Rules met yesterday and reported the rule I have called up which, in addition to the provisions contained in House Resolution 1187, waives points of order which could be raised under section 401(b) and would have prevented consideration of this measure.

Upon adoption of the rule now pending, I am directed by the committee to seek to vacate the previous resolution.

The Committee on Rules has recommended the rule as a reasonable proposal to insure prompt House action on a measure which faces a relatively long conference with the other body. Notwithstanding a relatively broad range of waivers, the committee is confident that no damage is done to the process the rules were written to safeguard.

Because of the complexity of the rule, it has been my intention to confine my remarks to the questions which lie within the jurisdiction of the Committee on Rules.

I would, however, wish to make two points.

I would like to commend my colleague from Ohio (Mr. ASHLEY), the new chairman of the Subcommittee on Housing and Community Development, for his leadership on this legislation.

And I would like to speak in the strongest possible support for the amendment contained in the bill, offered in committee by the gentlewoman from Missouri (Mrs. SULLIVAN), the Federal Home Owners Loan Mortgage Corporation, originally proposed in legislation introduced by the gentlewoman and our esteemed late colleague from Pennsylvania, Mr. Barrett.

I commend my distinguished colleague for her tireless efforts on behalf of the most forgotten group in America—the middle-class family.

Mr. Speaker, I urge adoption of the rule so that we may consider the Housing Authorization Act of 1976.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the open rule granted under House Resolution 1214 calling for 2 hours of general debate on the bill H.R. 12945, Housing Authorization Act of 1976, is encumbered with waivers.

The rule waives points of order against the bill for failure to comply with the provisions of rule XXI, clause 5, which prohibits appropriations on a legislative bill. Because of the difficulty of locating every provision in the bill which violates this rule, the Committee on Banking and Currency requested a waiver of points of order against the entire bill rather than against specific sections.

House Resolution 1214 further waives points of order against the committee amendment beginning on page 24, line 3 through page 37, line 12, for failure to comply with the provisions of rule XXI, clause 5.

The rule makes it in order to strike out all after the enacting clause of a similar Senate bill, S. 3295, and insert in lieu thereof the provisions of H.R. 12945 as passed by the House.

One waiver of points of order is against the provisions of section 401(b) of the Congressional Budget and Impoundment Control Act of 1974, which makes it out of order for the House to consider any bill providing new entitlement authority which is to be effective prior to the beginning of the next fiscal year—October 1, 1976. However, this is to be changed to the proper date, according to the chairman of the Housing Committee.

Section 20 of H.R. 12945, which violates this entitlement authority, provides that the value of housing subsidies and rent supplements are not to be counted as income in determining supplemental security income—SSI—payments. CBO estimates the effect of this entitlement to be $82 million in budget authority and outlays in fiscal 1977, for which there is no provision in the first concurrent resolution.

Mr. Speaker, another problem with H.R. 12945 is the expenditure of $10 billion over a 5-year period for direct Federal loans to finance purchase of single-family homes with interest rates not to exceed 6.5 percent. This expenditure is an off-budget item that will establish a new Homeowners Mortgage Loan Corporation to make direct loans at 6.5 percent interest or less supposedly to credit worthy families of average income unable to obtain mortgages in the private lending market at reasonable interest rates.

The Director of the OMB may recommend a veto of H.R. 12945 if the provision to establish a Home Owners Mortgage Loan Corporation is not deleted.

I understand the administration opposes the following provisions of the housing authorization bill:

Extension of the period during which landlords can receive Federal subsidy payments for unoccupied section 8 units;

The provision earmarking annual contributions authority for public housing;

The unduly low unemployment trigger for countercyclical community development block grants;

The extension of the so-called "emergency" mortgage purchase and homeowners relief programs;

The extension of the rehabilitation loan program; and

The excessive authorization for section 202 direct loans.

Mr. Speaker, the bill obviously needs corrective action. Perhaps the rule should be defeated and the legislation sent back to the committee to bring it into line with administration recommendations and then provide a housing bill that can be supported and signed into law.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 35, answered "present" 1, not voting 76, as follows:

[Roll No. 303]

YEAS—319

Abdnor	Ellberg	Koch
Adams	Emery	Krebs
Addabbo	English	Krueger
Alexander	Esch	LaFalce
Ambro	Eshleman	Lagomarsino
Anderson, Calif.	Evans, Colo.	Latta
	Evans, Ind.	Leggett
Anderson, Ill.	Evins, Tenn.	Lehman
Andrews, N.C.	Fary	Lent
Andrews, N. Dak.	Fascell	Levitas
	Fenwick	Lloyd, Calif.
Annunzio	Findley	Lloyd, Tenn.
Ashley	Fish	Long, La.
Aspin	Fithian	Long, Md.
Badillo	Flood	Lujan
Bafalis	Florio	Lundine
Baldus	Flowers	McClory
Baucus	Foley	McCollister
Beard, R.I.	Ford, Mich.	McCormack
Beard, Tenn.	Ford, Tenn.	McDade
Bedell	Forsythe	McFall
Bennett	Fountain	McHugh
Bevill	Frenzel	McKinney
Biaggi	Frey	Madigan
Biester	Fuqua	Maguire
Bianchard	Gaydos	Mahon
Blouin	Gibbons	Mann
Boiling	Gilman	Martin
Bonker	Ginn	Mathis
Bowen	Goldwater	Matsunaga
Brademas	Gonzalez	Meeds
Breaux	Goodling	Melcher
Breckinridge	Gradison	Metcalfe
Brinkley	Grassley	Meyner
Brodhead	Green	Mezvinsky
Brooks	Gude	Mikva
Broomfield	Guyer	Miller, Ohio
Brown, Calif.	Hagedorn	Minish
Brown, Mich.	Haley	Mink
Broyhill	Hall	Mitchell, Md.
Buchanan	Hammer-schmidt	Mitchell, N.Y.
Burgener		Moakley
Burke, Calif.	Hanley	Moffett
Burke, Fla.	Hannaford	Mollohan
Burke, Mass.	Harkin	Moore
Burton, John	Harrington	Moorhead, Pa.
Burton, Phillip	Harris	Mosher
Byron	Harsha	Moss
Carney	Hawkins	Motti
Carr	Hayes, Ind.	Murphy, Ill.
Chappell	Hays, Ohio	Murphy, N.Y.
Chisholm	Hechler, W. Va.	Murtha
Clausen, Don H.	Heckler, Mass.	Myers, Pa.
	Hefner	Natcher
Cleveland	Heinz	Neal
Cohen	Henderson	Nedzi
Collins, Ill.	Hicks	Nichols
Conte	Hightower	Nolan
Corman	Hillis	Nowak
Cornell	Holland	Oberstar
Cotter	Holt	Obey
Coughlin	Holtzman	O'Brien
D'Amours	Horton	Ottinger
Daniel, R. W.	Howard	Passman
Daniels, N.J.	Howe	Patten, N.J.
Danielson	Hughes	Patterson, Calif.
Davis	Hyde	
Delaney	Jacobs	Pattison, N.Y.
Dellums	Jenrette	Pepper
Derrick	Johnson, Calif.	Perkins
Devine	Johnson, Colo.	Pettis
Dickinson	Johnson, Pa.	Peyser
Dingell	Jones, N.C.	Pickle
Dodd	Jones, Okla.	Pike
Downey, N.Y.	Jordan	Pressler
Downing, Va.	Kasten	Preyer
Drinan	Kastenmeier	Price
Duncan, Tenn.	Kazen	Pritchard
Early	Kemp	Quie
Eckhardt	Ketchum	Railsback
Edgar	Keys	Randall
Edwards, Calif.	Kindness	Rangel
Regula	Simon	Vander Veen
Reuss	Sisk	Vanik
Richmond	Skubitz	Vigorito
Rinaldo	Slack	Waggonner
Robinson	Smith, Iowa	Wampler
Roe	Smith, Nebr.	Waxman
Rogers	Solarz	Whalen
Rooney	Spellman	White
Rose	Spence	Whitehurst
Rosenthal	Staggers	Whitten
Rostenkowski	Stanton, J. William	Wilson, Bob
Roush		Wilson, C. H.
Roybal	Steed	Wilson, Tex.
Ruppe	Steiger, Wis.	Winn
Russo	Stephens	Wirth
Ryan	Stratton	Wolff
St Germain	Studds	Wright
Santini	Symington	Wydler
Sarasin	Talcott	Wylie
Scheuer	Taylor, N.C.	Yates
Schroeder	Thompson	Yatron
Sebelius	Thone	Young, Fla.
Seiberling	Traxler	Young, Ga.
Sharp	Tsongas	Young, Tex.
Shipley	Ullman	Zablocki
Shriver	Van Deerlin	
Sikes	Vander Jagt	

NAYS—35

Archer	Hansen	Paul
Armstrong	Hutchinson	Poage
Ashbrook	Ichord	Roberts
Bauman	Kelly	Rousselot
Brown, Ohio	Lott	Runnels
Burleson, Tex.	McDonald	Snyder
Clancy	McEwen	Steiger, Ariz.
Clawson, Del	Michel	Symms
Cochran	Milford	Taylor, Mo.
Collins, Tex.	Montgomery	Teague
Conable	Moorhead, Calif.	Treen
Crane		Wiggins

ANSWERED "PRESENT"—1

Daniel, Dan

NOT VOTING—76

Abzug	Giaimo	Quillen
Allen	Hamilton	Rees
AuCoin	Hébert	Rhodes
Bell	Helstoski	Riegle
Bergland	Hinshaw	Risenhoover
Bingham	Hubbard	Rodino
Boggs	Hungate	Roncalio
Boland	Jarman	Sarbanes
Burlison, Mo.	Jeffords	Satterfield
Butler	Jones, Ala.	Schneebeli
Carter	Jones, Tenn.	Schulze
Cederberg	Karth	Shuster
Clay	Landrum	Stanton, James V.
Conlan	Litton	
Conyers	McCloskey	Stark
de la Garza	McKay	Steelman
Dent	Madden	Stokes
Derwinski	Mazzoli	Stuckey
Diggs	Miller, Calif.	Sullivan
Duncan, Oreg.	Mills	Thornton
du Pont	Mineta	Udall
Edwards, Ala.	Morgan	Walsh
Erlenborn	Myers, Ind.	Weaver
Fisher	Nix	Young, Alaska
Flynt	O'Hara	Zeferetti
Fraser	O'Neill	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Cederberg.
Mr. Zeferetti with Mr. Edwards of Alabama.
Mr. Hébert with Mr. Allen.
Mr. Jones of Tennessee with Mr. Derwinski.
Mr. Mineta with Mr. Miller of California.
Mr. Bergland with Mr. McCloskey.
Ms. Abzug with Mr. Bell.
Mr. Boland with Mr. Erlenborn.
Mr. Dent with Mr. du Pont.
Mr. Duncan of Oregon with Mr. Quillen.
Mr. Giaimo with Mr. Butler.
Mr. Hamilton with Mr. Conlan.
Mr. Rodino with Mr. Hungate.
Mr. Stark with Mr. Mills.
Mr. Udall with Mr. Carter.
Mr. Mazzoli with Mr. Risenhoover.
Mr. O'Neill with Mr. Landrum.
Mr. Bingham with Mr. Sarbanes.
Mr. AuCoin with Mrs. Sullivan.
Mr. Morgan with Mr. Jarman.
Mr. Nix with Mr. Schneebeli.
Mr. Rees with Mr. McKay.
Mr. Roncalio with Mr. Thornton.
Mr. Riegle with Mr. Satterfield.
Mr. Helstoski with Mr. ones of Alabama.

Mr. Weaver with Mr. Schulze.
Mr. James V. Stanton with Mr. Walsh.
Mr. Fisher with Mr. Steelman.
Mr. Burlison of Missouri with Mr. Stuckey.
Mr. de la Garza with Mr. Young of Alaska.
Mr. Clay with Mr. Karth.
Mr. Conyers with Mr. Madden.
Mr. Flynt with Mr. Hubbard.
Mr. Diggs with Mr. Fraser.
Mr. Litton with Mr. Jeffords.
Mr. O'Hara with Mr. Myers of Indiana.
Mr. Stokes with Mr. Shuster.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar resolution (H. Res. 1187) was laid on the table.

EXPLANATION OF RULE REQUESTED ON H.R. 10210

(Mr. CORMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, I take this time to notify my Democratic colleagues in the House in compliance with the Democratic Caucus rules that today the Ways and Means Committee passed a motion asking for a partially closed rule on the bill H.R. 10210 that will include committee amendments.

One of those committee amendments will be to conform the bill to the budget resolution.

There will be separate votes on each of the four following amendments:

First. An amendment to section 111 requiring coverage of agricultural workers of employers with four or more workers in 20 weeks or who paid $10,000 in quarterly wages. Rather than four workers in 20 weeks or $5,000 in quarterly wages as in H.R. 10210.

Second. An amendment to strike section 115 that requires coverage of State and local government employees and employees of nonprofit schools.

Third. An amendment to section 211 raising the taxable wage base to $6,000. Rather than $8,000 as in H.R. 10210.

Fourth. An amendment to title III, adding section 314, requiring States to pay a weekly benefit amount equal to 50 percent of the claimant's average weekly wage, up to the State maximum. The State maximum must be equal to at least 66⅔ of the statewide average weekly wage covered in employment.

We will ask for an open rule on title IV and we will ask that there be one motion to recommit.

HOUSING AUTHORIZATION ACT OF 1976

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945) to amend and extend laws relating to housing and community development.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12945), with Mr. CHARLES H. WILSON of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Ohio (Mr. ASHLEY) will be recognized for 1 hour and the gentleman from Ohio (Mr. J. WILLIAM STANTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Wisconsin (Mr. REUSS), the distinguished chairman of the Committee on Banking, Currency and Housing.

Mr. REUSS. Mr. Chairman, I rise in support of the bill, H.R. 12945, the Housing Authorization Act of 1976. This bill, which was reported out of the Committee on Banking, Currency and Housing by a vote of 23 ayes and 2 nays, will be the major piece of housing legislation that the House will consider this year. The bill provides for authorizations for the major assisted housing programs for fiscal year 1977 and also makes a number of changes in existing HUD-administered programs. It represents a very considerable amount of work by our Subcommittee on Housing and Community Development, chaired by our distinguished colleague from Ohio (Mr. ASHLEY).

H.R. 12945 provides for an additional $790 million in annual contribution contract authority to assist newly constructed, substantially rehabilitated, and existing units under the section 8 and conventional public housing programs. The bill also increased by $2.5 billion funds available over the next 3 years for the very popular section 202 housing for the elderly program, and increases funds available under the section 312 rehabilitation loan program by $100 million. It provides also for fiscal year 1977 funding for the section 701 comprehensive planning grant program, funds to cover losses to the FHA general insurance program, funds for HUD research projects, studies and surveys under the Federal flood insurance program, and funding for the department's administrative expenses for fiscal year 1977.

This bill also brings to fruition the long sought for program of direct Federal loans for moderate-income families that our distinguished colleague from Missouri (Mrs. SULLIVAN) has fought for over the past 7 years. This program would provide direct Federal loans for the purchase of single-family homes with interest rates not in excess of 6½ percent, and would authorize $2 billion a year over the next 5 fiscal years.

The subcommittee went into considerable detail in considering all of the HUD requests, particularly since so many Members of Congress and various groups around the country have expressed serious reservations concerning the operations of the Department of Housing and Urban Development. For instance, the subcommittee carefully reviewed the administrative operations of the Department. For the first time in a number of years, the members of the committee had the opportunity to determine for themselves the reasons for this important Department's failure to achieve the objectives that the Congress established some 8 years ago.

I urge the House's favorable consideration of this bill.

Mr. ASHLEY. Mr. Chairman, the bill we are considering is entitled the Housing Authorization Act of 1976, and it does make the needed extensions of HUD authorizations. Since it is anticipated that this will be the principal vehicle for housing legislation in this session of Congress, H.R. 12945 has been used to institute a number of needed changes in housing and community development programs.

Before going into the specifics of the bill, I think it worthwhile to make a number of observations about the state of housing in our economy and the state of the Department of Housing and Urban Development which has the major responsibility for administering the programs covered by this bill.

The homebuilding industry is operating at a modest level of recovery from its record lows of the past year. For the first quarter of the year, the rate of new housing starts was roughly at the seasonally adjusted level of 1.4 million units. This can be compared with the annual level of roughly 1.1 million starts for last year and the annual level of 2 million starts which characterized the boom years of housing.

But the total level of housing starts tells only part of the story. Almost all of the recovery which has occurred has been in the single family housing sector. Multihousing remains in a deeply depressed state—the annual level of starts for March was at a seasonally adjusted rate of 236,000 units, slightly more than 25 percent of the multifamily units produced in 1972. Vacancy rates have begun to reflect the severe drop in construction since that time—declining from roughly 6.3 percent in the second quarter of 1975 to just 5.4 percent in the last quarter of that year. This is an area of considerable concern since it must ultimately be reflected in sharp pressures for rental increases.

The other aspect of the housing scene which is of deep concern is the sharp increase in the cost of new homes. Thus in February the median sales price was $43,000 compared to about $38,000 in February 1975. For the past 6 months the increase has been at a 22-percent annual rate. This rate of increase is completely out of proportion to the improvement in the financial state of the average consumer and appears to contradict the publicity about the increasing importance of "no frill" housing. At current cost levels, 80 to 85 percent of the families in the United States are priced out of the ability to purchase a new home.

The functioning of the Department of Housing and Urban Development has been a matter of continuing concern to

the Committee and to many Members of this House. There has hardly been an occasion on which I have testified about housing programs in which some Member of this body has not accosted me with some problems he has had in his district with the blundering or insensitive behavior of HUD officials. Over the past several years, HUD has been buffeted by frequent changes in policy direction from Congress and from its managers, inept execution of program functions, widespread corruption, and a sharp decline in staff morale and talent. At the same time, the department has not been completely responsive to congressional policy directives, particularly in the housing area, and too often has assumed an adversary posture in connection with your committee's efforts to assure that the laws are administered in accordance with congressional intent.

Fortunately, we are seeing signs of improvement in the management of the Department, but hardly enough to justify any easing of congressional concern. There are many program areas where this concern is justified, but on this occasion let us concentrate on only one—the gap between prediction and performance in the section 8 program to provide rental assistance to low-income families.

When the Congress passed the Housing and Community Development Act of 1974, in August of that year, the then Secretary of HUD talked with assurance about providing assistance in the first year to 400,000 families. Twenty months after enactment, that is the 30th of April of this year, there were just about 18,000 families receiving assistance under section 8. Let me repeat that the gap between prediction and performance is the difference between 400,000 and 18,000.

Of course, the administration does not like to talk about units occupied as a measure of performance. Understandably, they much prefer to discuss approvals which can roughly be defined as the completion of the first stage of the paperwork. In the 1976 budget, the administration projected that there would be 400,000 approvals for the current fiscal year for section 8. By the fiscal year 1977 budget this had been scaled down to 295,000. By April 30 of this year, 10 months through the fiscal year, there were slightly under 130,000 approvals. Clearly, even the substitution of approvals for occupancy does not give a very satisfactory picture of HUD performance.

H.R. 12945 does not provide any dramatic answer to the problem of meeting all of our Nation's housing needs or to improving the performance of HUD. But it does provide some new initiatives, some needed shifts in direction, and some improvements in the capacity of the Congress to exercise its oversight responsibilities.

The most significant authorization in the bill is contained in section 2 which provides for $790 million in annual contributions contract authority to assist newly constructed, substantially rehabilitated, and existing units under section 8 and public housing programs. Together with the $365 million carryover from prior years, this should be sufficient to assist about 400,000 housing units for low-income families. The program mix substantially conforms to that recommended by the administration. However, the bill does specify that $140 million of the $790 million shall be used only for traditional public housing and that $60 million a year be used for the modernization of public housing.

Two open-ended authorizations are proposed to be closed by this bill. The administrative expense authorization for HUD has been converted to an annual authorization and the amount provided for is equal to the administration's budget request. The authorization for HUD research activities has also been made annual and the level provided is slightly below the administration's request.

The authorization for the section 202 program of loans for elderly housing has been substantially increased to partially meet the extraordinary high level of demand for Federal assistance. This is an extremely popular program and one which has enjoyed a high level of fiscal success. The bill would increase the authorization by $2.5 billion in three yearly increments.

The section 235 program of homeownership assistance for lower income families would continue to be authorized through September 1977; and the level of eligibility for families would be increased from the present 80 percent of median income for the area to 95 percent of that level and the mortgage limits would be raised to conform to present price levels. Mobile homes would be made eligible for this assistance provided that they were at least two modules and were sold together with the underlying land.

Authorizations are also provided in the bill for continuation of the section 701 comprehensive planning program and the section 312 rehabilitation loan program; $100 million is authorized for studies and surveys under the flood insurance program and $500 million is authorized to cover losses to the FHA general insurance fund.

Two new programs are authorized in the bill. Section 19 would create a supplemental community development program to make grants for community development purposes whenever the national rate of unemployment exceeded 6 percent. Such funds would be channeled to States and cities where there were rates of unemployment in excess of 8 percent.

Section 22 of the bill establishes a direct housing loan program administered by a new independent Federal agency, the Home Owners Mortgage Loan Corporation, to provide mortgage financing of up to $30,000 at an interest rate of 6½ percent or less, for terms up to 30 years, for purchase of single-family dwellings or units to be owned and occupied by credit-worthy moderate income families unable to meet their housing needs at reasonable interest rates from other sources, public or private.

In addition, the bill contains several other important provisions, including a permanent exemption from the prohibition under the flood insurance program against federally related loans being made to finance the sale of existing properties in flood-prone communities which are not participating in the flood insurance program; changes in the section 8 program to make financing of section 8 projects more feasible; a revised FHA co-insurance program for State housing finance agencies and certain insured depository institutions; a reallocation of $200 million in community development block grant funds for fiscal year 1977 to assure adequate funding for smaller communities in metropolitan areas; a clarifying provision providing that housing subsidies are not to be considered as unearned income in determining the eligibility for, and the amount of supplemental security income payments; an extension of the authority of the Farmers Home Administration to make loans in nonmetropolitan communities over 10,000 but under 20,000 in population to those communities in which there is a serious lack of mortgage credit for low- and moderate-income families; and an extension of the two programs contained in the Emergency Housing Act of 1977—homeowners' relief loans and below-market-rate mortgages, purchased by GNMA—from July 1, 1976, to October 1, 1977.

I think it important that H.R. 12945 be considered in the light of action by the other body. They have already acted on a companion measure which in the judgment of many members of the Banking, Currency and Housing Committee, has serious deficiencies. Let me assure you that if the House passes H.R. 12945 substantially in the form in which it was reported your conferees will be in a strong position to present the views of the House and to stand firm in defending them.

We must also consider possible action by the President on this legislation. Clearly there are parts of this bill which are not at all to the liking of the administration. Some staff people around the President have suggested that there are provisions in this bill which would invoke another veto. Our responsibility, of course, is to consider the bill for what it is—keeping what is wise and striking or amending what is unwise. If we act in a responsible manner, I think we have little to fear in the way of veto threats.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I have one question. On housing for the elderly and handicapped, I notice that section 202 finances construction of approximately 105,000 units. Are they strictly units to be bought, or are they rental units?

Mr. ASHLEY. These are rental units. It is new construction. The 202 program is a direct loan program.

Mr. GOODLING. The problem I am having is that I have about 30 letters in my office at the present time saying the elderly cannot move into public housing because they do not make enough money.

Mr. ASHLEY. They do not make enough, or they make too much?

Mr. GOODLING. Not enough.

To give the gentleman an example, a 74-year-old woman, whose income is $2,800 a year, cannot move in because she does not make enough money to pay the amount that they think she should pay in order to keep the system going.

I have a letter in to the Secretary in relation to that. But that is the way it is operating.

Is there any guarantee here that people with too little income would not be penalized in these programs?

Mr. ASHLEY. Indeed there is. Section 202, the housing for the elderly direct loans program, under that program it is possible for there to be combination of the 202 program and section 8. The section 8 housing program is designed specifically to help provide shelter for people from an income of zero up to 80 percent of median in the area.

Mr. GOODLING. I understand the problem is that from on high somewhere they have indicated to those who are operating these programs that we want less deficit and less Government spending going into the program; therefore, we want you to weed out those who are of such income that they could not pay more than someone would pay who has an income of more than $2,800. I have letters to that effect.

Mr. ASHLEY. To the best of my knowledge, that is not administration policy. At least if it is, I have not heard anything to support that. I am sure that HUD would take a very contrary position. The program was designed and structured, as I say, to provide housing assistance for families or individuals having from zero income up to 80 percent of median in the area.

It is not the function or responsibility of HUD to certify tenants on a 202 project.

Mr. GOODLING. They are doing it now. She was 4, 2 years ago; and now she is 8.

I have drafted a letter to the Secretary.

Mr. ASHLEY. I suggest to the gentleman that this is an administrative problem that the committee would be happy to look into, or HUD.

Mr. GOODLING. I have directed the letter, and we inquired of HUD.

Mr. ASHLEY. The gentleman asked me one question, which I sought to answer, which is: Does the 202 program accommodate individuals or families with very modest income? And the answer is yes, when in tandem with the section 8 program.

Mr. GOODLING. I will get the facts to the committee. Perhaps the gentleman can help me.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman for yielding.

I have a question for the gentleman from Ohio concerning section 11 of the bill. This section provides an exemption from the flood insurance sanctions for owners of existing homes. It allows them to obtain loans to refinance their homes without any statutory restrictions. However, it is my understanding that the committee does not intend that such exemption should apply to the refinancing of major additions to a dwelling since this refinancing would substantially increase the loss exposure of the Federal Government in case of flood damage. Am I correct on that?

Mr. ASHLEY. The gentleman is correct. The reason that the restriction against major additions to the house was not placed in the statute was because it seemed unlikely that this would occur in very many instances, and it was felt that a statutory burden would require considerable paperwork and responsibilities on the part of lenders without corresponding benefit. It was felt that lenders could, and would naturally, seek to restrain such activities without strict prohibitions. I expect that the Federal Insurance Administration will issue general guidelines instructing lenders to refrain from such loans.

Mr. J. WILLIAM STANTON. I thank the gentleman.

If the gentleman will yield further, I just have one final question.

There is some question concerning the $17 million set-aside for Indians, and whether the use of such funds for new construction or substantial rehabilitation will count as new construction or substantial rehabilitation for purposes of the 50 percentum requirement of section 2(a)(3). It is my understanding that the $17 million will be counted against the 50 percentum requirement to the extent it is used in such manner. Is that correct?

Mr. ASHLEY. Yes. That is certainly the recollection of the gentleman in the well with respect to the intent both of the subcommittee and the full committee.

It is my positive recollection that this matter was discussed, and it is certainly my understanding on the basis of those discussions that this set-aside, to the extent that new units—that is to say, new units that come out of the set-aside—are attributable and those new units would count against the overall set-aside.

Mr. J. WILLIAM STANTON. Mr. Chairman, I thank the gentleman.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, as ranking minority member of the Housing Subcommittee, I wish to express my concern over this legislation. Portions of this bill are unwise and create an administrative problem for HUD which will, in turn, give a headache to local communities around the country. And, once again, that headache will bear the label "Made in Washington."

In particular, I am referring to the series of statutory set-asides for housing assistance found in Section 2 of the bill. This successive fragmenting of the authorization will result in major administrative problems for HUD and distort the ability of local communities to plan for their housing needs.

For instance, we provide $850 million in new contract authority which is split $790 for additional units and $60 million for modernization. If, as the evidence indicates, the $60 million cannot be absorbed by local housing authorities—those funds are lost as possible new housing units for our needy.

Of the $790 million, at least 50 percent must be for new construction under section 8 or public housing. But, that restriction is not enough—$140 million must go to public housing agencies for acquisition or development of projects they will own and $17 million must go to Indians on top of the $140 million.

The result of all of this is to restrict the use of housing assistance funds so as to placate various vested interest groups. By requiring the resumption of public housing, this bill will lead to the need for additional budget authority above that contemplated in the administration's budget and will surely add to future operating subsidies in the years to come. Currently, operating subsidies drain off needed Federal funds at a rate of almost $600 million a year and are increasing rapidly. To compound the mistakes of the past is regrettable—especially when it is so easily avoided.

In the 1974 Housing and Community Development Act we established a process whereby local communities would assess their own housing and community development needs, and so long as these assessed needs were not "plainly inconsistent" with generally available facts and data, and the planned use of the funds was not "plainly inappropriate" to meet those needs, the local community would be spared Federal second-guessing and intervention. That was a good idea then and it is still a good idea. Unfortunately, members of the majority have taken up the "Washington knows better" banner once again and the result can be found in H.R. 12945.

Last year, members of the Housing Subcommittee, including myself, argued forcibly and correctly against a HUD appropriations conference report which included a set-aside that required a percentage of the housing funds—50 percent—be used for new construction, regardless of what the local communities determined their needs to be. The vote on this Senate amendment, which was technically returned in disagreement for a separate vote, was 202 to 174.

Now, we have come full circle with the Housing Subcommittee, legislating a series of set-asides which will require a computer and a 10-page memo to explain what type of housing is available to a local community. Housing assistance will not be based on what they need, it will be based on what we want to give them.

As a result, Mr. Chairman, I plan to offer one or more amendments to try and remove these artificial limits from the bill, and return the decisionmaking power on housing back to local officials.

Mr. Chairman, at this point I would like to place in the RECORD a letter I received from Secretary Hills, comment-

ing on a number of the provisions in H.R. 12945:

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., May 11, 1976.

Hon. GARRY BROWN,
House of Representatives,
Washington, D.C.

DEAR MR. BROWN: In response to your request, I have reviewed those portions of H.R. 12945, the "Housing Authorization Act of 1976," as reported by the Committee on Banking, Currency and Housing that would establish mandatory set-asides for new construction and public housing. Frankly, I am very concerned with these provisions. I do not believe the set-asides serve our mutual goal of providing decent, safe and sanitary housing for low-income people in the most efficient and economical fashion.

Section 2 of the Committee bill would provide for an FY 77 authorization of $790 million in annual contributions contract authority for the provision of housing for low-income families under the United States Housing Act of 1937 as amended. At the same time, this section would limit our flexibility by requiring that at least 50 percent of the additional contract auhority be made available for newly constructed or substantially rehabilitated units and that at least $140 million of the new authority be used for the development or acquisition of public housing. Moreover, $17 million is set aside specifically for public housing for Indians in addition to the $140 million for public housing generally.

This mandatory categorization of the use of scarce housing assistance resources would severely disrupt program delivery, would delay adequate shelter for its intended beneficiaries, and would erode the local flexibility that was the keystone of the 1974 Housing and Community Development Act. It would alter the mix of Federal housing programs in a way that is likely to impact negatively both on the dollar effectiveness of those programs and on the timely delivery of housing assistance to low and moderate income families.

More specifically, the bill would reactivate the conventional low rent public housing program at a substantial level of activity only two years after Congress itself determined to replace that program with a new rental assistance mechanism. The disadvantage of conventional low rent public housing, which led to its abandonment as a major Federal housing program, have been catalogued so often as scarcely to need repetition. A nineteen-fold increase in operating subsidies, the geographic concentration of social problems and the exclusion of private sector involvement or private market discipline from the program's operation have all been well documented.

The proposed resurrection of public housing takes place largely at the expense of the Section 8 program, which was drafted to avoid the failings of public housing and is just beginning to demonstrate its true potential. Section 8 can deliver housing to needy families more quickly than conventional low-rent public housing. And the diversion and retraining of staff from Section 8 to public housing can only slow the process down even further. Quite apart from the good intentions of this move, it will be lower income families most in need of immediate housing assistance who will be most adversely affected by the bill's precipitous reversal of the Section 8 program.

Moreover, the bill's requirement for 50 percent new construction within the Section 8 program is inconsistent with the 1974 Act's flexibility to adapt Federal housing assistance to the particular conditions and needs of individual communities. The Section 8 program requires communities to assess their housing needs in their Housing Assistance Plans. Narrow mandates for new construction eliminate this local discretion.

Also, the bill's separate set-asides would create an administrative nightmare. The administrative controls necessary to assure compliance, ranging from funds assignments to program reports from our 77 field offices would result in a morass of paper shuffling, which will slow down production and delay program delivery. Finally, the combined effect of this and other provisions of the bill is to increase the potential cost to the taxpayers by about 4 billion dollars in budget authority above that which is proposed in the FY 77 budget request.

For these reasons and others, I am very disappointed in the direction the Committee has taken in the "Housing Authorization Act of 1976." I can only hope that changes will be made during debate on the Floor.

I appreciate this opportunity to share with you my views on these particular elements of H.R. 12945.

Sincerely,

CARLA A. HILLS.

Mr. Chairman, there is one other point I would like to make.

Section 20 of H.R. 12945, the Housing Authorization Act of 1976, seeks to correct a grave inequity for the aged, blind, and disabled which has been created by statutory differences in title 16 of the Social Security Act and the U.S. Housing Act.

While the inequity is fairly widely recognized and the remedial action is clearly a matter requiring legislation, the enactment of section 20 will involve a budget impact which our colleagues will want to evaluate in proper perspective.

The problem is simple, but most unfortunate. The aged, blind, and disabled members of our society who are dependent upon supplemental security income, SSI, may not receive the benefits of our primary Federal housing assistance program without suffering an effective rent which may be double that paid by others.

This occurs because section 612 of the SSI title requires that housing assistance which is received by an SSI recipient under the section 8 or rent supplement programs, must be counted as "unearned income." In consequence, a dollar for dollar reduction in SSI payments, assumed to be one-third of SSI income, must be made.

At the same time the section 8 and rent supplement programs require that the tenant shall pay "not to exceed 25 percent of income" for rent.

Strangely, the definition of unearned income does not require reduction of SSI payments for public housing assistance or other housing programs, because the amount of assistance to each individual is not easily determinable.

Also, there is no similar double bite under other public assistance programs.

The unfortunate, and I am sure the unintentional, effect of all this is displayed in the chart which I will provide to follow at this point in the record.

You will note from the chart that all tenants with income of $157.70 per month, living in public housing will pay total rent of $39.42 per month or not to exceed 25 percent of income.

You will also note that this is also true for those receiving SSI payments.

In contrast, for SSI recipients living in section 8 or rent supplement housing, the effective rent is a double bite. For simplified illustration, in the computation the maximum SSI payment is reduced by one-third and the balance is reduced by 25 percent to allow for the direct rent to be paid by the tenant. The result in both cases is that the effective rent amounts to 50 percent of the SSI payment. The ultimate effect is to deny the use of section 8 and rent supplement housing to SSI recipients because the cost is too dear.

Mr. Chairman, I do not believe that any of our colleagues intended to treat SSI recipients differently from the recipients of other assistance programs. Certainly, those of us on the Housing Subcommittee were most concerned that equity and reason be served by setting rents in Federal housing as a percentage of one's income. We know now that this effort did not take into account difficulties with the computation of SSI payments for those living in Federal housing.

Of course, there will be an impact on budget costs. It is estimated by the Congressional Budget Office to run $14.2 million and $82.4 million for the transitional quarter and for fiscal year 1977, respectively.

I am bound as many of our colleagues to a strong conviction in maintaining fiscal restraint and strict adherence to a budget control process. In this instance, I am convinced that we have no choice but to correct wrong unknowingly imposed upon our aged, blind and disabled citizens.

I hope our colleagues will support the action proposed in section 20 which will set this matter straight—at what must be accepted as reasonable cost.

COMPARISON OF EFFECTIVE COST OF RENT IN FEDERALLY ASSISTED HOUSING BY CATEGORY OF TENANT—ASSUMES TENANT INCOME OF $157.70/MO

[Maximum SSI payment for single person]

Source of income	Federal program [1] (per month)		
	Public housing	Sec. 8	Rent supplement
Social security (only)	$39.42	$39.42	$39.42
Salary	39.42	39.42	39.42
SSI (only)	39.42	[2] 78.84	[2] 78.84

[1] Tenant rent payments may not exceed 25 percent of adjusted income.

[2] The effective rent for SSI (only) recipients, living in sec. 8 or rent supplement housing, includes: 1st, a reduction in SSI payments to compensate for unearned income being provided through the housing assistance program, and 2d, direct rent payments amounting to 25 percent of the remainder of the SSI payments.

EXAMPLE—SINGLE PERSON

SSI monthly income (maximum)	$157.70	
Less ⅓, compensation for unearned income received	(−)52.56	$52.56
Balance	105.14	
Less 25 percent for direct rent payment	(−)26.28	26.28
Balance (after housing costs)	78.86	
Effective rent		78.84

EXAMPLE—SSI COUPLE

SSI monthly income (maximum)	236.60	
Less ⅓, compensation for unearned income received	(−)78.86	78.86
Balance	157.74	
Less 25 percent for direct rent payment	(−)39.43	39.43
Balance (after housing costs)	118.29	
Effective rent		118.29

SUMMARY

In each example 50 percent of SSI income is required as the effective cost of rent in Section 8 and Rent Supplement housing—No other group pays in excess of 25 percent of income.

In public housing, the SSI tenant does not suffer the added reduction in SSI payments (as compensation for unearned income from Federal Housing Assistance), and pays only 25 percent of income as effective rent.

Mr. ASHLEY. I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I am certainly aware of all the work my colleague, the gentleman from Ohio (Mr. ASHLEY), has done in this area. I certainly appreciate it, and I know no Member has worked as hard as he has.

Mr. Chairman, at this point in our debate on this legislation, I would like to point out one problem to my colleague from Ohio, who has worked long and hard to construct what I feel is a good, sound approach to both the present and future housing needs of this country.

Section 8 of this bill seeks to extend the Emergency Homeowners' Relief Act, which this body passed last spring, through September 30, 1977. I voted for the original bill because I wanted to provide assistance to those of our people who were unemployed or underemployed as a result of the economic situation and, therefore, could not meet their mortgage commitments. I wanted to help those people keep their homes. The fact is that many of our people are still in danger of losing their homes and the Secretary of Housing and Urban Development has chosen not to implement this program. The question, therefore, remains, what are we going to do to help our people keep their homes? This bill does nothing to encourage or require the Secretary to implement the emergency mortgage relief program—EMRP.

This EMRP is designed to provide loans, guarantees and/or cash payments of up to $250 per month to allow homeowners to remain homeowners. Pursuant to the standby authority provided in Public Law 94-50, and I would like to point out that only because of the need to compromise with the President last spring are we forced into this discussion, the Secretary has devised a national implementation plan that she "may" initiate if a newly constructed national index of mortgage foreclosures reaches 1.2 percent. The index has never been above 1.18 percent. She obviously does not intend to help.

Some of my colleagues are pointing to figures which indicate that things are generally looking brighter. While I am optimistic and as hopeful as anyone here in the well, there are some figures that disturb me. For instance, last September, 3,639 FHA mortgages were foreclosed. In October, 3,604; November, 3,027; December, 3,167; January, 3,104; February, 2,610; and March, 3,262.

Notice that while the trend was generally encouraging through the first part of this year, in March the number of foreclosures was again on the increase. Since September 22,413 FHA mortgages have been foreclosed. Those foreclosures resulted in a great deal of suffering that could have been prevented if the benefits of the EMRP had been available to the people involved.

Unless the Congress directs the Secretary to launch her plan now or mandates a regional rather than a national plan, which would mitigate some of the administration's objections, people will continue to lose the homes that they have worked so hard to buy and maintain.

I have introduced legislation that would remove the standby authority that we have provided to the Secretary of HUD and would effectuate the immediate implementation of the EMRP. We must at least provide the benefits of the program to cover all FHA-insured mortgages. Certainly we have an obligation to help those people who are being foreclosed upon by HUD-approved mortgagees who only want to extricate their money and move away from the properties.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Housing Authorization Act of 1976 can perhaps best be described as a conglomerate mixture which includes some good news and some bad news. The good news is that we have provided in this bill the necessary authorizations which are needed by the Department of Housing and Urban Development to carry out its mission and responsibilities for fiscal year 1977. The bad news is that we have done so in a manner which, unless the bill is properly amended will surely create a spider's web of administration booby traps that will needlessly complicate and hamstring Secretary Hills' efforts to provide assisted housing for low- and moderate-income families in this Nation. The only silver lining I see is that by comparison to the bill which has passed the Senate, we are rank amateurs. While we have set up an obstacle course, the Senate bill provides a veritable mine field by creating a maze of mandates and set-asides that can best be described as a bureaucrat's delight.

The House bill provides for $790 million of additional contract authority under section 5 of the U.S. Housing Act of 1937 to become available in fiscal year 1977 in amounts approved in appropriation acts. The administration request was for $850 million. The committee, in its wisdom, set aside an additional authorization of up to $60 million for modernization of public housing projects which represents a 300-percent increase over the budget request in funding level.

H.R. 12945 requires that 50 percent of the contract authority be utilized for new construction, thus imposing an arbitrary Washington designed figure that would have to be apportioned out to the various HUD regions regardless of vacancy rates, individual housing assistance plans, and local priorities for new versus existing.

In addition, the bill directs that $140 million in contract authority be made available for the development or acquisition of nonsection 8 projects to be owned by public housing agencies. Because of the uncertainty of new section 8 construction, the 50-percent new construction requirement almost certainly will require that a significant portion of the conventional public housing set-aside be utilized for new construction, even though there may be situations where we are then building new public housing alongside old public housing projects which have fallen into disrepute.

The committee has also elected to include a specific authorization for administrative expenses, and although this provision has been modified so as to take account of new or expanded programs which the Congress may require, and make allowance for staffing requirements in appropriation acts, it is a potential vehicle for future mischief. For such an administrative ceiling to have any rational basis, in fact, would require our committee to become far more expert in such things as work measurement studies and, indeed, to duplicate the kind of detailed budget justification which already takes place in the appropriations process. Otherwise, we are merely providing an annual vehicle for amending housing programs and increasing the uncertainty that already plagues the housing industry. Builders, developers, city planners all have to plan ahead. If every new program is to be changed or amended in its infancy, the tendency is going to be to wait and see what happens next year.

There are other concerns I have with the bill, but I do not want to convey the impression that this measure is a total exercise in futility. It is not. We have proposed new authority for coinsurance to facilitate a multifamily project coinsurance program for public housing agencies including State housing agencies and insured depository institutions. This should be helpful in making new section 8 projects more feasible than is now the case under current conditions in the financial markets.

We have amended the 1974 Housing and Community Development Act to insure that at least $100 million in discretionary funds is available for communities other than entitlement and hold harmless communities in standard metropolitan statistical areas.

There are, indeed, many provisions which will enhance HUD's ability to carry out its basic mission. I urge all Members to read the views expressed in the minority report and to carefully consider tomorrow those amendments which we believe will make this a much better bill, and which will alleviate the concerns which Secretary Hills has insofar as her being able to administer a variety of complex programs. I hope we will also keep in mind that we will be going into conference with our Senate counterparts on a bill which has already been the subject of a veto recommendation by the Secretary. We are going to have some very wide gaps, and the narrower that gap becomes by virtue of our actions tomorrow, the less likely we will have a bill that the President in good conscience can sign.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), a member of the Subcommittee on Housing.

Mr. LAFALCE. Mr. Chairman, the bill

before the House today is the product of extensive hearings and hard work at the subcommittee and full committee levels. It is a fitting memorial to Bill Barrett, who was one of the authors of the original version; it is equally a testament to LUD ASHLEY, our new subcommittee chairman, who played such a major role in shaping major portions of the bill.

Housing policy in the United States is something of immense importance. Our houses provide us with one of the basic necessities of life, without which our other pursuits and dreams have little significance.

Yet national housing policy has been so lax, particularly during the last 8 years, as to make one wonder whether we have a housing policy at all. Nor is there any evidence that the administration has any serious intentions to change this approach in any meaningful way.

Which is another reason why, in my judgment, this bill has importance beyond its specific provisions. For it constitutes what I consider to be a very able attempt to provide some direction and policy guidance and to do so in a constructive way. The degree of cooperation between the subcommittee and HUD in preparing this bill has been high and, although HUD has seen fit to find fault with some of the provisions, I think all would agree that the process was fair and that meaningful and conscientious efforts to compromise were made.

When we get to amendments we will see a number of them proposed. I will support some of them and I will oppose some of them. Today, however, I would like to address myself to two of the proposed committee amendments and one other section in the bill itself.

The two committee amendments both deal, in different ways, with the need for Federal policies to address, more than they have, the question of preservation of older urban areas. Our population rise is decreasing; more and more people are concerned less with the quantity of growth in their communities than with the quality. The energy crisis and a number of other factors make the "American dream" of the 1950's and 1960's more of a nightmare to more and more people—a nightmare of difficult and costly commuting. And while the suburbs are losing some of their appeal, the cities are close to dying.

The neighborhoods which are located closer to employment centers in the cities have, in all too many instances, been allowed to deteriorate. Some have reached and passed the point of no return; for them, major surgery is necessary. But others, where the process of decay has not yet reached unmanageable proportions, can be saved, often with minimal support from the Federal Treasury.

URBAN REINVESTMENT TASK FORCE

The Urban Reinvestment Task Force, a joint venture between HUD and the Federal Home Loan Bank Board, is in the business of seeking to facilitate neighborhood preservation efforts with an emphasis on self-help, private investment, and a minimum of Federal involvement. I support those efforts and I am pleased to note that the experience to date in the 20-plus cities where the task force has active programs indicates that with a lot of hard work successes can be achieved.

Because I support those efforts I was receptive when the task force came to me seeking my help in getting a minor, technical amendment to HUD's research authorization. The amendment, agreed to unanimously by the committee, enables the HUD Secretary to delegate the right to make contracts and grants to other Federal agencies. Having this authority will enable the Urban Reinvestment Task Force to carry out its functions more smoothly and more quickly. I urge that we retain this amendment.

COINSURANCE

The second committee amendment I want to discuss today is another on which I worked long and hard. This is the provision making changes in the coinsurance program embodied in section 244 of the National Housing Act.

Coinsurance, instead of traditional FHA programs where the Federal Government insures 100 percent of a given risk, has a number of significant advantages. Properly run, it should reduce the Federal Government's exposure to risk. Perhaps more important, it put another lender, private or public, into a position of risk along with the FHA, thus increasing the interest coinsuring lenders will show in coinsured properties. Finally, by substituting the coinsurers' underwriters for FHA's, it should enable more rapid processing of loan requests, eliminate costly redtape, and free up FHA personnel to provide overall guidance and controls on programs, rather than working on individual cases.

Coinsurance for single-family mortgages is just getting underway now in two trial programs, one in California and the other in Ohio. HUD has announced that this aspect of coinsurance will be broadened to the entire Nation by this summer.

Yet the changes embodied in the committee amendment are needed now, for they reflect the realization by all concerned—the committee, HUD, and potential coinsuring lenders—that section 244 as it is presently written does not permit the implementation of an effective and workable coinsurance program for multifamily housing.

A two-pronged coinsurance program covering both single- and multi-family housing, is a good example of the kind of thing where the totality may well be more than the sum of its parts. Many neighborhoods, especially the relatively marginal ones where programs of this kind are most needed, have both single- and multifamily housing interspersed among each other. Investors will be far more willing to take risks in such neighborhoods, it seems to me, if they know that they can take action with respect to both aspects of a problem, rather than just one of them. So providing a coinsurance program which will permit participation by coinsuring lenders in the rehabilitation and refinancing of multifamily housing is an important step not only in its own right but also in fostering greater use of coinsurance for single family housing.

A number of members of the committee were concerned that an effective coinsurance program for multifamily projects undertaken by State housing finance agencies be made possible in this bill. It was felt that having coinsurance from the Federal Government backing up projects of these agencies would help make the bonds they sell to finance the projects more marketable.

I come from New York State, where there have been highly active State and local housing finance agencies whose ability to go to the market has been more severely impaired than those in other States, partly because of the travails of New York City's and New York State's budgets. So I supported the idea of doing what is necessary to facilitate an agreement between these agencies and HUD on a coinsurance program.

But I didn't think that was enough. For in New York State and elsewhere a lot of multifamily housing is financed by private lenders. This is particularly true for projects requiring minor rehabilitation work in older urban areas—projects which have not been financed to any real extent by the public agencies. So I was more than receptive when representatives from savings institutions contacted me and indicated a desire to get into coinsurance for multifamily housing.

I became involved, therefore, in working up amendments to section 244 which will permit greater use of this concept by both the State housing finance agencies and by insured depository institutions—banks and thrift institutions which in many places and for many kinds of projects are the only sources of financing for multifamily projects.

There are legitimate concerns about this approach and how well it can be carried out. HUD's administration of this program will play a large role in how effective it will be. The committee amendment, therefore, contains restrictions which will enable HUD and participating lenders to test the program thoroughly and make sure it can work without unduly disturbing existing housing finance mechanisms. I believe that it can and will work and that in time it may prove to be more effective than traditional insurance programs.

For I believe that this program will increase the amount of private investment in multifamily housing in older urbanized areas of the country and, at the same time, increase the quality of servicing by lenders to such projects because of the fact that they will be sharing the insurance risks with the FHA. Increasing private investment in our neighborhoods is one of the most important things we can do as part of a comprehensive preservation and rehabilitation strategy.

I do not see coinsurance as a panacea, as the one answer to our urban housing ills. But I do see it as one more tool to use in a long-term effort which will require lots of people working very hard over a period of many years. That effort can be successful, in my judgment, and it will help us save our central cities—the heart of our metropolitan areas.

COMMUNITY DEVELOPMENT COUNTERCYCLICAL PROGRAM

The third portion of the bill which I want to discuss is the supplemental community development block grant program. This proposal, embodied in section 19 of the bill, provides automatic assistance to communities of high unemployment on a countercyclical basis through the existing structure for the community development block grant program.

There are those who may say that another approach—that contained in the other body's public works bill—is a better way to provide countercyclical benefits to communities during periods of high national unemployment.

I agree with the countercyclical concept. I think that enacting this concept, in this bill or in the public works bill, is an important first step toward reordering national priorities and giving proper attention to those areas of the country which have been asked, for reasons far beyond their own control, to bear more than their fair shares of the burdens of national economic troubles. It is no accident that these areas have tended, by and large, to be concentrated in the larger, industrialized States in the Northeast and Midwest.

Yet there are pockets of relatively higher unemployment in all States. And those communities deserve special Federal assistance during times when the national economy is not totally healthy.

The countercyclical program contained in this bill would provide an estimated $1.2 billion during the next 12 months to communities with unemployment rates of over 8 percent. These are the areas of the country which have been hardest hit by recession; they are the areas least able to help themselves along the road to recovery. It is both proper and ultimately cost effective for the Federal Government to discourage economic dislocation and mass migrations from relatively less well off regions to those which have stronger economies. For when people leave one area they create a demand for new facilities and services in their new locales while leaving behind already existing, and usually sound, facilities and services in the areas they left. This is a national inefficiency which we can ill afford in these days of increasing scarcity of resources.

When this program was first proposed, when this bill was being considered at the subcommittee level, the "trigger" for implementation of the program was set at a national unemployment level of 7 percent. At that time the unemployment rate in my congressional district was almost double that and the national rate was 7.8 percent and declining. I felt then, and maintain now, that when the national unemployment rate reaches 7 percent we will not be anywhere near fully recovered from the recession, and I can be almost absolutely sure that the rate in my district will still be in double figures. That is unacceptable from any standpoint, and I think that any Federal program designed to assist communities hardest hit by unemployment in a countercyclical way should be more effective than this would have been.

Accordingly, I suggested a change in the proposal, a change in the national unemployment rate "trigger" from 7 to 6 percent. This change had what I consider to be at least two major beneficial effects: First, it gave the program a longer life, one which would start earlier in any potential future recessionary cycle and which would remain in effect longer as the Nation recovered from a recession, and second, it had the effect of nearly doubling the funds which would be made available during the first year of its life. Had the 7-percent level remained the $1.2 billion to be provided through this program would have been closer to $700 million.

In other words, this 1-percent change will provide more funds for hard-hit communities now and it will provide funding under this countercyclical program for longer periods of time for those communities with unemployment rates of over 8 percent. It does not necessarily mean these communities will be in a position to solve all of their problems, or even most of them, but it is far more effective than it was when first brought to the subcommittee.

Frankly, Mr. Chairman, I believe that the program in this bill, as adjusted in the subcommittee, more effectively addresses the need for a counter-cyclical program than does the approach which has been chosen by the other body. One prime reason for this is that every dollar in this bill's approach goes to communities with high unemployment rates. We would be putting all the effort into those areas where the problems are the greatest.

Another reason is that this program gives communities flexibility in how to use the funds, and it eliminates the red-tape and possible arbitrariness of a program, like that proposed by the other body, which requires project-by-project review and approval by Federal bureaucrats.

I think that a program which can be funneled primarily through an existing funding mechanism—and therefore require no new bureaucrats and few new regulations to implement—is both better and less subject to capriciousness, delay or other administrative problems.

Finally, Mr. Chairman, I would like to point out that this program, as amended, represents what I consider to be a reasonable compromise between what the administration has supported—the original version of this proposal with its 7 percent "trigger"—and what the administration did not support—the countercyclical program embodied in the earlier public works bill which the President vetoed. I think that the Congress owes it to the American people, and particularly those Americans living in high unemployment areas, to enact meaningful programs to provide for their assistance. I do not think that we should indulge in passing legislation just for the sake of having another veto and another round, time and again, while the public waits and suffers. The time to settle the veto problem is in November; the time to solve the people's problems is now.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. ADAMS), the distinguished chairman of the Committee on the Budget.

Mr. ADAMS. Mr. Chairman, when the Housing authorization bill is read for amendment under the 5-minute rule tomorrow, I intend to offer an amendment to strike out the provision which places the new Homeowners Mortgage Loan Corporation off budget.

Section 22 of the pending bill would authorize the creation of a new corporation in the Department of Housing and Urban Development, to be known as the Homeowners Mortgage Loan Corporation. Its function would be to make low-interest rate, long-term mortgage loans to moderate-income households for the purchase or construction of single-family homes. Section 22 would authorize the appropriation of up to $2 billion each year for a 5-year period—a total of $10 billion—for this purpose.

Without addressing the merits of this section, which I leave to other Members with expertise in this complicated area, I must call the attention of the House to the provisions of subsection 22(f)(5), which provides that:

> The receipts and disbursements of the Fund shall not be included in the total of the budget of the United States government and shall be exempt from any limitation on annual expenditures or net lending.

This subsection of the reported bill would place the financial transactions of the new Corporation in what is called off-budget status.

They would not be included in the Presidents budget submission.

They would not be considered in the debate on national priorities under the new congressional budget process.

They would not be included in calculating budget authority, outlays, or deficit.

The new Congressional Budget Act, Mr. Chairman, does not prohibit new off-budget agencies. However, it is clear that the creation of new off-budget agencies is clearly contrary to the spirit of the act. The intent of the new Budget Act is plain: all Federal Government activities are to be weighed against each other; all activities are to compete within the aggregate totals that Congress decides is appropriate for a fiscal year.

The Budget Act provides in section 606 that the Budget Committees of the House and Senate study existing provisions for off-budget agencies and programs and make recommendations to their respective Houses for terminating or modifying such provisions. The House Budget Committee Task Force on Tax Expenditures and Off-Budget Agencies is under the able chairmanship of the gentleman from Florida (Mr. GIBBONS) and is currently studying all off-budget agencies and financing.

The amendment which I intend to offer would strike the subsection of H.R. 12945 which authorizes off-budget financing for the new Homeowners Mortgage Loan Corporation. I urge all Members to support my amendment so that the funding and activities of this new agency will be considered by the Congress as an integral part of the total budget.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I think

the purpose of the amendment of the gentleman from Washington (Mr. ADAMS) is laudatory.

May I ask what the Committee on the Budget intends to do for those programs presently off-budget?

Mr. ADAMS. We intend to recommend that those off-budget agencies be brought within the budget.

Mr. LAFALCE. That all off-budget agencies be brought within the budget?

Mr. ADAMS. Yes. We brought part of them in this year, such as the Ex-Im Bank. There are others involved such as the Postal Corporation with respect to which this House itself will have to decide, because of its enormous size, whether it should be on-budget or off-budget.

What I am reporting is that the general position of the committee so far has been that off-budget agencies should be on-budget.

Mr. LAFALCE. The gentleman believes that that includes all off-budget agencies; is that correct?

Mr. ADAMS .That is correct. We will continue hearings during the course of this summer, and a recommendation will be made to the House, either at the end of this year or at the beginning of next year; but that matter has not yet been decided because it involves the authorizing jurisdiction of a number of committees, and they will want their imprint on it.

That is why we will be holding hearings and we are required to do this under the act.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding to me and I appreciate the gentleman's effort to try to make sure that various aspects of this bill are all included within the budget.

As the gentleman from Washington probably recalls, section 202, which involves housing for the elderly, was on the budget until removed by the 1974 Housing and Community Development Act. Would the gentleman be willing to include section 202 on budget also.

Mr. ADAMS. I am not prepared to take a position on any item, because the committee, as I indicated to the gentleman from New York is studying each of these items and has not reported back. I am just attmepting at this point to keep new ones from being created and then we are also holding back to look at the old ones.

Mr. ROUSSELOT. I appreciate that because I know the gentleman from Washington is trying to put a handle on most of the Federal programs. This is a rather substantial program. So the gentleman from Washington would not object, then, to trying to include that on budget also?

Mr. ADAMS. I would not object to what arguments are going on within the committee as to which titles they should put in or out. I am trying also as the chairman of the committee on the budget not to substitute my expertise for that of the members of the committee on particular programs.

Mr. ROUSSELOT. I appreciate the gentleman's comments. We did discuss this in committee.

Mr. ADAMS. Section 202 or section 22?

Mr. ROUSSELOT. Section 202 which was amended in the 1974 act. Many of us feel that should be included on budget also. So I am glad to hear the gentleman say there is no objection as far as he is concerned because, you see, in the 1974 act we excluded that housing program from the budget.

Mr. ADAMS. I want to be very careful to see that the gentleman from California understands that I am not advocating a position on section 202 because we have not taken it before the Committee on the Budget.

Mr. ROUSSELOT. But the gentleman does not object.

Mr. ADAMS. But I do not object.

Mr. ROUSSELOT. I appreciate the gentleman's comments.

Now, I am sure my distinguished colleague, the gentleman from Ohio, would like to be heard on this.

Mr. ASHLEY. Does the gentleman from California have control of the time?

Mr. ROUSSELOT. No, the time is controlled by the gentleman from Washington.

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I simply rise to point out that there is a distinction between section 202 which is an existing off-budget program at the present time and the proposal contained in the amendment of the gentlewoman from Missouri which purposes to place a brand new program off budget.

What I am saying is that it will fall within the purview of the Committee on the Budget to make recommendations with respect to those programs that are currently off budget. Is that correct?

Mr. ADAMS. That is correct, there, of course, will be recommendations.

Mr. ASHLEY. But as far as the proposal is concerned, which would put the new program, the $2 billion a year for 5 years, on an off-budget basis, what the gentleman is saying, as I understand it, is that, as chairman of the Committee on the Budget, the gentleman would rise to correct the situation by an amendment that would bring that program on budget?

Mr. ADAMS. That is correct, the new program. We are trying to look at this in an orderly fashion that fits within the institutions of this House which is we do not want to create new ones now, or we are rising in protest to stop any new ones until we can examine the old ones, then after the old ones are examined, one after another, recommendations will be made on the individual committees having jurisdiction over those agencies, then the Committee on the Budget will bring before the House, and before the Committee on Rules, proposals with regard to each of those agencies.

I might point out to the gentleman from California (Mr. ROUSSELOT) that that process is going on. You may recall Ex-Im Bank came on this the last time. We also have the problem we have to deal with the administration downtown, with the departments that they have, in trying to get some of these off-budget agencies agreed upon so that then we can orderly move on each individual category, without going to a particular committee like this one which has spent years on these programs and interfering, until they have had a chance to say what should be done.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, the gentleman understands that section 202 is a section of the Housing Act?

Mr. ADAMS. I understand.

Mr. ROUSSELOT. And that it relates to housing for the elderly and that there is quite a substantial increase in this bill relating to that?

So I think that many of us agree with the gentleman from Washington that it is time to begin to fold many of these programs back on budget so that we have correct accountability for them, especially in the Budget Committee process.

Mr. ADAMS. I will just state to the gentleman, as I said before, I am certain that that will be argued among the appropriate members of this committee as the bill is presented. I thank the gentleman for yielding.

Mr. MATHIS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 304]

Abzug	Erlenborn	Mills
Allen	Esch	Mineta
Andrews, N.C.	Eshleman	Morgan
Archer	Fish	Nix
Ashbrook	Fisher	O'Hara
AuCoin	Flynt	O'Neill
Bell	Ford, Mich.	Quillen
Bergland	Forsythe	Rees
Bingham	Fraser	Reuss
Boggs	Giaimo	Rhodes
Boland	Gibbons	Riegle
Bolling	Hamilton	Risenhoover
Brooks	Harsha	Rodino
Broomfield	Hébert	Rosenthal
Brown, Calif.	Helstoski	Sarbanes
Brown, Mich.	Hinshaw	Satterfield
Broyhill	Horton	Scheuer
Burke, Fla.	Hubbard	Schneebeli
Burlison, Mo.	Hungate	Schulze
Butler	Jarman	Sebelius
Carter	Jenrette	Shuster
Cederberg	Jones, Ala.	Staggers
Chappell	Jones, N.C.	Stanton,
Clancy	Jones, Okla.	James V.
Clay	Jones, Tenn.	Steelman
Cochran	Karth	Stuckey
Conlan	Kastenmeier	Sullivan
Conyers	Koch	Thompson
de la Garza	Landrum	Thornton
Dent	Litton	Udall
Derwinski	Lundine	Ullman
Diggs	McCloskey	Waggonner
Dingell	McKay	Walsh
Drinan	McKinney	Weaver
Duncan, Oreg.	Madden	Wilson, C. H.
Duncan, Tenn.	Mazzoli	Young, Alaska
Eckhardt	Meyner	Young, Ga.
Edwards, Ala.	Mikva	Zeferetti
Eilberg	Miller, Calif.	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 12945, and finding itself without a

quorum, he had directed the Members to record their presence by electronic device, whereupon 316 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. HAYS).

(By unanimous consent Mr. HAYS of Ohio was allowed to speak out of order.)

PERSONAL STATEMENT

Mr. HAYS of Ohio. Mr. Chairman, Members of the House, this is the most difficult speech that I have ever made in almost 28 years that I have been a Member of this House. It is difficult for a number of reasons, not the least of which is my temperament and my personality.

All of you are very much aware of all the allegations that have been made in the last few days, and all of you are aware of the massive amount of words that have been printed or spoken in the media. I asked for this time today to attempt to set the record straight.

Much has been said over the years, in the press and in the cloakrooms, in gossip, about WAYNE HAYS. I have been called more names than any Member of Congress in my memory. I have been called arrogant, ruthless, coldblooded, vicious, temperamental and mean—and I am just mentioning a few of the ones that are printable. No one has ever said that I am also a human being capable of emotions and errors, but I am, and I have erred.

Six weeks ago I was married to the woman I love more than any other person or thing in this world, including this House—and for this House I have a deep and abiding respect and love. Prior to the time when I was married and for an extended period of time, I did have a relationship with Elizabeth Ray. I was legally separated and single. It was voluntary on her part and mine. After working on the congressional staff of a former Member, she worked for the first time for the Committee on House Administration, when she was hired by a former Member of the body who chaired a subcommittee of the Committee on House Administration.

She later worked for this Member on the staff of his congressional office, and came to work on the staff of the House Administration Committee on April 22, 1974. She worked as an assistant clerk on the committee staff until February 28, 1975, when she left of her own volition, to seek employment in California.

She returned to Washington in the summer of last year, and approached me, asking for help in obtaining employment. I helped. I recommended her for a job with another Member of this body, and he placed her on his office staff for a brief period of time when he had a temporary vacancy. I explained to this Member that while she was employed by me and in her previous job, she was able to perform normal office duties. I further explained that she had rather serious emotional problems but with help and understanding, she seemed to be making progress.

I did not inform this Member of my personal relationship with Miss Ray, but I felt he knew and was willing to try to help her at my request. He was and is my friend.

When I proposed to my new bride, I explained to Miss Ray that our relationship would have to end—as a matter of fact, it had ended some time before—but that I would continue to help her in any way I could, as long as she continued to perform her duties as best she could.

It was at this time that Miss Ray became hysterical—threatened suicide, as she had done numerous times in the past. She also threatened blackmail, and did blackmail me, and threatened to destroy my engagement.

When the Washington Post story broke last weekend, I realized that Miss Ray had kept her promise to try to destroy my marriage and my career.

My first and overwhelming reaction was to protect my marriage and my new wife. In attempting to do so, I now realize that I committed a grievous error in not presenting all the facts.

I stand by my previous denial of Miss Ray's allegation that she was hired to be my mistress.

I further stand by my statement that Miss Ray is a seriously disturbed young lady, and I deeply regret our relationship, and its termination has apparently greatly aggravated both her emotional and psychological problems, and I regret that. I am now 65 years old, and I have been privileged to serve in this House for nearly 28 years. I know that my days on this Earth are numbered, and my service in this body may well be also—but I stand here before you today with my conscience now clear.

I sincerely hope that those responsible for this, the Washington Post, and Miss Ray, with her forthcoming book and appearance in Playboy, can say the same.

To my other staff members, to my colleagues in the House, and to the people of Ohio, who have all stood by me in this hour of need—and the people of Ohio have; I have had literally hundreds of phone calls and telegrams—you have my undying gratitude. Only time will tell whether Miss Ray will be successful in destroying my career. I pray to God she will not have destroyed my marriage.

I hope that when the time comes to leave this House, which I love, WAYNE HAYS may be remembered as mean, arrogant, cantankerous and tough, but I hope WAYNE HAYS will never be thought of as dishonest.

Mr. ASHLEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I rise in support of H.R. 12945, the Housing Authorization Act of 1976.

As a member of the Housing and Community Development Subcommittee of the full Banking Committee, I strongly favor the passage of this extremely vital piece of legislation. I feel that the comprehensive bill before us today, indeed, addresses the wide variety of housing needs which face our Nation. While the congressional authorization committees have the most direct responsibility and authority over the housing and community development programs and the agency that administers them, it is the Housing Subcommittees of the House and Senate that initiate programs, determine their shape, their cost limits, and decide whether they will continue to exist or not.

Setting out to fulfill these and other obligations, our former colleague, the chairman of the Housing and Community Development Subcommittee, Bill Barrett, initiated discussion on each and every element of this legislation that is before us today. By carefully examining the administration's proposals as well as the present and expected future needs of this Nation, the subcommittee has attempted to place before this body legislation which will extend and amend existing housing and community development programs, as well as establish a new relationship between HUD and the Congress by promoting careful, comprehensive oversight and national fiscal management.

One area which I consider to be of special importance in this legislation is the provision of adequate housing for the elderly. At present, there are an estimated one-third of the Nation's elderly living in substandard housing units or paying sums beyond their means for housing. H.R. 12945 recognizes this problem and will do much to solve it. The bill authorizes $500 million to cover losses to the FHA general insurance fund and increases elderly loan funds from $800 million to $3.3 billion to be used over the next 3 fiscal years. This increase in authorization for the section 202 direct loan program will provide financing for the construction of approximately 35,000 units a year which will be occupied by the elderly and the handicapped. According to Department of Housing and Urban Development statistics, they will receive an estimated 1,527 applications for section 202 housing in fiscal year 1976 which represent a total of 231,623 units. At the present level of funding only 3.4 percent of these 1,500 applications can be funded. In light of the prior success of this program and the clear need for expansion, I urge my colleagues to approve this measure.

Then there are the section 701 comprehensive planning grants. These community development grant funds can be used not only for planning programs but also for a much broader range of activities, such as A–95 review, land use, transportation, et cetera.

A further area in which this bill shows the new initiatives taken by the subcommittee is the section 312 rehabilitation loan program authorization. The administration has repeatedly emphasized the need to rehabilitate housing, but has consistently obstructed the operation of the section 312 program. This bill will extend the section 312 rehabilitation loan program from August 22, 1976, until September 30, 1977, and increase the authorization for fiscal year 1977 by $100 million. I support this measure and I urge my colleagues to support it as well. This bill offers Congress and the Nation the opportunity to begin to approach national housing goals, by emphasizing the

continuation of programs that can produce desperately needed housing for low- and moderate-income Americans.

Perhaps, most importantly to me, this bill is one of the last and most outstanding contributions of our former colleague, Bill Barrett. Bill Barrett devoted his final efforts and all of his vast legislative experience to this bill which has been so aptly called the "Barrett bill." His empathy and conviction, that all Americans, whether old, or handicapped, or poor, should have a chance for a decent home, led to his introduction of this bill. In memoriam of Bill Barrett's last service to his Nation, I urge all of my colleagues to continue his fine efforts by voting favorably on this bill.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I am pleased that the Banking Committee included within its report on H.R. 12945 language requiring the Departments of Housing and Urban Development and Agriculture to report to Congress within 30 days on their progress toward resolving administrative conflicts in the 515 section 8 rural housing programs. These two programs, when administered jointly, have the potential for providing reasonably priced rental housing to low-income citizens in rural areas. The administration has even stated publicly its support for the joint administration of these programs. Yet 2 years after the enactment of legislation permitting the coordinated administration of the programs, HUD and the Farmers Administration still have not adopted regulations conducive to the smooth operation of their jointly administered programs. The result has been a very meager effort toward meeting the needs of low-income rural citizens.

The particular areas causing problems in getting cooperation include site selection criteria, which agency is to be responsible for inspection, which agency's criteria will be used to determine the rental payments of occupants, which agency a developer must deal with in getting an application for funds processed, and just when, within a given year, can a developer apply for funds.

Officials from HUD and the Agriculture Department have indicated to me that their differences should be resolved before the date on which the committee report requires them to report to Congress. I am confident that such a resolution will be appreciated by representatives from rural areas nationwide and in fact for the first time in 2 years a program will be working as Congress intended.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, as a minority member of the Housing Subcommittee, I am concerned about the tendency of this bill to undo the progress which has been made since enactment of the Housing and Community Development Act of 1974 toward permitting local elected officials to determine the housing needs of communities and to be as free as possible from the overbearing authority of the bureaucrats in Washington. A glaring example of this preemption of local authority is the provision in this bill which requires that 50 percent of all new authority be used only for new construction or substantial rehabilitation.

It apparently makes little or no difference to the proponents of this bill that a locality may wish to devote a greater percentage of housing resources to making housing facilities available and suitable to meet the needs of their citizens. The mandatory emphasis on new construction and substantial rehabilitation suggests that this bill reflects a greater concern that opporunities be assured for the providers of housing than for the needs of citizens for housing and of taxpayers who must pay the bill.

The set-asides provided in this bill, on top of those already contained in the 1974 act and in subsequent appropriations legislation, represent, in my judgment, a regressive step, and it is my intention to continue to oppose the proliferation of categoricals and set-asides in Federal housing programs.

SECTIONS 16 AND 22 "OFF-BUDGET" PROGRAMS

This bill appears to reflect the alarming attitude that merely placing a Federal direct loan program "off budget" somehow eliminates the budgetary and economic impact of billions of dollars of loans. Such an idea is pure fantasy.

To continue the authority for the Treasury to borrow money in the marketplace, so that it can be loaned to private nonprofit sponsors or individuals, but refuse to record such debt as a part of the national budget, makes our efforts to control the national budget an elaborate farce.

When the Treasury borrows funds in the open market, it competes with money demands of the private sector. An increased volume of Treasury borrowing has the effect of increasing the cost of borrowing.

The cost of interest paid on the national debt is a part of the congressional budget control process, but the borrowing of funds for off-budget programs is not included in this essential function of representative government. Off-budget Treasury borrowing does not eliminate the fact of Federal deficits; it only serves to hide the size of the deficit and the scope of Government operations.

This objection applies specifically to the section 202 program—off-budget borrowing authority increased from the current level of $800 million to $3.3 billion by 1979—and the Home Owners Mortgage Loan Corporation—off-budget borrowing authority for $2 billion in each fiscal year from 1977 through 1981. Both are Federal direct mortgage loan programs which require up to 40-year periods for repayment, during which added billions in public debt must be carried and continually refinanced by the Federal Government. The issue is whether we are going to operate under a unified budget or not. If we are serious about the Budget Control Act, the answer should be an unequivocal "yes," and it is imperative that we follow through by bringing the off-budget items into the budget.

If the off-budget borrowing authority granted in this bill were placed on budget, it would not signal the termination of all direct loan housing programs. It would, however, encourage fiscal responsibility and promote realistic budgeting practices.

In subcommittee, and again in full committee, when amendments were offered to place off-budget programs on budget, the counterargument was made that the House Committee on the Budget has, as part of its charter, the requirement that it study off-budget programs and report recommendations for terminating or modifying such provisions. In rebuttal, it must be stated that these off-budget programs are within the jurisdiction of the Committee on Banking, Currency and Housing, and that placing off-budget programs on budget is not an action reserved to the Budget Committee. If this were the exclusive charge of the Budget Committee, it would follow that new programs such as the off-budget Home Owners Mortgage Loan Corporation should not be authorized without prior concurrence of the Budget Committee.

It is my intention, when this bill is opened for amendment tomorrow, to offer my colleagues in the full House an opportunity to discharge our responsibility to place within the budget any direct loan programs which remain in the bill after the committee amendments have been considered, and I strongly urge my colleagues to support this effort.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HANLEY), a member of the committee.

Mr. HANLEY. Mr. Chairman, I rise in support of the bill.

I want to commend the chairman for what I believe to be a good job in recognition of prevailing circumstances. I would have preferred a more comprehensive program.

However, I do believe that I would be remiss if I did not evidence my great concern about the default problem within the agency; that is, the level of defaults.

As of today, of a total of 17,000 projects valued at $22.5 billion, HUD has had to foreclose on 3,000 projects with a value of $5 billion, which represents about a 20-percent rate of failure.

Mr. Chairman, what I am urging is that the agency take a hard look at its monitoring procedure to see if it can move in the direction of establishing a better track record.

I think it is the intent of the Congress that the agency function with a program designed to provide housing, not to become a landlord.

Presently HUD owns 339 projects worth $488 million, and I think that that leaves much to be desired.

As of January 31 of this year, HUD property disposition for fiscal year 1976 amounted to 83 projects, representing a loss of $19.6 million-plus. This is not a good record.

Mr. Chairman, I know that HUD has embarked on a program; I understand it has some pilot projects going on throughout the country.

What I am saying here today is that, hopefully, we can urge HUD to move in the direction of closer monitoring of these projects.

Mr. Chairman, the following statement will give all of us greater insight into this matter:

OVERVIEW OF MULTIFAMILY MORTGAGE INSURANCE PROGRAM

Projects currently in force with lender as of March 31, 1976:

14,073 total, $22.2 billion value.

7,813 unsubsidized, $12.0 billion value.

6,260 subsidized, $10.0 billion value, 3,610 236 projects.

Projects currently in default as of March 31, 1976—not yet foreclosed:

258 unsubsidized, $566 million value.

380 subsidized, $909 million value, 244 236 projects at $501 million.

638 total, $1.4 billion value.

Projects with insurance no longer in force—foreclosed and paid to lender:

2,023 defaulted and owner retained; 405 were foreclosed but sold to new party and HUD took back mortgage, $3.2 billion value, 391 236 projects at $637 million.

339 defaulted and now HUD owned with hired management, $488 million value, 62 236 projects at $108 million.

2,363 total, $3.6 billion value, 453, 236 projects at $745 million.

Total mortgage guarantee in danger or foreclosed as of March 31, 1976:

2,363 projects paid off, $3.6 billion value, 453 236 projects at $745 million.

638 projects defaulted, $1.4 billion value, 244 236 projects at $501 million.

3,001 total, $5.0 billion value, 697 236 projects at $1.25 billion.

ADDITIONAL INFORMATION

As of January 31, 1976, HUD property disposition for FY 76 amounted to:

83 projects containing 6366 units representing a loss of $19,649,608.

104 more projects have been sold, 46 of which will be closed by 6/30/76; but no dollar value is assigned until price is finally determined.

HUD Property Disposition Office testifies this is the best disposition record in their history.

HUD has implemented an "Early Warning System" for monitoring multi-family programs. It was tested for about a year in one field office and now is being implemented in most offices nationwide. Initial assessment approves the plan which has as its base the monthly submission by the management of the project of a form on which six items of interest are provided. Among these are cash flow indicators like rate of income, accounts receivable, accounts payable, rate of vacancy, etc. These items should be good clues to HUD that things are ok or are in trouble. There should be enough time to go in with management aides to avoid default or foreclosure.

Problems considered responsible for rate of failure of defaulted and foreclosed units:

Poor management structure and deficient experience, especially non-profits.

Underestimation of capital needs and overestimation of income potential.

Rapid rise in local property tax rates.

Escalation in utility costs.

Recession impact and inflation; costs went up when tenants ability to pay rent increases allowed by HUD went down because of joblessness.

Lower rate of return to limited profit managers than expected.

Court decisions (especially in NY) which favor tenants and require long complaint process for eviction; new guidelines just proposed call for due process hearings of 15–30 days before eviction action.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would like to commend the gentleman from New York (Mr. HANLEY) for his remarks.

I wish to indicate to the Members here today that Chicago, Ill., is getting to be one of the biggest markets for default mortgages in the country, second only to Detroit.

Testimony before the Manpower and Housing Subcommittee chaired by the gentleman from Washington (Mr. HICKS) and before the Housing and Community Development Subcommittee chaired by the gentleman from Ohio (Mr. ASHLEY), indicates, I think, that one of the answers to this default problem is a well-financed and directed counseling program. The first-time purchasers of mortgages usually are poor and unsophisticated.

Mr. Chairman, I think if we set up some pilot programs around the country regarding counseling, we could avoid what in Chicago amounts to a tremendous dollar loss beyond the human frustration, family disruption, and loss of confidence in Government's intentions.

At the present time, there are 4,000 homes in the HUD Secretary's Chicago inventory. At an average loss to the Government of $13,000, these foreclosures represent an eventual $52 million down the drain.

As I noted in April 7 testimony before the Housing Appropriations Subcommittee, the time to counsel is not when mortgages become delinquent but before new homeowners ever take up residence. Counseling helps homeowners know what expenses to budget for, what maintenance problems to anticipate, and what community resources to tap.

For years now, HUD has claimed its counseling effort would go nationwide. HUD is still asking for more time to decide which voluntary counseling agencies are cost effective. In the meantime, the rate of defaults and foreclosures will continue to escalate. I simply find it impossible to understand why HUD refuses to invest in a proven thing. Counseling works. HUD studies themselves make this conclusion.

It is not enough to provide homes. We must provide people with the tools and the knowledge to be responsible homeowners. A recent report by the House Committee on Government Operations concluded that counseling would prevent new homeowners from being tricked into decorating, modernizing, and furnishing their new homes. The report warned that homeowners who were good financial risks could be financially ruined by monthly installments for such home improvements.

Mr. Chairman, I commend the gentleman from New York. I do not wish to take any more of his time, but I did want to make my views known on this important subject.

Mr. HANLEY. Mr. Chairman, I, too, wish to commend the gentleman from Illinois and do appreciate the gentleman's concern.

Mr. Chairman, another problem within the agency is its failure to keep its finger on the pulse of these projects. There have been several situations and I can set forth a number of examples, one in my home city, of a project initially appraised to cost $10 million, 7 years ago, later going into default and, because of the deteriorated condition, now at an appraised value of about $3 million which represents a loss to the taxpayers of approximately $7 million.

So we have that happening throughout the program.

I would also call upon HUD to seek relief from the rental income problem that has resulted from numerous court decisions. The agency loses on an annual basis millions of dollars in unpaid rentals, generally speaking, rentals provided through public assistance to begin with.

So I hope very much that HUD will upgrade and take a hard look at its procedures and try hard to improve upon this less than good track record.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Russo).

Mr. RUSSO. Mr. Chairman, during the 5-minute rule, I had planned to offer certain amendments to H.R. 12945, Housing Authorization.

My amendments are designed to help check the rapid decay that is spreading throughout our Nation's urban areas like a cancer. These five proposals drive to the heart of the problems—reforming the Department of Housing and Urban Development's policies, and consequently the Federal Housing Administration—FHA—that allow unqualified applicants to receive federally insured motgages.

Specifically my five amendments would:

First, limit the amount of a mortgagor's income that he can apply toward his monthly mortgage payment to 28 percent.

Second, authorize counseling services for all FHA programs;

Third, raise the downpayment to 10 percent of the total purchase price of all FHA insured mortgages;

Fourth, raise the mortgage companies coinsurance rate to 20 percent; and

Fifth, authorize the General Accounting Office to audit the Federal National Mortgage Association.

As many of my urban colleagues are aware, FHA's lending policies are aiding the deterioration of our inner cities. By imprudent screening of applicants, the FHA allows many applicants to assume financial responsibilities beyond their capabilities. After these new homeowners discover they are unable to meet the hidden costs of homeownership, such as ordinary and extraordinary maintenance, utilities rates, State and local property taxes, these people often abandon their homes. These homes then become subject to vandalism because irresponsible mortgage companies fail to properly maintain these structures according to their contractual arrangements with the FHA. After a short time, these once solid houses become devastated hulks, an eyesore in the community that may affect other surrounding homes in the area.

When Congress first established these very worthwhile programs, they were designed to aid those low- and moderate-income families, who, either because of

past discriminatory lending practices or an inability to build a credit rating, receive loans to purchase homes. I fully support the concept of helping these worthy individuals. But, somewhere between Congress drawing board and FHA's workshop these concepts were distorted, sometimes purposely, beyond the legislative guidelines. Because of this mismanagement, many conceptually fine programs have drawn the ire of those citizens who are bearing the burden of the Government's ineptitude.

In view of the fact that many of us know of these problems, I think it is time that we take corrective action. Within the past year there have been two congressional investigations into various aspects of the Government's housing policies, yet neither committee has drafted legislation addressed to these problems. In proposing these amendments, I am merely picking up where the committee has stopped.

The first two amendments are designed to insure that only financially qualified applicants who are apprised of all aspects of owning a home receive an FHA-insured mortgage. Present HUD regulations allow a person to apply up to 35 percent of his income toward his monthly mortgage payments. These regulations were liberalized at the same time conventional lenders began reducing the percentage of income they would allow a mortgagor to apply to his monthly payments. This is an irrational policy by FHA administrators, especially when one remembers that because of inflation, today's dollar buys quite a bit less than the dollar of only 3 years ago. Thus, while a person's real income was diminishing, the Government was promoting a policy that was inconsistent with the real world facts.

Prepurchase counseling is supported by both congressional committees and the private sector. In a recently issued study by the Government Operations Subcommittee on Housing and Manpower, that body recommends that the Government fund training operations to educate community groups in the art of effective guidance counseling. Once the community members have completed the training program, the Government should provide matching funds for the groups' operations. These community based groups would have a reason to perform well—the community they would be saving would be their own.

Last week the counsel from a private mortgage bankers group called my office and informed me his organization wholeheartedly supported my counseling amendment. He stated that for every $1 spent in counseling, $5 were saved in foreclosure and other costs when a mortgagor defaulted on his payments. This money will be well spent.

This year, for only the second time, the Appropriations Committee has included funding for a counseling in its HUD appropriations bill. But, as I understand it, counseling is only authorized for the section 235 program and not the section 203(b) and section 221 programs. These funds should be available to all housing programs because in all of them we are basically dealing with inexperienced purchasers who need guidance. My amendment would make these funds available to all the FHA programs.

Amendments three and four are designed to increase both the mortgagor's and the lender's stake in the venture. At this time in all of FHA's single family dwelling programs, a purchaser must only put forth a downpayment of 3 percent of the total cost of a home. Thus, on a $25,000 home the downpayment is only $750; an incredibly low amount considering the staggering sum the Government must pay if that mortgagor defaults on the loan. Because many of these homeowners have such a small stake in their homes they have nothing to hold them there if they come upon difficult times, whereas homeowners who have a significant sum tied up in their home feel less inclined to abandon it, even in hard times. Thus, my amendment raises the downpayment limit to 10 percent in order to insure that the owner has a substantial stake in his home from the beginning of his ownership. Ten percent is not an unreasonable amount. Some mortgage companies in my area require a minimum of 20-percent downpayment on a conventional mortgage. My proposal attempts to place the Government's practices on a parity with the private sector, not to kill the program or make it extremely difficult to buy a home. Saving one's money to meet the downpayment requirement gives a person a firsthand idea of what it will take once he must begin meeting those monthly payments.

Coinsurance is a nasty word to mortgage companies because it means that those companies cannot take the Government for a ride and not share any of the obligations themselves. Prior to 1974, the Federal Government insured 100 percent of an FHA mortgage. That meant, if the homeowner defaulted on his payments, the Government would pay off the mortgage company in full. After the Community and Housing Development Act of 1974, the mortgage companies were required to coinsure any FHA-backed loan they made. But, the companies only had to coinsure 10 percent of the loan. This percentage is clearly inadequate. Raising the coinsurance rate to 20 percent would guarantee that the mortgage companies would do a better job of screening applicants than they presently do. The mortgage companies could not consistently afford to lose $3,000 to $4,000 on every foreclosure. That is probably their margin of profit after they have sold a mortgage in the secondary market. Companies are formed to make a profit and in the housing business profits would be turned when a mortgage is marked "paid in full" if my amendment is accepted.

On the same subject, FHA checks very few applications to ascertain if the applicants are worthy credit risks. Thus, the lender has wide discretion in choosing who will receive an FHA-backed mortgage. This is a further reason to make the mortgage company share a larger part of the burden.

My fifth amendment would grant the General Accounting Office—GAO—the authority to audit the Federal National Mortgage Association—Fannie Mae. At one time GAO had authority to audit Fannie Mae. But once the transition from a Government corporation to a private corporation was completed that authority was repealed. I think that authority should be reinstated and I think the proper basis for an audit is present. Fannie Mae was originally capitalized with Federal funds. This alone should be enough reason to authorize an audit of Fannie Mae, even though it is a privately owned company. But, in addition, Fannie Mae operates in the secondary mortgage market and purchases a tremendous number of FHA-insured mortgages, reportedly 69 percent, thus having a profound effect on Federal housing policy.

Many mortgage companies that work with the Government in its housing programs hurt those programs in two ways. First, they give bad loans. The homeowner on these loans eventually defaults costing the Government money. Second, sometimes the mortgage company could forbear on the monthly payment and not foreclose, but callously decides to collect his money from the Government instead of the homeowner through the default process. Fannie Mae, when it notices a pattern of these practices, is supposed to sanction the mortgage company and force it to straighten up its business practices. However, from some reports, Fannie Mae is neglecting its duties in this respect. A GAO audit would either substantiate those reports or put them to rest. I, for one, would like to know the answer.

Mr. Chairman, at this point I would ask the chairman of the Subcommittee on Housing to discuss our agreement.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, as the gentleman is aware, I have discussed these amendments with him. I would like to congratulate him on the very hard work he put in trying to devise an effective legislative remedy for the very serious problems his constituents face in his district. The gentleman has very intelligently identified, and of necessity taken a definite position on, some of the most complex and controversial housing policy issues that face the Housing Subcommittee and the Congress generally. However, as the new chairman of the Subcommittee on Housing and Community Development, I do not think it would be proper—nor, frankly, do I think I would succeed if I tried it—to force the enactment of decisions on these very basic issues without providing those involved an opportunity to be heard and hopefully an opportunity for some sort of a consensus to develop within the Congress.

What your amendments do is bring out into the open in this forum issues which must, and I promise you, will be faced and dealt with by the Housing Subcommittee.

For almost four decades, FHA mortgage insurance was the Government's most effective force for housing production and the provision of homes for moderate-income families. It has been

called one of the most successful public-private ventures in American history. Yet, in recent years there has been a tragic decline in its effectiveness.

This decline has been most dramatic, and its effects most serious on neighborhoods and homeowners in our older urban and suburban areas such as the one you represent. Now the role that just plain maladministration played in this decline has been well documented but I believe that there are also other deeper reasons for the decline which must be determined if we are ever to both preserve our housing stock and at the same time provide the maximum in housing opportunity for all citizens. I believe that many of the questions your amendments raise will be shown to be extremely relevant during the intensive inquiry I plan on making into the present and future role of the FHA and the reasons for its decline. I will be commencing this inquiry during the current Congress. With the experience you have gained representing your constituents on these problems, I feel you could contribute a great deal to its success and I invite your participation.

While I would feel constrained to oppose these amendments at the present time if they were offered on the floor I think that in raising them at this time you have performed a real service. I assure the gentleman I share with him a deep concern over the problems these amendments attempt to deal with.

Let me say to the gentleman from Illinois that what his amendments do is to bring out into the open in this forum issues which must and, I can assure the gentleman, will be faced and dealt with by the Housing Subcommittee.

Mr. RUSSO. I thank the Chairman. If I may say, I appreciate the difficult problems that my proposed amendments present at this time. But I think that we can look at many of the urban centers in this country and can see that this problem does exist. We have known about these problems since 1971, and it is time that the Members of Congress who are responsible for writing this legislation do something about stopping the problems that exist in the urban centers.

I know, and I stated to the gentleman personally, that the programs have functioned and do function well in other areas of the country, but they do not function well in the urban centers in this country. It is a problem we have to address, and I ask the gentleman if he can assure me that we will have hearings in the next couple of months on this particular problem. I would invite him to have his subcommittee appear in my district so that the people can give him first-hand accounts of the problems that we face in our area.

Mr. ASHLEY. If the gentleman will yield, let me respond to the gentleman by saying that at this very time the subcommittee staff has been directed to structure broad-scale intensive hearings with regard to FHA and related matters that I spoke to a few moments ago. I would expect that these hearings would not be conducted in the committee rooms here in Washington alone but would go afield to see the problems first hand.

I can assure the gentleman that Chicago will certainly be considered among the very first of the cities that we would want to visit in this respect. I cannot give the gentleman a definite timetable as to when such field trips might take place. I would hope that they could be scheduled within the next 60 to 90 days. As the gentleman knows, there are intervening events, the conventions, and so forth, that we are going to be mutually confronted with.

Let me simply say to the gentleman that he has my assurance that the problems that he has articulated and the responsibility of the subcommittee will be compatible.

Let me simply say to the gentleman, he has my assurance that the problems he has articulated and the response of the subcommittee will be compatible.

Mr. RUSSO. I thank the gentleman and, based on our discussion, I have no intention of offering the amendments.

Mr. ASHLEY. Mr. Chairman I yield such time as he may consume to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, from the point of view of the major cities, particularly those in the Northeastern part of this country, this bill, the Housing Authorization Act of 1976, is an unmitigated disaster. Not only does it do nothing to solve the urgent problems of our cities, but it goes a step further. It even denies their existence.

This is ironic because there is apparently much greater public awareness of the problems of the cities today than ever before. We find front page stories in our newspapers and programs on our television screens and special articles in the major magazines that explain in minute detail what the crisis in our cities means. For instance, the U.S. News & World Report issue of April 5 had a 16-page special section entitled "Are All Big Cities Doomed?"

It is particularly ironic that there is no action on the problems of the cities this year, because last year this very committee had massive hearings on this very subject, when the New York City crisis came before you. There was testimony from mayors—from all over the country—which brought out that the problems we are talking about are not just the isolated problems of New York City, but problems assailing cities, large and small, across the Nation. And these are problems for which there are at present no constructive solution available.

A major difficulty is that at the same time as the cities become more and more the last refuge for the unemployed and the poor, less and less Federal assistance is being made available to meet their housing needs. As a result, a growing number of people residing in urban centers find it impossible to secure decent, safe and sanitary housing under our existing housing programs.

Let me illustrate the problem by quoting from the community development block grant program application which was submitted by New York City in its second year community development plan proposal. The Housing figures, just for New York City include the following: 1,414,990 families presently qualify under the 1975 Department of Housing and Urban Development income limits for section 8 housing assistance; 1,017,000 apartments are suitable for rehabilitation; 750,000 families now pay more than 25 percent of their income for rent; 420,000 families rent housing which is overcrowded, dilapidated, or lacks adequate plumbing.

The story could go on and on if I could continue reciting the statistics that are presented.

It is clear that these statistics will not change unless there is help from the Federal Government. We all know that the city of New York does not have the resources now to even get by on a weekly basis. That is why we are providing Federal aid. We also know that the State of New York does not have any resources.

Finally, we know from the last year's hearings that the private sector is incapable of meeting these critical needs. The evidence of this, as far as the private sector is concerned, is that there are in New York today 4,299 buildings containing 64,485 apartments which are in city ownership due to nonpayment of taxes by their owners. Almost 6,000 residences have been declared unsafe by the building department as a result of a limited inspection which had to be canceled because there were not enough building inspectors available to complete the job.

Finally, the city is losing over 30,000 apartments a year to fire, demolition, and abandonment.

Faced with these massive needs in one city alone, what assistance does New York City get under this bill?

The first proposed assistance is the section 8 program. Under the section 8 program, assuming all the assistance that this bill authorizes were to be appropriated, New York City would get enough funds to provide for 40,000 apartments a year. As I pointed out, New York City loses now 30,000 apartments a year to abandonment, so there would be a net gain of 10,000 apartments a year, meaning that if no other apartments were to deteriorate for the next 100 years, it would take exactly 100 years to meet the city's housing needs in terms of those apartments which today qualify for section 8 assistance.

But that assumes that section 8 assistance is available. In fact, it is not. The private sector will not invest in the city and the city does not have the funds to go out and invest to build the housing which would qualify under section 8.

Therefore, from a practical point of view, the section 8 program is not a meaningful resource.

Let us look at some of the other programs proposed under this bill. We have a section 235 program which is being reinstated and that is fine, except it limits mortgages to $25,000 per house or $29,000 per condominium.

The problem is that in New York City under present conditions, low-income housing costs $45,000 per unit to build. Therefore, the section 235 program is not available to the city of New York.

This is also true of the section 312 rehabilitation programs and of the pro-

posed Home Owner's Mortgage Loan Corporation, because the income limits are $30,000 per unit in these particular programs.

Mr. Chairman, I fail to see how, in view of all that has taken place in the past year, this committee can report out a bill that is so totally irrelevant to the urgent needs of these cities.

Mr. Chairman, last year about this time I protested on the floor of this House that the needs of our cities were being ignored. I was then given a solemn assurance by the chairman that hearings were being held, that every effort would be made to come up with new programs if I would then give my support to the pending bill, which I did. Now, a year later, after all the hearings, after all the emergencies, there is no change whatsoever in the bill that is being proposed, except for more assistance to the one-family homeowner who lives in the suburban areas of this country.

Mr. Chairman, I will support the bill because I do not want to be accused of only supporting bills that help urban centers. I have voted for farm bills in the past. I have also voted for bills for suburban programs in the past—and I will support this bill now. But I must say to the committee that I feel that they have a duty to face up to the national needs of this country and look for solutions at the Federal level to the problems of the central cities of our Nation.

Mr. Chairman, I urge this committee to take action so we can have a bill in the near future which will provide a meaningful housing proposal, so that we can never again have headlines, like this one which reads:

Are all the big cities doomed?

I would rather see headlines which read:

Are all the big cities going to be rescued?

Let us work to develop the kind of programs in this Congress which will make that rescue possible.

Mrs. MEYNER. Mr. Chairman, I rise today in support of the Housing Authorization Act before us and urge my colleagues to lend their support as well. It is with great pleasure that I add my voice to those in this Chamber who have articulated their reasons for the favorable consideration of this vital legislation, and I am proud to have the opportunity to express my thoughts on this measure which will aid Americans in one of their most basic needs—adequate housing.

Despite my admiration for the product of the Banking, Currency and Housing Committee and for the Department of Housing and Urban Development in the maintenance of programs to provide housing for low- and middle-income Americans, I do believe that this bill contains a deficiency worthy of noting. I speak of section 8, which provides for the extension of the Emergency Homeowner's Relief Act (Public Law 94–50), I applaud the extension of this emergency program, but regret that it is not accompanied by statutory regulations regarding the program's implementation.

Mr. Chairman, on April 13, 1976, I informed you of my intention to investigate the possibility of regional implementation of the Emergency Homeowner's Relief Act. I stated at that time that I believed that HUD Secretary Carla Hills' decision to implement and administer the program only when 1.2 percent of all mortgages in the Nation were 3 months or more in arrears discriminated against those areas of the country where the economic crisis and unemployment have wreaked greater havoc. A survey of the mortgage portfolios in the 13th District has shown that my constituents do not fit into that category. I am pleased to report that with a slightly over 50 percent return rate on my inquiry, grossly delinquent mortgages in my district comprise 0.9 percent of the total portfolio. However, I find it important to note that this represents 275 households that are potentially eligible for this emergency relief, but denied it through a discriminatory financing formula.

Allow me to indulge in a bit of statistical conjecture: Assuming that there are 550 outstanding mortgages of this nature in my district, and that the 13th District represents approximately 1/435 of the Nation, the number of potentially eligible homeowners in the Nation is approaching 240,000. Carrying this conjecture one step further, with an average household of 3.65 persons, more than 870,000 of our constituents who are facing the very real and terrifying loss of their homes could be eligible for relief under an already existing program. How can we deny almost two entire congressional districts the relief that we designated and budgeted for them?

The purpose of last year's Emergency Homeowner's Relief Act is "to prevent widespread foreclosure and distress sales of homes." Vagueness as to whether the act was intended to be administered on a national, State, or regional basis has allowed for broad discretionary authority to be exercised by the Secretary of HUD. Recent regulations published by HUD depict the Department's interest in encouraging sensitivity and responsiveness on the part of lending institutions. And forbearance rather than foreclosure has become the slogan. I applaud this effort but feel that it would more accurately reflect the intent of the law if it were accompanied by a cognition of the problem of regional unemployment and economic woes. I do not feel that we have gone far enough in responding to the intent of the Emergency Homeowner's Relief Act.

How do we encourage the implementation of this program on a more equitable basis?

Mr. Chairman, I believe that the present financing formula ignores relevant criteria and indices. Secretary Hills employs a percentage delinquency rate; the gentleman from Michigan (Mr. BLANCHARD), offered an amendment in committee to use foreclosure criteria. I believe that as the act addresses the problem of unemployment, the administration and implementation formula should be based in part on current unemployment figures.

Mr. Chairman, I will not offer an amendment to the Housing Authorization Act providing for statutory regulation of this emergency program today because I am not an expert on the housing situation in America and I am reluctant to see my colleagues be persuaded to vote either for or against a measure which has not received adequate consideration by the proper committee. I will, however, ask everyone in this Chamber to consider the people for whom we legislate; to think not of a 1.2 percentage, but of the 870,000 suffering Americans. Does Secretary Hills' decision to withhold these funds reflect the intent of Congress when it passed the Emergency Homeowner's Relief Act? I think not. I strongly urge everyone in this Chamber to vote for the passage of H.R. 12945, but I would urge the members of the House Committee on Banking, Currency and Housing to give close attention to this one particular area of critically needed reform. I suggest that the Emergency Homeowner's Relief Act be given proper hearings and the full consideration it deserves.

Mrs. SULLIVAN. Mr. Chairman, I hope all of the Members have had an opportunity to read the letter I circulated to the entire House yesterday discussing the proposal in H.R. 12945 for a direct Federal mortgage loan program, at 6½ percent interest or less, for families with incomes in the median range in their geographic areas. And I hope many of the Members, after receiving my letter, have had time to look up the explanation of the program in the committee report on the bill, House Report 94–1091, as I urged them to do.

I called attention particulary to a discussion of this program in the "inflation impact" section of the report, beginning at the bottom of page 35, showing that the proposed Home Owners Mortgage Loan Corp. direct loan program for mortgages up to $30,000 would have an anti-inflation effect by encouraging the sale of homes at $30,000 or less, which is well below the median sales prices today of either new or used homes.

According to the information in the committee report, the median price of a new home in 1975 was $41,300, and for an existing home $35,300. A week after the committee report was filed on May 6, the Washington Post, on May 13, carried an article at the top of column 1 of page 1 noting that in 1976 prices of new homes across the Nation were soaring at an annual rate of 22 percent.

This article, by James L. Rowe, Jr., based on figures supplied by the Home Loan Bank Board, said the median price of a new home in February was $43,000, compared with $38,000 in February, 1975. The article added:

That represents a 13 percent rise from year to year, but over the six months "ending in February, the increase has been at a 22 percent annual rate," the bank board's analysis said. According to preliminary evidence median new home prices jumped again in March to nearly $44,000.

Mr. Chairman, because of inadequate financing for the average income family in buying a home it can afford, builders are making little if any effort to construct homes in the $30,000 range. The

affluent can afford to pay more—and builders' profits are higher, of course, on higher priced homes—but the family which would be satisfied with a no-frills $30,000 home cannot swing the monthly payments on such a home when mortgage interest rates are 9¼ percent or more.

The average income family has been squeezed out of the market by these extremely high interest rates and so homes within its price range are not being built.

Short of bringing interest rates down generally throughout the economy—and that obviously is not being done, and cannot be done overnight—the only chance the working family would have in buying a home today would be through the kind of program proposed in section 22 of H.R. 12945. So I urge all of the Members who are concerned about the dilemma of their taxpaying, self-reliant, hard-working, average income constituents in trying to buy housing to oppose any attempt to strike section 22 from the bill.

NOT A SUBSIDY PROGRAM—HOME BUYERS WOULD REPAY THE GOVERNMENT IN FULL WITH INTEREST

As I noted in my additional views in the committee report on H.R. 12945, ever since 1969, when the Nixon administration began a deliberate policy of encouraging—and forcing—higher interest rates in the hopes of curbing inflation—but thereby contributing mightily to the terrible inflation which followed—the housing industry has suffered a series of severe depressions. Interest rates on home mortgages priced the average income family out of the housing market. Thousands of low income families, on the other hand, were enabled to become home owners through a massive mortgage interest subsidy program costing billions of dollars under the section 235 program—a program which suffered so many incredible abuses and scandals that it had to be suspended and completely restructured. At the other end of the income scale, many well-to-do families were also assisted by the Federal Government in buying new homes with mortgages below market interest rates through the so-called tandem plan—mortgages up to $42,000 were written at a 7½-percent interest rate and sold immediately at par to the Government National Mortgage Association, which in turn discounted them at losses of as much as $4,000 each.

But while both low-income and well-to-do families were enjoying Federal subsidies to bring down their interest rates on home mortgages, the average income families—the working families of this county which pay their own way for everything and in addition pay the taxes which help to provide the Federal mortgage assistance for those poorer or richer than they—have been blocked from the housing market by interest rates of 9¼ percent or more, even on fully insured or federally guaranteed FHA or VA loans.

H.R. 12945, as reported by the Committee on Banking, Currency and Housing, contains in section 22, the Home Owners Mortgage Loan Corporation Act, an effective and practical mechanism for enabling families of average means once again to be able to purchase homes, without Federal subsidies. Eligible, credit-worthy families—fully able to purchase and maintain a home with a mortgage up to $30,000 if they can obtain mortgages at 6½-percent interest or less—could borrow directly from the Home Owners Mortgage Loan Corporation under a revolving fund set up for that purpose.

Although a 6½-percent mortgage would today be significantly below the going market rate on home financing in the private lending market, it would not entail a subsidy because it would reflect—and pass on to the average family needing a home—the Federal Government's favorable position in borrowing money. Over the 30-year life of such a mortgage, a 6½-percent loan would undoubtedly bring a profit to the Treasury.

Such a program is not intended to compete with private lenders—since they are not now able to extend mortgage loans to average income families at comparable rates. But the existence of a Federal direct loan program at 6½-percent interest operating during periods when private lenders can not serve this market would serve as an incentive to private lenders to help bring mortgage interest rates down as a means of getting and keeping the Federal Government out of the home financing business. Instead, the various Federal mortgage subsidy programs encourage the private market to keep interest rates as high as possible.

HOW THE HOME OWNERS MORTGAGE LOAN CORPORATION WOULD FUNCTION

This proposal is not new. It was first introduced by me and the late Congressman William A. Barrett, for many years chairman of the Subcommittee on Housing, in 1969, with the enthusiastic support of the National Association of Home Builders, which saw in it a practical approach to getting new homes built and financed for the average income family. In 1972, the Committee on Banking and Currency approved the idea as part of an omnibus housing bill, but the entire housing bill died in the Rules Committee that year. In the interim, as noted above, other programs have been undertaken at huge costs in Federal subsidies to try to revive the housing industry, without success. Once again, the committee has now turned to the idea endorsed in 1972 for a direct loan program for moderate income families—those earning up to approximately the medium income in their localities.

The Home Owners Loan Corporation created by section 22 of H.R. 12945 would be an independent Federal agency with a limited role and no need for an extensive bureaucracy. It is to be primarily a policymaking agency consisting of a Board of Directors of nine persons—the Commissioner of FHA as an ex officio member and eight public members appointed by the President and confirmed by the Senate. Its main function would be to determine the circumstances and terms under which direct loans would be made from the Home Owners Mortgage Loan Fund, a revolving fund with an authorized initial capitalization of $10 billion, to be appropriated at the rate of $2 billion a year for 5 years. After the first 5 years, additional appropriations are authorized for future fiscal years in order to make possible continuing loan operations of $2 billion a year, including money repaid into the fund each month by borrowers. The actual work of processing these loans would be done by existing FHA offices, and the mortgages themselves could be serviced by private lenders.

The nine-member Board of Directors would meet periodically—at least once a month—to make policy decisions. Its expenses and those of a small administrative staff would be paid out of appropriations specifically voted for that purpose, not out of the revolving fund earmarked for the making and servicing of loans.

The Home Owners Mortgage Loan Corporation would operate in the tradition of the Home Owners Loan Corporation—HOLC—of the Roosevelt New Deal years, which made direct loans to homeowners in order to enable them to save their homes from foreclosure during the depression. That agency, handling billions in loans, recovered its investment in full and made a profit for the Federal Government.

The purpose of the new HOMLC is not to make money for the Federal Government, of course, but rather to utilize the borrowing power of the Federal Government to assist hardworking, average-income families to buy homes when the market is closed to them by interest rates they cannot afford. But over the long pull, it is undoubtedly going to recover its investment with a fair rate of interest, particularly if interest levels come down—as they must—over the next 30 years.

A DIRECT LOAN PROGRAM VERSUS MORTGAGE INTEREST SUBSIDIES

Private lenders today cannot extend loans to average-income families—or to anyone else—at reasonable rates of interest; that is, 6½ percent or less.

Many of them are paying depositors almost that much for savings. In order to build, or rehabilitate, and sell homes, the housing industry has become increasingly dependent upon financing gimmicks involving substantial Federal subsidies.

On a $25,000 home sold under the section 235 program, to a family with an income of, say, $10,000, the Government now pays the difference between a 5-percent interest rate and the effective market rate of 9.2 percent on FHA-insured loans. This amounts today to $858 per year Federal interest subsidy on a $25,000 section 235 mortgage, or $25,740 over the 30-year life of the mortgage. The Federal Government therefore is obligated to pay more in interest, as a subsidy, than the entire amount of the mortgage and more than the subsidized home buyer pays under section 235. According to figures given me by FHA, the subsidized home buyer over 30 years would pay $23,330 in interest along with the $25,000 principal.

I certainly believe—and I am sure most Members of Congress would agree with me—that it is far better, more economical and more intelligent, for the Federal Government to lend that same buyer $25,000 at 6½-percent interest for

30 years, and get every cent back on the collateralized loan with interest, than to commit the Government to pay a lender $25,740 over 30 years to make a loan to the home buyer.

That is why I opposed in the committee the provision of H.R. 12945 to increase the maximum income for eligibility for a section 235 loan from 80 percent of median income to 100 percent. My amendment to establish the Home Owners Mortgage Loan Corporation, as originally agreed to in committee, kept the income eligibility for subsidized loans at 80 percent of median income, as it is in present law, and proposed the direct loan program primarily for families earning above 80 percent of median income.

The committee, however, subsequently raised the income eligibility for section 235 to 95 percent of median income, meaning that families in Washington, D.C. with incomes of approximately $17,000 would be eligible for subsidies. For Newark, N.J., 95 percent of median income is about $16,000; for Bridgeport, Conn., Detroit, and Chicago, about $15,000 and for St. Louis, Philadelphia, Toledo, and Los Angeles, about $13,500 for a three- or four-person family. Of course, the higher the income of the section 235 home buyer, the smaller a subsidy is paid. But while I can see the necessity for providing subsidies to families earning 80 percent or less, of median income, I truly believe the average family could handle a 6½-percent direct loan which did not involve a subsidy.

We have had a number of successful direct Federal mortgage loan programs—under the VA for veterans of World War II and the Korean war, and for farmers under the Farmers Home Administration, and, as noted, the HOLC program during the depression to enable homeowners to avoid foreclosure. All have been highly successful programs. And none of these involved any subsidies.

THE MORTGAGE SUBSIDIES FOR THE WELL-TO-DO

The so-called tandem program under which the Federal Government has subsidized many high income home buyers, by having their 7½-percent loans on amounts up to $42,000 bought, and resold by the Government National Mortgage Association at a loss of up to 10 percent of face value, has cost the taxpayers as much as $4,000 each on these high income loans.

Since there is no income limitation for eligibility, nor any limitation on the sales price of the home as long as the mortgage does not exceed $42,000, we have found that some well-to-do purchasers were able to make down payments up to $30,000 down on a $72,000 home in order to qualify for the federally subsidized $42,000 loan at 7½ percent I wonder how many of these buyers, or their fellow citizens, know that each such home on which a $42,000 mortgage was extended at 7½ percent under the tandem plan enacted at the administration's urging in 1974, is costing the taxpayers as much as $4,000 in points and discounts absorbed by GNMA.

The program was adopted primarily in order to aid homebuilders in disposing of new homes on a stagnant real estate market. Undoubtedly, it has helped to provide some jobs in the depressed building and related fields, helped the realtors in selling new homes, and the mortgage bankers who process the loans and receive a monthly fee for servicing them after selling them to the Federal secondary mortgage market.

But the HOMLC, in contrast, will provide homes and jobs in the housing field at no ultimate cost to the Federal Government. The loans will be repaid with interest. And since these are investments rather than Federal expenditures, the HOMLC program is expressly made off-budget so as not to have the $10 billion revolving fund mistakenly and confusingly regarded as a budget-unbalancing "expenditure." There is precedent for this in numerous Federal investment programs, including the 202 direct loan nonprofit housing program, the rural electric and telephone loan programs, the Export-Import Bank, and other programs in which outlays of the Federal Government come back to the Treasury in full and with interest.

As between more subsidy programs and a direct Federal loan program such as is contained in section 22 of H.R. 12945, I think the evidence is conclusive and irrefutable that a direct loan program is preferable to an expansion of the section 235 subsidy program to include average income families.

Mr. GRASSLEY. Mr. Chairman, unfortunately I feel compelled to vote against H.R. 12945 because of the deletion by my colleagues of that provision which would place a ceiling on HUD's administrative expenses. It is curious that Congress should, via its new budget process, attempt to impose a ceiling on its own profligate ways and yet continue to allow vast and uncontrollable Federal bureaucracies to continue their spending with little or no restraint. The House has not only contradicted itself, but has as well been unfair to the taxpayer.

In an earlier statement I made regarding the need for this ceiling, I noted how HUD has been moving employees out of its multimillion dollar headquarters to buildings throughout the area, and how they have been spending $83 on ashtrays. I find it incredible to believe that a ceiling on HUD expenditures would cause any great dents in HUD's housing efforts. And considering that the major program designed to meet the needs of low-income citizens has seen only 2,600 units constructed since its enactment 2 years ago, I am sure that HUD could not be spending all the funds that Congress has authorized for it. I fail then to see why they are afraid that they might exceed any reasonable ceiling imposed by Congress and why my colleagues have accepted such specious position.

Mr. ASHLEY. Mr. Chairman, I have no further requests for time.

Mr. J. WILLIAM STANTON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing Authorization Act of 1976".

HOUSING ASSISTANCE AUTHORIZATION

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore, Mr. MCFALL, having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12945) to amend and extend laws relating to housing and community development, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the debate on the bill H.R. 12945, just completed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ABSENCE DUE TO OFFICIAL BUSINESS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. PICKLE. Mr. Speaker, yesterday, Monday, May 24, 1976, I chaired a hearing for the Oversight Subcommittee of Ways and Means that was held in Charlotte, N.C., and, therefore, missed votes and quorum calls that occurred during yesterday's session. Accompanying our committee was the gentleman from North Carolina (Mr. MARTIN), and the gentleman from New Jersey (Mr. HELSTOSKI).

The purpose of the hearing was to delineate reporting and disclosure difficulties regarding the pension reform ERISA law and to explore several proposals for improving the new individual retirement accounts program.

ADMINISTRATION WEAKNESS ENCOURAGES PANAMANIAN PIRACY IN CANAL ZONE WATERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, the failure of the President and his administration to demand an end to such incidents as the recent incursion into the Canal Zone by elements of the Panamanian National Guard, has only increased the appetite of Dictator Torrijos for pulling Uncle Sam's tail in the Canal Zone.

I have just learned from the Secretary of the Panama Canal Company that a Panamanian National Guard vessel committed an act of piracy in Canal Zone waters yesterday morning by seizing and impounding an auxiliary sailing vessel

recently purchased at auction by the General Electric Credit Corp.

The sailing vessel was en route to the United States, and was captured in waters clearly recognized internationally as under U.S. control.

Mr. Speaker, if President Ford would show the Panamanian dictatorship a little of the mettle that he showed the Cambodian Communists when they captured the *Mayaguez*, this country would regain some of the respect it is fast losing all over the world.

"KEEP CHICAGO CLEAN" ESSAY CONTEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last week I announced the winners in the essay contest sponsored by Mayor Daley's Citizens Committee for a Cleaner Chicago, myself, and Illinois State Representative William J. Laurino.

I wish to include in the RECORD 2 more of the 10 winning essays, one by Greg Dial and one by Ana Suarez, as well as the runners-up, all of which were written by pupils in schools located in the 39th Ward area of the 11th Congressional District of Illinois, which I am proud to represent.

The essays follow:

ESSAY BY GREG DIAL

Let's stop pollution everyone,
So some of us can have some fun,
They'll close the beaches,
They'll close the parks,
If we don't each one, do our part!

Come on gang—let's look alive,
So the next generation won't have to die,
We'll clean the water,
We'll clean the air,
So we won't have to live in fear.

Now if all this is done,
The pollution fight will be won.

ESSAY BY ANA SUAREZ

I would suggest that the first thing we should do would be to cut down on littering. That wouldn't be the only thing, of course, but I would like to see that done.

I think that the fines that are put on the streets are not working because not once in my life have I seen a police officer giving a ticket for littering.

After everyone has agreed to make the move to enforce keeping the city clean, I would get in touch with Mayor Daley to see if he would also agree with my idea and help by hiring special officers to keep a close watch on litter bugs. That would help solve most of the problem.

The next step I would take is to have the schools get off early once a month to go to the parks and pick up trash and start on planting flowers.

Next, I would talk to the neighbors and try to form different committees in each neighborhood. The committees would keep watch over the garbage trucks and make sure that they would be doing their job by coming around the neighborhood often and taking with them all the garbage. Another committee could be started to encourage the people to paint and better their houses by fixing their yards, garages, front lawns, and trimming their trees. These committees should also make sure that there are plenty of garbage cans around. This would help because if people see the cans nearby, they are more likely to deposit their garbage in them than if they have to wait until they come across one or if they have to take the garbage home with them.

Another thing drivers should be reminded of is not to throw their garbage out the window of their cars. This could prevent fires from starting from litter that is all over. And for the people with lung and asthma disease, it would be a great help if the factories would not pollute so much and cars would go and get a pollution test. This, I think, would even help the flowers grow nicer and so we could look up at the sky and smell the freshness and see the beautifulness of our city.

This is what I think would make our city a better place to live and to see beautiful things at.

ESSAY BY FRANK ZIOLKOWSKI

Most children think about what they can do to keep Chicago looking clean and beautiful. There are many ways in which Chicago can remain beautiful. People just don't stop and think about them when they are dropping paper or cans. It wouldn't hurt them to put the garbage or litter in their hand or pocket until they got home, or until they saw a waste container. Also, they can pick up garbage and trash even though they're not the one who has placed it there. People, therefore, should be encouraged to pick up garbage and trash.

Also, people can go to their neighborhood "Clean up for Chicago" chairman and get some signs, and put them in store windows. This could encourage other people to pick up their trash and litter.

If something can be recycled, encourage people to save it, and give it to someone who can recycle it.

Keep your own garbage cans covered with lids so no rodents or other small insects try and make a home of the trash that has collected here.

Don't trample the grass in front of your home, or anyone elses, for that matter. Go to the park instead. Don't write on walls, or break bottles purposely. Try to respect other peoples property.

Plant flowers and trees in the front of your house. Wash your windows and make the outside of your house beautiful. This might cause other people to do the same.

Inside your house, or apartment, keep the rooms in neat order, so no accidents can occur, or any fires or other hazards to happen.

Ride a bicycle to your short distance places, instead of driving. Riding a bicycle doesn't pollute the air, saves on gas bills, and is very good exercise.

Don't throw litter or trash into the river, or lake. It kills the fish and plants that survive in the water, besides causing people to have problems in finding drinking water.

By picking up after yourself, and sometimes other people, Chicago can be kept beautiful. It will be a place which will be the pride of our nation during its two-hundredth birthday.

ESSAY BY KYUNG KIM

There are many things I can do to help keep Chicago clean and beautiful. Some of them are: Stop littering and polluting myself. Help the others keep our city clean and beautiful by picking up litter around the city when I see it, even if I didn't drop it. I would help keep my house and school and its surroundings clean, so my neighborhood is cleaner. I would make drawings, poster and signs urging people not to litter or pollute. They will also show people how to help keep our city clean and beautiful. I would put these things up around our neighborhood, school, and the Chicago River.

I would also try to form a club or get a group of friends together to help clean up our city. We will also plant seeds, flowers, and trees around the city where it's needed. We would paint pictures on walls or other places where it is needed so our city is colorful and beautiful.

ESSAY BY MIKE SMERNOFF

The city we're in is one of the greatest cities in the United States. The city has had many world famous events, even now the city has many exhibits that are great. The city of Chicago is being improved all the time, we have things in Chicago that no other city ever had.

Look at Chicago, it has at one time or other been the leader of almost every major industry.

In Chicago there are always things to see and do. We have famous buildings, parks, museums and many places to go.

I am proud to live in a city such as Chicago and hope that it will stay as nice and great as it is now, if not better.

ESSAY BY KATHIE HANER

Let's start to clean up the neighborhood by cooperating with each other to get things done. We could start by putting a garbage can on every street corner so there is a place to throw candy wrappers besides the street and sidewalk. Next we could start community projects to regularly clean up the neighborhood. People could sweep the sidewalks, while others collect tin cans or newspaper to be recycled. Each person should be responsible for keeping the area around his house clean.

Planting flowers in the spring in front and back yards would help to make our neighborhood not only clean but beautiful. The flowers can be arranged in many different ways, adding variety to the area. Large, dull-looking buildings and factories could be easily beautified by painting picturesque murals on some of the walls.

Car exhausts also cause a good deal of pollution in our area. By carpooling, we could cut down on pollution. Noise pollution isn't too bad in our neighborhood, but by cutting down the number of cars on the street, noise pollution would be cut down too. We must solve our pollution problems now, while we can.

In these ways, I will cooperate and help to clean and beautify our neighborhood.

ESSAY BY BRIDGET COYNE

Pollution has become a great problem and a grave concern to conscientious people throughout our country and the world. Pollution is especially a problem in large cities, such as Chicago.

If things are to continue at the present rate, it is not impossible that someday in the very near future, people will be unable to leave their homes without the fear of suffocating in the outdoors atmosphere.

This is a problem that should be of concern, not only to those who live in large cities such as ours, but to the whole human race. There are many things we can each do to prevent this and we must start now. I am willing to take the first step.

I know it is impossible for me to appear on television or radio and make speeches, for I am only an eleven year-old child. However, I am able to do things which can be just as important.

When I'm a teen-ager, I'm not going to go to the parks late at night and throw empty bottles at the side of the fieldhouse. That would be very dangerous to little children playing there. (What better place than a park for all little kids to go.) It would be very serious if they cut themselves and didn't know what to do. Another thing I'm not going to do is take my car and skid over the field after rains, ruining the grass. I realize other people enjoy it. This would make the park look like a dump area.

Instead, I can go around the park and pick

up some of the bottles and broken glass and put them in trash cans.

When I go fishing, I often see people in a nearby boat throwing wrappers and cans overboard, polluting the water. They think that they're not hurting anything, but they are. They're killing the sea-life. Some people may think that killing fish for food is wrong, but it isn't God gave us the intelligence to know it was necessary to kill some fish for food for our survival. He also gave us the intelligence to be discriminate.

Instead, I can row around the lake and pick up all floating objects, and point it out to any other people I see littering, and ask them to do the same.

Another thing that is wrong in our society is disturbing the peace. Excessive noise is one of the worst. Very often I hear speeding cars roaring down the street, endangering other drivers and making unnecessary noise.

Quite often, young people are unconscious of other people's feelings and will have loud, noisy parties late at night. They sometimes forget they may be disturbing others.

I will try to be aware of any inconsideration shown to others while attending parties of this type and do my best to prevent it.

These are just some kinds of pollution, there are many more. Everytime you pollute, think to yourself: Am I hurting just other people or am I also hurting myself?

ESSAY BY JERRY BOYLE

What's this? A sign! It reads, "Welcome to Chicago. Population 6,714,576."

Suddenly, I'm going through the city. I see underpasses with graffiti written all over them. I see parks with rubbish thrown all over them. I also see parks with no plants or trees in them. I see cars with exhaust coming out of them and filling the air with pollution. I see a group of teenagers in an alley throwing garbage and debris around.

(The above is what I saw now this is my dream for Chicago.)

All of a sudden people of all ages come out of their homes with shovels, garbage cans, and seeds for plants. They also have buckets of soapy water and paint to go to work to beautify their neighborhoods.

Park managers getting groups of kids together to plant trees and flowers in all the parks. There are children planting gardens for elderly people.

There are teenagers and children working with the sanitation dump to pick up debris.

Now, I'm going to do something for my neighborhood. I'm going to get together a group of friends to paint over the places with graffiti on it.

I think it's ridiculous the way we have let this pollution get so out of hand. I think if we would just pull together and work hard on it we can rid ourselves of this problem of pollution and littering.

I had a dream. A dream of a city in a garden.

ESSAY BY DAWN SPICER

"America is our past, we are her future." People in the past kept America going, and so can we. One important way is no polluting. Another way is by cleaning your outside, planting flowers, gardens, and nice trees. Helping elderly people who can't do it themselves. We can start activities which encourage a cleaner Chicago.

It doesn't matter if you are black or white, big or small, you shouldn't litter. If you have something to throw away, wait till you get home or until you find a garbage can. We need everybody. Come on. Join in!

ESSAY BY JANICE KAMEARA

Pollution is getting to be a problem. It hangs over big cities like an ugly black cloud. The people of Chicago care and we have the Spirit of '76 because were doing something to help our nation. We could start an organization to clean the streets and plant trees and bushes. Voluntary workers could care for them so they won't die.

When you get into your car think: "Do I really need to drive?" If you can ride a bike or walk, go ahead. Carpools are a good idea but hardly anyone uses them. Ask your neighbors if they work near you. Why waste gas and add pollution?

Next time you see some litter on the ground, pick it up. If you have some garbage to throw away and there's no waste basket around, hold on to it until you do see one. It's worth a little effort to keep Chicago beautiful.

ESSAY BY JEFFREY CHIPRIN

Like Frank Sinatra says, "This is my kind of town." The things I do to keep it my kind of town are to clean up all the garbage, shovel the walks and make them safe to walk on. I could wash people's cars. Those are just some of the things I can do. However there are things you shouldn't do like vandalism, and in case you didn't know, smoking is not only bad for the smoker it's also bad for the people who breathe the air.

When I grow up I'll tell the big factory owners who are making a lot of pollution, "OK, fellows let me handle this! That air we breathe doesn't exactly smell like incense, you know. I want filters on every chimney! Stop dumping garbage into the water, you'll kill all the poor fish."

I wish that what I wrote comes true. Everybody has that same dream I guess, rather I hope.

ESSAY BY LINDA JOSEPH

Chicago will be a better place if we really try to work together. We should build fewer factories since some factories are polluting Chicago or we could use more machines which do not pollute.

People always say "Let's pitch in for Chicago" but it doesn't help. People often say this but do not do anything. When we children grow up there may not be fresh water or animals left. People are moving to suburbs because of all the smoke and pollution. People who are concerned about Chicago can and should do something.

I hope that Chicago will last for many more years, so remember what Woodsy Owl says, "Give a hoot and don't pollute."

MAJORITY WHIP JOHN J. McFALL SAYS KEY DECISIONS ON ECONOMY ARE AHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFALL) is recognized for 15 minutes.

Mr. McFALL. Mr. Speaker, Charles Schultze, the outstanding economist, has made the point that the economy will continue to grow better during the current year. He gave prime credit to the actions of the Congress in resisting the President's restrictive economic policies and taking the initiative on an affirmative economic recovery program. He said that the crucial question is whether we can maintain recovery into the next year. Congress has already approved an affirmative budget resolution with the necessary stimulus to carry the recovery into 1977. It remains now for the Congress to translate those decisions into law, in the form of appropriations, which we will be considering next month, and other spending and tax legislation.

Mr. Schultze made his points on Evening Edition, Martin Agronsky's television program on WETA, on which Mr. Schultze appeared with L. William Seidman, Assistant to the President for Economic Affairs. The program was a few weeks ago, but what Mr. Schultze had to say is as timely then as now. I am inserting pertinent excerpts:

[From Evening Edition, Apr. 10, 1976, WETA–26]

SEIDMAN. The President said he was going to lead the country in a new direction. I think with the economy we can clearly say that he has made good on his promise. We are now progressing with economic activity increasing at probably a six to seven percent rate. Our unemployment rate, while still too high, is down and going down rather rapidly in the last few months.

AGRONSKY. Over seven million out of work . . .

SEIDMAN. But of that seven million, over fifty percent have only been out for five weeks. There's a big turnover there. That's a big part of it. There are about one third of that seven million that have been out of work over fifteen weeks so that when you think of that, don't think of seven million—the same people—unemployed for a long period. A tremendous amount of that is the churning of—people changing. . . .

AGRONSKY. It may not be the same, but it has persisted for over two years.

SEIDMAN. But if people are changing jobs and so forth, if they're only out of work on the average of five weeks, then that may mean that that is a more normal way that our economy is going to function. In any event, employment is at an all time high—86.7 million employed, the highest in our history. The inflation rate has gone down from double digit to in the area of six percent. Again, we say we are going in the right direction. We don't say that we are where we want to be. But we say that we are making the moves in the right direction and the people recognize it.

AGRONSKY. Mr. Schultze?

SCHULTZE. Well, I think that Bill is right in the sense that the economy at the moment is improving nicely. Coming up from a very bad slump, but it's improving nicely. But the fascinating point is that the reason for that is that consistently over the last year and a half the Congress has ignored the President's recommendation and done its own thing. I'll give you two big examples. In October, 1974, in the depths—as we were moving into the worst recession in history, since World War II—the President asked for a tax increase, and Congress ignored him. Last year the President sent up a fairly restrictive budget. The Congress ignored that, increased the tax cut, added expenditures, pumped more money into the economy, and—lo and behold—the economy's improving. So the President's quite right; things are looking a lot better than they had been. The President's quite wrong: It's not due to him: it's due to the fact that Congress was fortunate enough to ignore his earlier recommendations.

SEIDMAN. Boy, that gives me a great opportunity to talk with you Charlie. First place, the tax program that was recommended in October (1974) was neutral. It had increases and decreases. Overall, it was neutral. So this thing that the President recommended a tax increase at that time simply is not the fact of the matter. Second, when the economy started to slide—and I might point out to you that we had some 800 economists sitting with us at the economic summit conference talking about the economy, and not one of them knew that that kind of a slide was going to take place—when it did start to slide, the President recommended a major tax cut. Congress made it a little bigger, but the fact of the matter is that the major tax cut was in fact recommended by the Congress (sic). Now as far

as the budget went, there were some differences between what the Congress did and what the President did—probably about $15 billion overall when we got all done, maybe 10—in a trillion and a half dollar economy; it's hard to argue that that made all the difference.

SCHULTZE. Well, let me just say this. The central point is that $15 billion makes all the difference in the world because you're not talking about $15 billion out of a trillion-dollar economy; you're talking about $15 billion out of the $60 or $70 or $80 billion that the economy's improved. So it made a huge difference. It made the difference between ticking the thing up and ticking it down. So I don't think you can say $15 billion is indifferent. Secondly, I would hope the Congress proceeds along its own lines now for next year's budget where it's proposing to go another $10, $15 billion beyond the Pres. . . .

AGRONSKY. Over what the President is proposing.

SCHULTZE. That's right. And if it doesn't, I think its' just repeating past history. The President is going to propose something very conservative on this. The Congress is going to go beyond him. The Congress is going to win. The economy is going to continue to improve, and the President's going to take the credit for it.

SEIDMAN. Wait a minute. The Congress didn't win. The President vetoed some 46 bills. The Congress sustained about. . . .

AGRONSKY. Forty-seven, when he vetoed the. . . .

SEIDMAN. Right. Thank you. About 39 of them were sustained. That cut $13 billion of government spending. The key factor that is restoring confidence to the American people is that the inflation rate is down and that their real earnings are up. And that is because they feel there is somebody in their government who's looking out for their money and who is looking out for its true value. And if there's one thing that brought us out of this recession, it is the restored confidence of the people of the United States, and they're buying because of it. So I think that when you look at these numbers, you cannot just look at an econometric model. You have to look at people and how they have reacted.

SCHULTZE. No, I agree you can't just look at an econometric model, but I'm kind of old fashioned enough to think that the thing that really makes the difference is when you put money into people's pockets, not pray at them.

AGRONSKY. Charlie, let me ask you this. Do you think that the way the economy is moving now, that the recovery will continue?

SCHULTZE. I think that the way the economy is moving now—the recovery's going to continue through the rest of this year. I don't care what happens. It's going to continue. The real critical question is what happens next year. I think Bill would agree with this. It's going to continue this year. The real central policy disagreement is what you do for next year's budget that the Congress is now formulating.

AGRONSKY. How would you define that policy difference?

SCHULTZE. I would say the policy difference is approximately the following, and Bill can correct me if he thinks I'm unfairly describing it. Very roughly speaking, the President would cut somewhere between $15 and $25 billion from the expenditures that the Congress is likely to want. The President is *also* . . .

AGRONSKY. Mostly in social and economic programs.

SCHULTZE. That's correct. The President would also net between some tax increases and some tax decreases—cut taxes an additional $5 billion. So he's cutting expenditures by 15 or 20 and taxes by 5—so net, there's about a $10 to $15 billion more economic stimulus in what the Congress wants than what the President wants.

SEIDMAN. Well, I think that's a little on the high side. If you look at the Budget Committee's figures, I think it comes to closer to $7 to $8 billion, but when we're talking about these kind of numbers, the big difference is that the President wants to stop the growth of federal spending which has been increasing at 10 to 11 percent a year and he wants to hold it down to about half that. And he wants to give the difference back to the American people so they can spend it. I agree with you. The American people ought to have the money to spend. And the way to do that is not to send the money to Washington. Leave in it their pockets. The big tax cut showed that. Leave it in their pockets. Cut federal spending, and you'll get a much more stimulative economy.

AGRONSKY. Yeah, but the question is where do you cut it. If very fundamental social programs, for example, are cut, then you have to ask yourself if, if that's good for the economy, isn't it bad for the people who are affected.

SEIDMAN. Well, obviously, anybody who's getting money would like to get more. But I—there are very few people in this country who now don't believe there's enough waste in this government so that we can restrain the growth in federal spending by five percent. We're not cutting anything. The general, overall increases are five to six percent. We're just saying it ought to not increase faster than that. And if there's anybody in this country that doesn't think there's that much waste in government spending, they'll be hard to find.

AGRONSKY. Let me point out another pretty fundamental difference that—in words that you've expressed and those that come from Democratic Congressman Brock Adams, who's chairman of the House Budget Committee. Well, Adams says that the President's restrictive fiscal and spending policies threaten to arrest the beginnings of economic recovery that we're now experiencing, right? You say that much will depend on whether fear of the economic recovery will overheat or sputter and that there's a clear choice—the President offers a policy of steady, stable growth through a strengthening of the private sector. The Democrats are going to seek further stimulus through a program of government-created jobs and a move toward economic planning. Okay. Now that's a pretty fundamental difference. Now, I wonder if I can begin by asking you why you think that the improvement in the private sector will be adequate when so many people feel that if the government doesn't get into government-backed—financed—jobs that unemployment will not be brought down and the economy will suffer as a result?

SEIDMAN. Well, first and foremost, I would say, look at the facts. The economy is recovering now and is recovering very nicely. And it's recovering because of the policies the President has put in place. Now, the next thing that ought to happen in a normal recovery is that we will start to see capital spending by business increase—we'll start to see business expand as their markets expand—we're already seeing the first signs of that. And then it will create real jobs. Permanent jobs. So what we want to do is create the conditions by which the private sector can expand. Key to that is their having sufficient funds to do so. To the extent that the government is taking those funds and using them for social payments, there is less left for industry. And we are already seeing industries in some areas move into their full capacity so that they're going to have to expand, and we ought to see very soon a very rapid expansion and a very strong demand by the private sector, and that's what creates jobs.

AGRONSKY. That'll be adequate?

SEIDMAN. Yes, more than adequate, if anything.

AGRONSKY. Charlie?

SCHULTZE. Well, you know, now we're getting down to just a matter of numbers in many cases. The President proposes to reduce federal spending from the track it would have been on by an amount such, that if you allow for inflation, the real value of federal spending will go down. In some periods of time, that's good. That is not a way to stimulate recovery. That is not a way to keep the economy going during this very critical phase when you're trying to get the recovery to take hold. It's not a question of all or nothing. It's a question of that degree. And just like last year, if the Congress had followed what the President wanted, we would have had a much lower deficit, and in that case, a lower deficit would have been bad.

U.S. REPRESENTATIVE CHRISTOPHER J. DODD INTRODUCES PRETRIAL DETENTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, today we are reintroducing legislation to permit Federal and District of Columbia courts to deny pretrial release to criminal suspects charged with committing crimes of violence if the presiding officer has reason to believe that the defendant will flee or pose a danger to any other person or to the community.

This bill was originally introduced by Mr. TSONGAS and myself on April 29, 1976. Today we are joined by our distinguished colleagues: Mr. MANN; Mr. BAUCUS; Mr. BEDELL; Mr. BROWN of Michigan; Mr. CARNEY; Mr. COHEN; Mr. COTTER; Mr. ROBERT W. DANIEL; Mr. EDGAR; Mr. FAUNTROY; Mr. FINDLEY; Mr. FISHER; Mr. FLOWERS; Mr. GIBBONS; Mr. GRADISON; Mr. GRASSLEY; Mr. ICHORD; Mr. KEMP; Mr. KETCHUM; Mr. KINDNESS; Mr. LEGGETT; Mr. LEHMAN; Mr. MCCOLLISTER; Mr. MAZZOLI; Mr. MILLER of California; Mr. MINETA; Mr. MOORHEAD of Pennsylvania; Mr. NEAL; Mr. NEDZI; Mr. NOWAK; Mr. REES; Mr. ROUSH, Mrs. SPELLMAN; Mr. JAMES STANTON; Mr. WHITEHURST; and Mr. CHARLES WILSON of Texas.

Our citizens have become increasingly threatened by the multiplying incidents of violent crime in our neighborhoods and communities. Many of these criminal offenses are committed by suspects who are on release pending trial. According to recent data collected by the U.S. attorney's office in Washington about 70 percent of individuals indicted for robbery are rearrested for similar or more serious offenses while on release pending trial. We believe it is time to provide protection for our citizens from these repeated acts of violence.

Under the Bail Reform Act which was enacted nearly 10 years ago persons arrested for committing any noncapital offenses are to be released after formal indictment as long as they can demonstrate sufficient ties to the community. Only persons charged with an offense punishable by death can be detained upon a determination that the individual is likely to flee or pose a danger to the community. In fact, there are no crimes punishable by death in Washing-

ton, D.C. By contrast, judicial officers reviewing cases involving individuals charged wtih any noncapital crime—no matter how violent—are prohibited from considering the defendant's propensity to flee or to pose a danger to the community. As a result of this facility in obtaining pretrial release in noncapital cases, many dangerous individuals are released and abuse this freedom by committing additional violent crimes.

In response to this aggravated situation, the District of Columbia Court Reform and Criminal Procedure Act of 1970 was enacted by Congress to broaden the circumstances under which judges can detain criminal suspects as follows: First, suspects who are on parole or probation for prior offenses can be detained for 5 days while a revocation of parole is sought; second, defendants who threaten to injure witnesses or jurors can be detained for up to 60 days; and third, a limited class of defendants who are charged with specifically named dangerous crimes, or repeated violent crimes can also be detained for up to 60 days. However, the judge cannot consider the defendant's dangerousness until he or she has committed a second violent offense. We believe the judge should be afforded the discretion to consider this critical factor when the defendant is charged with his first violent crime—hopefully in order to prevent a second criminal offense. Furthermore, the United States Code does not reflect these 1970 District of Columbia amendments and we believe that judges in all Federal courts should have the same discretion.

Under our bill, judicial officer's authority to consider a defendant's dangerousness or propensity to flee before ordering release would be broadened to include an offense not punishable by death involving an act of violence. Under title 18 of the United States Code, applicable to all Federal courts, an act of violence would be defined as:

1. The use of a dangerous weapon;

2. The intentional infliction of death or serious bodily injury;

3. The commission of a sexual assault; or

4. Any attempt to commit any act under 1, 2, or 3.

We have adopted the definition of violent crimes as set forth in title 23, section 1331(4) of the District of Columbia Code.

Commensurate with the Speedy Trial Act, the court would be permitted to detain the defendant for up to 100 days. Criminal suspects detained under our bill are afforded a preliminary hearing and maintain the normal avenues of appeal.

For the consideration of all of my colleagues, I would like to insert the text of the bill, as follows:

H.R. 13997

A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant courts power to deny pretrial release to persons charged with the commission of certain crimes of violence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 207 of title 18, United States Code, is amended by inserting immediately after section 3146 the following new section:

"§ 3146A. Pretrial release of persons charged with violent offenses

"Any person charged with an offense (not punishable by death) involving an act of violence shall be treated in accordance with the provisions of section 3146 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained. The provisions of section 3147 shall apply to persons detained under this section.".

(b) Section 3156(a) of chapter 207 of such title 18 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and by adding at the end of such section the following new paragraphs:

"(3) The term 'act of violence' means—

"(A) the use of a dangerous weapon;

"(B) the intentional infliction of death or serious bodily injury;

"(C) the commission of a sexual assault; or

"(D) an attempt to commit any act described in subparagraph (A), (B), or (C); and

"(4) The term 'dangerous weapon' means any firearm (as defined in section 921(a)(3) of this title), knife, club, or other weapon designed to inflict death or serious bodily injury.".

(c) Section 3146 of chapter 207 of such title 18 is amended by striking out the first word and inserting in lieu thereof "Except as provided in section 3146A, any".

(d) The table of sections for chapter 207 of such title 18 is amended by inserting immediately after the item relating to section 3146 the following new item:

"3146A. Pretrial release of persons charged with violent offenses.".

SEC. 2. (a) Section 23–1325(a) of chapter 13 of title 23, District of Columbia Code, is amended by inserting "or with a crime of violence" immediately after "offense punishable by death".

(b)(1) Section 23–1322(a) of chapter 13 of such title 23 is amended by inserting "or" immediately after the semicolon in paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Section 23–1322(b) of chapter 13 of such title 23 is amended—

(A) by striking out ", (2), or (3)" in paragraph (2)(A) and inserting in lieu thereof "or (2)";

(B) by striking out "or (3)" in paragraph (2)(B)(ii); and

(C) by striking out "paragraph (3)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (2)".

(c) Section 23–1321 of chapter 13 of such title 23 is amended by striking out the first word and inserting in lieu thereof "Except as provided in section 23–1325, any".

(d) The catchline for section 23–1325 of chapter 13 of such title 23 is amended to read as follows:

"§ 23–1325. Release in capital cases, crimes of violence cases, or after conviction.".

(e) The item relating to section 23–1325 in the table of sections for chapter 13 of such title 23 is amended to read as follows:

"23–1325. Release in capital cases, crimes of violence cases, or after conviction.".

SEC. 3. The amendments made by this Act shall apply to acts which occur after the date of enactment of this Act.

IMPRESSIONS ON A TRIP TO CHINA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, recently, I returned from a fact-finding mission to the People's Republic of China which I undertook in my capacity as chairman of the Future Foreign Policy Subcommittee of the House International Relations Committee. The subcommittee has been conducting a series of hearings on the "great power triangle" of the Soviet Union, the United States, and the People's Republic of China. Our visit to the People's Republic was invaluable in enhancing our understanding of the role played by China in this power triangle and, in particular, in its relationship to the United States.

Upon my return from China, I filed a "personal report" of my impressions of the trip with the Long Island Press, which serves my home district, to record some of the things I saw and learned from the visit. I would like to share these impressions with my colleagues in the House, and am therefore inserting into the RECORD at this point the 3-part series on China, as published in the Long Island Press:

REPRESENTATIVE WOLFF'S OWN STORY OF VISIT TO RED CHINA—"A LAND WHOSE VASTNESS DEFIES EASY DESCRIPTION"

(By Representative LESTER WOLFF)

China, even to the eye of a first-time visitor, looms as the contrived massive product of the Cultural Revolution. Her people, by design, reflect an almost unbelievable oneness. They react and respond to only one man and one philosophy—Mao and his Red Book.

China is a land whose vastness defies easy description. Its inhabitants—900 million men, women and children, by out count—all are virtually isolated from contact with the outside world; but they seem content with their impregnable self-contained life style. To a visitor from a country such as the United States where individual rights are sacred, it comes as a shock to witness a society where total obedience to state and the political structure takes precedence.

The eight days I spent in the People's Republic of China on a mission for the Congress were enlightening, sobering and perplexing. I undertook the trip as Chairman of the Future Foreign Policy Subcommittee of the House International Relations Committee to view for myself, and at first-hand the strange circumstances and surroundings that make the PRC one of today's major world powers. Unlike all other American visitors who were invited by China before us, I insisted to other members of the delegation that we not permit China to be our paying host in order to preclude any undue influence on the delegation. All expenses of our trip were paid by the individual members through their respective committees.

I sought through my personal observations and meetings with high-level officials to gain new insights into the prospects for continuing bilateral relations between the United States and China and to learn of the widening breach in China's relations with the Soviet Union (as far as China is concerned).

China, I was told, believes that war with the Soviet Union is "inevitable" and thus is devoting her full energies to preparedness. The message China sends us is that she is ready for war with an arsenal of modern day

weapons, both conventional and nuclear, and with a network of tunnels and shelters to safeguard her people—but, they ask, is the United States?

China's leadership maintains that the United States is being pushed out of Asia (by the Russians) and that we should concentrate our strength in Europe to forestall the "inevitable." They say to us that Russia respects only strength, not détente, or in the words of one official: "Feed a baby tiger and he will grow up to eat you."

Interestingly, China's leaders say they are not concerned with world control like the Russians, but are only intent on defending and developing their own country's resources and self-reliance.

What does this mean? It is my impression that we nine members of Congress were invited to view mainland China and her people for the specific purposes of bringing home the word—the word of Mao that China is determined to remain secure at any cost, and shielded from interference with her political aims.

A number of "firsts" were afforded the members of our mission: one, we were the first American group to hold an in-depth discussion with the First Vice President under the new realignment; two, we were the first American group to be permitted to see the critical areas of Manchuria with its network of tunnels and shelters; and, three, we were the first American group to witness a demonstration by Chinese Liberation Army defense forces.

For me, the trip to China culminated the series of hearings my subcommittee held during the past seven months to probe U.S.-Sino-Soviet relations and the triangular power struggle.

The trip to China has placed into perspective the information I derived from the committee hearings and I intend to resume the hearings later this month. For the Subcommittee to make conclusions, at this juncture, on the planning of U.S.-China relations obviously would be premature. Our considered recommendations will be made only after all observations of the trip have been assessed and placed into the context of the hearings.

In view of the recent reports of political turmoil within the People's Republic, the timing of our trip had added significance since no high level meetings had taken place since the ouster of Acting Premier Teng and the accession of the new Premier, Hua Kuo-feng.

I saw no visible evidence of this unrest either in Shanghai, Peking or in any of the rural areas we visited. If, indeed the demonstrations were as intense as reported, all traces had been completely removed before our arrival—the message to us being that the foment had not been a serious threat to China's stability. There were, however, derogatory posters everywhere relating to the disgrace Teng had wrought on the people and the Party through his "revisionist" actions (meaning that he had expressed divergent opinions).

Most notable was the fact that nowhere did we see signs or posters extolling the virtues of Hua, who I believe will (upon the death of Chairman Mao) replace the late Prime Minister Chou-en-Lai and not succeed Mao as China's leader.

No one, in my opinion, will ever be permitted to succeed Mao.

The Red Book of Mao doctrine and rules will succeed Mao in the form of a new constitution to be carried out by a consortium of officials. It is Mao, and only Mao who is extolled and revered by the masses in writings, in songs, and in practice.

Thus, it is evident to me that Mao and his closest advisors, including his present wife, Chiang Ching, Madame Mao, all members of the so-called "Shanghai clique" (for lack of a better term) have again emerged on top. Our meeting in the Great Hall of the People in Peking with the First Vice-Premier, Chang Ch'un Chiao, and in the House of the Foreign Ministry with Foreign Minister Ch'iao Kuan-Hua, were not arranged by chance, but were deliberately set up by the Chinese so we could talk directly with prominent members of the "Shanghai clique."

We were told by Chang that military policy in China is "subordinate to political life" and that there are two main goals—"to build up China industrially and economically and to defend her against threat from the north, Russia."

Ch'iao spoke of the deep tunnels that honeycomb the cities as China's "underground Great Wall—to protect us today." He said Chairman Mao is the "major factor" in China's political strategy and quoted from the Red Book: "Dig our tunnels deep; store grain everywhere; and never seek hegemony."

I subsequently saw the tunnels dug deep; heard the message of deterring Russian hegemony; but I did not see grain stored everywhere, leading me to believe the goals are still to be reached.

Our U.S. Air Force jet flew into Shanghai for our arrival in China in a fog so dense that the ground was visible only at 100 feet. The air was heavily polluted and discolored by acrid fumes from charcoal burning furnaces, the principle source of both household and industrial energy. Our Air Force pilot landed his plane on a dime in the pea soup fog, a feat that drew astonishment and admiration from Chinese airmen on the field.

I found the Chinese people throughout my visit to be curious and extremely friendly. We, of course, were stared at, examined as foreign curiosities, but always with friendly smiles. As we were being driven to the hotel from the airport, the streets were lined with people, some no doubt there by political design, but others by a pervasive inquisitiveness, but all with genuine friendly smiles. I do not believe you can orchestrate a spontaneous smile and that is what I saw on the faces of the Chinese everywhere. They were responsive in the friendlist manner to our waves. They clapped their hands and applauded and when we applauded back, they would wave even more enthusiastically.

It was a "welcome" welcome to China and what was to be eight days of absorbing and thought-provoking events.

In China, Individuals Are "Obliterated" by the State

(By Representative Lester Wolff)

China's society is perhaps more tightly closed today than ever before, in spite of the efforts by those who many years ago paved the way to open China to the world.

The Peking Hotel, where we were quartered, is spacious, a peculiar blend of old China and the new. Side by side are situated old world lobbies of ancient days and an austere new wing typifying the utilitarian design of the Cultural Revolution. Our rooms, in the new wing, were furnished comfortably but with the barest of necessities, further indicating the pevailing spartan atmosphere.

In China's classless society, no one has the job of "bell hop," we quickly discovered that officials of the Foreign Ministry, both men and women, had been assigned to carry our bags. Needless to say, when we saw what was happening we carried our own.

The Peking Hotel is one of but a few hotels available to foreigners, for there are definite restrictions on where foreigners may venture. This does not mean that we were prevented from moving about at any time; in fact, I made it a habit to rise at 5:30 every morning so I could walk the streets and see this city come to life—whatever life there is in this city of oneness. I never felt I was followed or monitored and was perfectly free to use my camera.

However, an off-limits policy of sorts is in effect for foreigners as far as restaurants, shops and theatres are concerned. For instance, in one restaurant we entered in search of a "real" Chinese breakfast, the crowd saw us, quietly rose and just left. It is not written in the Red Book that China's people may mingle with foreigners. We were served our breakfast but had no other company in the room. This same reaction applies to all foreign visitors, not just Americans, for I was told by other foreign embassy people that they had had the same experience.

A Chinese breakfast, by the way, is a far cry from the cereal and eggs of an American's morning repast: It consists of noodles in broth, fish and a doughy steamed bread—"street food," the people's standard fare.

On another occasion in Peking, we went to a small park near the Tien Em Men Square and "dined" on more food of the people, this time Hsual Chiao, steamed dumplings stuffed with minced cabbage, scallions and meat, flavored with a fragrance of spices. They sold 20 for two yuan ($1). It went well with Peking beer, which is quite good.

Restaurants and shops are specifically marked if foreign visitors are welcome. In others, outsiders are not encouraged to enter for we do not fit into the mold. Theatres are off limits to foreigners except by special invitation.

Tien Em Men Square, site of recent demonstrations, is overwhelming in size, typical of China's vastness. The Gate to the Forbidden City is located in the Square, a bridge to the past where priceless art treasures from the days of the Dynasties are on exhibit. The Great Hall of the People is in the Square, a massive edifice where we formally met with Chinese officials. I asked one how long it had taken to build the Great Hall and was told "10 months," but apparently that number is a sort of magic gestation period for the Chinese; when asked they say everything takes "10 months" to build.

We shopped after hours, for our days were so full, in what are called Friendship Stores, department type shops open to foreigners. We found nothing very characteristic of China but noted the wares were of inferior quality, similar to the products exported by Japan in the early years following World War II. Prices are firm, the same in all of the Friendship Stores, no bargaining. Gems and precious stones are very expensive and antiques and objects from the precultural revolutionary days are not for sale at all—they belong to the PRC.

To exemplify the system of oneness, Chinese clothing is unisex. Both men and women wear identical styles of pants, jackets, suits and hats of blue, gray or khaki color. This clothing emphasizes the complete obliteration of the individual, so much so that it is difficult to tell men from women. The only shadow of bright color is seen on some of the very young, who might wear a red or green blouse and on a few of the women, who add a ribbon or kerchief to their utilitarian costume. Haircuts for the women are of two styles, short and close cut or long, worn in braids.

The people are monolithic in numerous ways. For example, last names frequently are the same, as personal identity is insignificant and only duty to the state is of consequence. The masses are China's great asset, a cohesive bloc, void of independent thought.

The streets of Peking further portray the system of oneness and austerity. The trees lining the avenues are studiously pruned to resemble each other: same height, same breadth, almost as though someone had counted the branches and trimmed them to conform.

Absolute, unvarying rigidity is the norm and the expected. Even the horns on the thousands of bicycles used by the Chinese on their way to and from work have a uniform din, like a symphony of identical tones. The Chinese don't own automobiles; these vehicles are owned by the state and reserved for official use. All the people march to the

same drum, but it is a diametrically different drum from ours.

In the city of Darien, near the Manchurian border, we inspected a glass factory. Here, as elsewhere, the work is hard, the conditions primitive and the pay miniscule by outside standards. A worker in this factory labors 10 hours a day, six days a week and receives about 50–80 yuan ($30-$40) a month for his labors, depending on degree of skill. I watched one man shape and form a piece of hand blown glass which took him about 15 minutes. For this, he was paid about 2 cents, at his monthly rate. I purchased a glass piece at a Friendship Store in Shanghai for $7.50, the established price. Where does this enormous profit go? It does not end up in the hands of the artisan or the factor, but goes into the coffers of the state to finance services for the masses. A worker in this socialist system never questions, he just believes.

A Chinese worker pays about two percent of his wages for rent or shelter and about 50 cents a year for medical and health care. He is able to retire at the age of 58 at about 80 percent of his wages, but still is required to produce or do something for the state as long as he is able to do so. In this society, a worker is assured of food, clothing and shelter, of the most meager sort, but he is content with this existence as he not only remembers the rampant poverty suffered by his ancestors under the war lords, but believes his way of life is the best way to serve the state.

I saw few infirm on the streets, unlike India and other Asian countries where poverty stricken and disease ridden are common sights. The aging are cared for by the government. There are state run "senior citizen" centers to tend those unable to produce, in need of care, or who have become a hindrance to their family's productivity.

The young, tomorrow's new generation of the masses, are schooled early and hard in the ways of Mao and the rules of his Red Book. When asked if they consider this a form of brainwashing, one Chinese official replied that since people wash their hands and bodies, why not their brains as well to insure "cleanliness and purity."

Upon completion of secondary school, a youth, with his potential judged by his party block leader, may enter a university for further education, but first must devote two years on a farm or in a factory to work with the people. The Peking University, which we visited, is one of the largest in the country and enrolls about 5,000 students who earn their degree in three years. Since the Cultural Revolution, one of the "reforms" is to cut the conventional four-year program back to three. A university student works from 7 in the morning to 7 at night, the day divided with classes, exercise, and physical fitness periods, lectures and indoctrination sessions, food, rest, and more schooling. Upon graduation, the student is placed in a position deemed by his leaders to be the most appropriate way he can serve the state and the Communist Party.

CHINA PREPARING FOR WAR—WANTS U.S. HELP IN MEETING RUSSIAN "THREAT"

(China is preparing for war with Russia, and she wants the United States to perceive the "inevitable" so the mutual enemy can be defeated. This, feels Representative Lester Wolff (D.-Kensington), was the principal message the Chinese wanted to convey to him and his House colleagues on their recent fact-finding tour behind the Bamboo Curtain. In the final installment of this exclusive series, the Congressman details China's preparations for the coming conflict.)

(By Representative LESTER WOLFF)

Official meetings between our Delegation and high officials of the PRC took place in the Great Hall in Peking and in the Foreign Ministry at Darien, a city on the northern shores of the Yellow Sea. Interspersed with nightly banquets and receptions, our confrontations were at all times cordial, friendly and open. We had hoped to meet personally with Premier Hua, as we had been led to believe we would before our departure from Washington, but were informed it was not possible since Hua was negotiating the new arms trade agreement with Egypt.

I believe, however, that this encounter was avoided in order to prevent us from gaining the impression that Hua would eventually succeed Mao. As I have said, I do not believe any one one person will succeed Mao—only his Red Book.

In the words of the Chinese, our meetings were to "increase understanding between our nations and to hear at first hand that China is convinced war with the Soviet Union is "inevitable" since, they say, "Russia's imperialism constitutes a major danger."

That China is preparing for war is without question. Her entire thrust is geared toward this end.

The Chinese will rely on masses of people as their principle weapon in their national defense—guerilla militia, or people with rifles. This "inevitable" war, they say, is "postponable, but not avertable" because the differences between nations are too deep. They further contend that "appeasement will only accelerate the moment of war."

"Our experience with the Soviet Union is that China is a piece of meat the Soviet Union wants to bite, but China's meat is too tough and the dogs of war will hurt their teeth," said one high official.

China has welded her millions into a decisive unit to protect her land and her people. Industrial emphasis is on the development of heavy equipment, tanks, trucks, mechanized vehicles and equipment for defense and on what the Chinese term "reverse engineering." In other words, the Chinese seek prototypes of modern western weapons and equipment and technological advances, not supplies.

They would disassemble these prototypes and then copy them, for they do not possess the know-how to develop from scratch . . . a drafting board in reverse.

China's network of tunnels are actual mazese of underground facilities to shelter their people in the event of war and to provide a base for continuing guerrilla warfare; we were the first Americans to see these tunnels in their depth. The tunnels are miles long (one we saw weaved in and out, and connected for 12 miles), and are ready to go with air systems, lighting, heating, supplies Some even have schools and theatres to pursue the ideology of Mao. It is hard to imagine a well performed dance recital and acrobatic show on a full size stage in a theatre 60 feet underground—but we witnessed this scene with our own eyes.

China's children, many as young as 8 years, both boys and girls, are proficiently trained in the use of rifles and hand grenades. On our visit to a school in Manchuria, a demonstration of this expertise was a skin tingling experience for it conjured up a mental image of a society of nearly 900,000,000 sharpshooters—but this image is no fantasy, it was real.

We were the first Americans to see the Red Army of China in action. (Heretofore, no Americans were permitted even to take a photo of a man in uniform.) These soldiers, incidentally, wear little identifications to differentiate them from the rest of the populace: They don the same drab Mao suits but with two red patches on the collar and a red star on the cap. No insignia is worn to denote rank.

Otherwise we did not see guns in the hands of the people. The street police carried sidearms but there was no overt display of armed guards. Crime is not a factor in this controlled society; deviators or violators are simply not tolerated. The penalties are harsh, but first comes a severe dressing down by party officials and the threat of explusion from the Party. A demotion from "comrade" to "mister" is the ultimate disgrace.

Drug abuse does not exist in the PRC, say the Chinese for it, too, is not tolerated; the use of illegal narcotics is forbidden by the Red Book. They told us that, contrary to reports we have seen indicating groups of Chinese (renegades perhaps) are trafficking illegally near the Burmese border in consort with Burma's Communist regime, they have knowledge of these actions. I do not believe this contention; my investigations into Far East drug traffic have convinced me otherwise.

I had been asked, before leaving Washington, to deliver a request by Sonny Montgomery, Chairman of the House Select Committee on MIA's, to the Cambodian Embassy seeking information on Americans still listed as "missing." In Peking, I asked the U.S. legation to accompany me, but I was turned down for they said it would embarrass the Chinese. Imagine, embarrassing the Chinese by requesting information on our own civilian and military people missing in Cambodia! I went to the Cambodian Embassy alone.

They must have been notified of my intention, for, when I arrived, the PLA guard offered no resistance to my cab going right into the Embassy compound. I rang the bell, there was no answer. I rang again, still no answer. I tried the door; it was open. I walked into a deserted room, shouted "hello, anyone here?", but no one answered. I could hear voices coming from somewhere in the building, but all the inside doors were locked. I placed the letter of inquiry on the information desk in the reception room and left. My mission had been accomplished; I had hand delivered the message to the Cambodian Embassy, but it left me with an eerie feeling. I even wondered if I would get out in one piece.

The Cambodian government has yet to answer one request for information on the MIA's. Is it too much to ask these people about the fate of our people? The war is over!

That China is unique, again is without question. I undertook the trip to investigate and assess the role China plays in our increasingly interdependent world to better place her aims in context with multi-national interest.

What does all this add up to? A culture, an ideology far different from ours and the "twain" still prevails; East and West won't meet for a long, long time.

China is prepared to go its own way. They are prepared to put ideological differences aside for the time being while they face what they consider is a mutual threat by the Soviets. "We have," they say, "parallel interests." They want no military alliance—"You take care of your threat in the West, and we'll hold our own in the East."

What does it come down to? Their interest is to build our interest in the Russian threat. No further progress in joint relations can be achieved, they say, until "normalization occurs"—an exchange of ambassadors and the end of our relationship with Taiwan.

There are some who say this should be done before Mao passes from the scene, before the real "radicals" take over. Who knows what that would accomplish. Today China is only prepared to say "normalization" will mean "progress in our relations."

FINANCE OF SHIPS FOR TRANSPORT OF LNG

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, on March 3, I wrote to the Administrator of the Maritime Administration, Mr. Blackwell, concerning MarAd's probable financing of five ships for the use and transport of liquefied natural gas—LNG—from Indonesia to Japan. I raised two questions concerning the deal. First I asked whether or not the beneficiaries of MarAd's insurance program were truly U.S. citizens. Second, I raised a series of questions concerning the true beneficial owners of a subsidiary which will directly benefit from the building of these five tankers.

Mr. Speaker, the response of the Maritime Administration was totally unsatisfactory. As a result, I have written to Chairman JACK BROOKS of the Committee on Government Operations and asked him to review the problem.

So that Members of the House may be fully informed about the matter, I am inserting in the RECORD a copy of my original March 3 letter on this subject, the Maritime Administration's reply, and my letter today to Chairman BROOKS.

The letters follow:

WASHINGTON, D.C.,
March 3, 1976.

Mr. ROBERT J. BLACKWELL,
Director, Maritime Administration,
Washington, D.C.

DEAR MR. BLACKWELL: It is my understanding that, in late 1973, Pertamina, the state-owned Indonesian oil company, agreed to sell to Japan large amounts of LNG over a twenty-year period. Burmast East Shipping Corporation, a majority-owned (about 55%) third-tier subsidiary of financially troubled Burmah Oil Company, Ltd., entered into an agreement with Pertamina to transport the LNG. In order to fulfill a major share of this obligation, Burmah, through complex corporate structures and agreements involving establishment of new companies under U.S. law, has arranged for the construction and financing of five LNG tankers to be built by General Dynamics Corporation. As a key part of the financing of these vessels, costing a half billion dollars, application has been made to MarAd for title XI ship mortgage insurance. I also understand that MarAd has issued preliminary commitments.

I am concerned that the integrity of the citizenship requirements of U.S. law, which must be met in order to secure title XI insurance, be maintained. Neither Burmah nor Burmast meets the applicable citizenship test, but my own analysis of the complex maze of corporate structures and agreements has led me to identify several factors indicating that the key parties with real interests and overall control over the U.S. participants are Burmah and Burmast.

This conclusion, of course, is drawn on the basis of incomplete access to facts, and in this connection I am writing to ask: What is your understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that bear on the issues determining citizenship, particularly the issue of control?

The lion's share of the minority interest in Burmast is reportedly subject to blind options whose owners remain undisclosed. The shipping arrangements stake enormous amounts of money on a transaction involving parties, for example, Burmah and Pertamina, with financial and other difficulties—for them it is especially acute that the deal go through. The approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet advantage-taking, and, especially given the presence of U.S. taxpayer assistance through MarAd, it is important to insist that all the facts be revealed.

In this connection, I would like to ask: What is your understanding as to the ownership of Burmast? Also, what steps has MarAd taken here, and what steps does it take as a matter of its usual procedures (a) to assure that it gains a thorough understanding of where the financial and other benefits of its title XI program ultimately lodge in each case, and (b) to assure that the transaction or projects in which MarAd involves itself are free of any taint or corruption beyond U.S. shores?

In so far as my questions pertain to the Indonesia-to-Japan transaction, I would think it would be helpful to Congress in fulfilling its responsibilities if you provided us all the documents you have that bear on the question.

Thank you very much for your cooperation in this matter.

Sincerely,

LES ASPIN,
Member of Congress.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 21, 1976.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: This is in response to your letter of March 3, 1976 regarding certain questions raised in conjunction with the proposed financing of the five vessels under construction at General Dynamics for use in the Indonesia to Japan liquefied natural gas project.

By way of background, the Maritime Administration received five applications for Title XI guarantees, the first four dated August 8, 1973 and the fifth dated February 12, 1974. Conditional commitments to guarantee obligations (Commitments) were issued November 7, 1973 for the first four vessels and May 21, 1974 for the fifth vessel. In accordance with your request we have enclosed copies of those Commitments.

The applications for Title XI guarantees were made by Cherokee I, II, III, IV and V Shipping Corps. which are incorporated in the State of Delaware. Energy Transportation Corp., also a Delaware corporation is the sole stockholder of each of the Cherokee companies and is one hundred per cent owned in turn either directly or beneficially by three United States citizens with shipping backgrounds, Mr. C. Y. Chen, Mr. Joseph Cuneo and Mr. Jerome Shelby. The proposed financing arrangement contemplates that Energy I, II, III, IV and V, Inc., Delaware corporations which are wholly owned by Energy Transportation, will bareboat charter the vessels for a period of 25 years from an owner trustee whose equity participants will be U.S. citizens. The Energy Companies in turn will time charter the vessels to Burmah Oil Shipping Inc., (BOSI) a wholly-owned Delaware subsidiary of Burmah Oil Company Ltd. (Burmah) for a period of 25 years from delivery of the vessels. Both bareboat and time charters will be in full "hell and highwater" form, meaning that charter hire is due and payable under any and all circumstances and cannot be terminated prior to 25 years from vessel delivery unless the Title XI obligations are fully repaid (see Sections X and XI of the Commitments). In addition, Burmah is providing a full guarantee of the performance of BOSI under the time charters and the Bank of England has given permission under the Exchange Control Act of 1947 for perfection of the Burmah guarantee as outlined in Sections XII, XXVI and XXVII of the Commitments.

This guarantee is backed by the creditworthiness of Burmah, which at the time of the Commitments, had a 22% interest in British Petroleum Co. Ltd., annual profits of $79 million and a net worth of $1.6 billion. The strength of the company at that time was such that Burmah was able to have major U.S. financial institutions extend substantial credit for various projects. While Burmah has suffered losses within the last year it is in the process of restructuring its assets and liabilities most notably through the sale of its British Petroleum stock and its interests in North Sea oil field properties with a view toward improving its cash flow.

The underlying Transportation Agreement dated September 23, 1973 is between Burmast East Shipping Corp., (Burmast) a company majority owned (57½%) by Burmah through its subsidiary, Burmah Oil Tankers, Ltd., and Perusahaan Pertambanga Minjab Dan Gas Bunii Negora (Pertamina) the Indonesian state oil company. The Transportation Agreement between Burmast and Pertamina is a 20-year (from initial loading of each vessel) "take or pay" contract which provides for the transportation of LNG from either East Kalimantan to Japan or North Sumatra to Japan. The Transportation Agreement provides for escalation of revenues for the following: vessel operating costs (crew costs, stores, subsistence, insurance, maintenance and repair), additional construction costs of changes and extras and certain "unavoidable costs." All rights and obligations under the Transportation Agreement are to be assigned by Burmast to BOSI. Payments due from Pertamina will be paid to an as yet undesignated indenture trustee which will deduct from such revenues an amount equal to the bareboat charter hire for payment of Title XI principal, interest, guarantee fee plus a return to the equity participants. The balance of the revenues will be disbursed to BOSI.

Pursuant to a Profit Sharing Agreement between BOSI and Burmast, the proceeds remaining from said revenues before taxes, but after deducting all expenses, will be divided in a ratio of 25% for BOSI and 75% for Burmast. (See Sections XIII, XV and XXVIII of the Commitments). A finding of economic soundness in the Commitments was based on the Transportation Agreement. Burmah's full guarantee of BOSI's performance under the 25 year "hell and highwater" time charter with the Energy Companies was obtained for additional security. In addition, if a permanent force majeure exists and Pertamina is unable to furnish cargo, Pertamina will pay Burmast the unamortized financing costs of the vessels in either lump sum or continuing daily payments of such costs. Such payments are also to be made to the indenture trustee who will either continue to pay the bareboat charter hire in the manner indicated above or will redeem the outstanding Title XI obligations.

With regard to your specific questions on the issues of citizenship and control, it is required that operational control and equity interests in the vessels be vested in United States citizens in accordance with the Shipping Act, 1916, as amended. The Shipowneer, equity participants, bareboat charterers and the Cherokee companies all were required to furnish satisfactory evidence of United States citizenship (see Section XXI of the Commitments). In addition, Section XXIV of the Commitments requires all the above parties to meet all applicable statutes and regulations. The time charterers, whose ultimate foreign ownership renders them ineligible as U.S. citizens within the meaning of the Shipping Act, 1916, as amended, must be approved pursuant to Sections 9, and 37 of that Act which gives the Secretary of Commerce authority to approve the charter to a non-citizen (see Section XVIII of the Commitments). Since Burmast is not a direct party to the Title XI transaction we took certain measures to increase our security; namely, we required the assign-

ment of the Transportation Agreement to BOSI, which as previously stated, is involved in the Title XI transaction as time charterer, and we acceded to the profit sharing arrangement enumerated above, in order to obtain a full guarantee of the time charter by Burmah.

The five Cherokee vessels are being built entirely without the payment of subsidy by the U.S. Government. The applicant has paid into the Federal Ship Financing Fund (which currently has a balance of approximately $85 million as a result of profitable operations and after deducting all expenses of the Program) a total of over one-half million dollars in investigation fees and will pay to the Maritime Administration approximately $38 million in guarantee fees over the life of the project. No taxpayers' monies are directly involved in this project because of the nature of the Title XI program.

In deciding to go forward with the Cherokee project, the Maritime Administration was mindful of its mandate from Congress as stated in the Declaration of Policy contained in Title I of the the Merchant Marine Act, 1936, as amended, which states "the United States shall have a merchant marine . . . capable of serving as a naval and military auxiliary in time of war and national emergency . . . composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and . . . supplemented by efficient facilities for shipbuilding and ship repairs." We believe that the Cherokee project meets these criteria. Without the availability of Title XI financing, it is most probable that the vessels for this project would have been built in foreign shipyards and operated under foreign flag with the resulting loss of a substantial number of seagoing and shipyard jobs for American citizens, the loss of the availability of the vessels to the United States in time of national emergency and the balance of payments loss of freight revenues.

In summary, the maritime assistance approved for these applications will assist in the construction of 5 LNG vessels which will be documented under U.S. flag and manned by U.S. crews. The applications of the Cherokee companies for Title XI were approved after it was determined that the applications fulfilled all statutory requirements and applicable regulations of this Agency.

Thank you for your interest in this matter.

Sincerely,

ROBERT J. BLACKWELL,
Assistant Secretary, for Maritime Affairs.

WASHINGTON, D.C., *May 25, 1976.*

HON. JACK BROOKS,
Chairman, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On March 3 of this year I wrote to the Administrator of the Maritime Administration, raising a number of questions with respect to MarAd's possible financing of five ships for use in the transport of LNG from Indonesia to Japan. My concerns were basically two—first, maintaining the integrity of the citizenship requirements applicable to MarAd financing, and second, assuring that this transaction and others in which MarAd involves itself are free of any taint or corruption beyond American shores.

The response to my letter, dated seven weeks later, April 21, was unsatisfactory, leaving most of my questions unanswered. My purpose in writing to you is to call this matter to your attention and to request that the staff of the Government Operations Committee inquire into this matter. I believe it is important that Congress exercise its oversight responsibilities in a way that assures that all the facts are brought out and that MarAd is properly and thoroughly exercising its responsibilities.

The first concern I expressed to MarAd was that the integrity of citizenship requirements applicable to MarAd financings be maintained. I suggested that the financing arrangements for the five ships in question were highly complex, but I added that I had identified several factors indicating that the key parties with real interests and overall control over apparently nominal United States participants were Burmah Oil Company Ltd. ("Burmah") and Burmast East Shipping Corporation ("Burmast"), a majority-owned subsidiary of Burmah. Both of these are foreign corporations. Hence, I inquired as to MarAd's understanding of the contractual, ownership, and other arrangements, whether formal or informal, expressed or simply understood, that might bear on the issues determining citizenship, particularly the issue of control.

MarAd's response provided only the barest description of the technical corporate aspects of the transaction. It recited that the applications for MarAd financing were filed by five Cherokee companies, which are incorporated in Delaware and which are wholly-owned by Energy Transportation Corporation, also a Delaware company, which in turn is owned by three United States citizens. The MarAd response also discussed the financing and charter arrangements for the vessels in question.

However, this does not come to grips with the applicable statutory definition of the term "citizen" (46 U.S.C. 802(a)), which specifically invokes the concept of "controlling interest." The parties involved in a particular transaction may found their corporations under Delaware law and assign United States citizens to stand as their officers and directors but the key question of "controlling interest" still remains. The law (i.d. 802 (b)) carefully defines "controlling interest." Thus, if it is so arranged that "the majority of voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen," or "if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States," the control test will not have been satisfied.

In the case of Meacham v. United States, 207 F. 2d 535 (4th Cir. 1953), the Court, feeling itself "compelled to observe the substance rather than the form of the transaction," looked behind a facade of corporate citizenship to numerous practical considerations demonstrating that the nominal United States parties were expected to and did exercise their power in the interests of various foreigners who in fact were in control.

In many respects, as far as I am able to determine on the basis of facts available to me, the present case involving the Cherokee vessels is, like Meacham, a textbook example of questionable citizenship control. Consider well the following facts, which MarAd must have, or should have, known:

Joseph J. Cuneo, President of Energy Transportation, and one of its three owners, was previously President of John J. McMullen Associates, Inc. John J. McMullan was until recently President of Burmah. Mr. Cuneo is understood to be close to Burmah.

Dr. C. Y. Chen, Chairman of Energy Transportation and another of its owners, was one of the parties who had helped organize the complex scheme which was held violative of section 2 of the Shipping Act in the Meacham cases 207 F.2d at 539.

Further, Jerome Shelby, Vice President, Treasurer, and Director of Energy Transportation, and its third owner, is a partner in the large New York City law firm which not only represents the Cherokee companies on the title XI applications, but also, I understand, provides general representation to Burmah and its subsidiaries on a host of matters. Another partner of this firm, Stephen C. Dune, is Director and Secretary of Energy Transportation.

Burmah has reportedly guaranteed the Cherokee companies' contracts with the shipbuilder.

Burmah, not Energy Transportation or the Cherokee companies, is the company putting up over $100 million so far for the five Cherokee vessels.

Burmah itself has spoken of the construction contracts as though they were Burmah's alone.

The ships are and always have been dedicated to filling the transport obligations of Burmast, a majority-owned Burmah subsidiary.

Burmah itself is also guaranteeing those transport obligations.

Once the vessels have been built, control over them is turned over to Burmah and its affiliates through a series of charters and agreements.

Through Burmast and other subsidiaries or affiliates acting as charterers, Burmah seems destined to receive the larger benefits of the overall shipping arrangements, including title XI insurance. Burmast and Burmah Oil Shipping, Inc., a wholly-owned Burmah subsidiary, will divide the profits of the transportation agreement.

In contrast, Energy Transportation and its subsidiaries seem to have only a transitory and passive role. MarAd did not indicate what financial benefits those concerns anticipate.

Burmah has reportedly represented that it has the power to oust Energy Transportation and its subsidiaries from any role whatsoever.

It is interesting that MarAd's letter to me made no mention of a possible new role for General Dynamics in the Cherokee transaction, even though news accounts in recent weeks have reported that American company's announced desire to take an "equity interest" in the ships. Surely MarAd must know something concrete of General Dynamics' plans, the nature of the so-called "equity interest," and the nature of any remaining foreign interests. Here again MarAd's letter is silent.

Of course, I am not in a position to know all the relevant facts here, so I cannot presume to draw a firm conclusion. It does seem to me, however, that there is a serious question of citizenship. MarAd must recognize this. Indeed, the contingencies in its preliminary commitments for financing require each Cherokee company to furnish "satisfactory evidence" of citizenship prior to closing. Regrettably, MarAd's letter to me reveals a too-easy willingness to be "satisfied" with technical corporate documentation, and insufficient attention to factors bearing on control—even in the face of my specific request focusing on control.

I believe it is advisable, under the circumstances, that an appropriate congressional scrutiny be brought to bear to assure that the administrative agency involved gives full and thorough consideration to the real issues at stake.

It would certainly not be in the interests of promoting the national security and domestic and foreign commerce of the United States to use title XI resources to help finance construction of vessels to be controlled by foreign interests.

My second question relates to an area of acute concern to all of us in government at this time. My March 3 letter pointed out to MarAd that the shipping arrangements in this LNG transaction involve enormous amounts of money making it at least more possible for ingenious minds to find slack somewhere. Moreover, the transaction involves parties, *e.g.*, Burmah and Pertamina (Indonesia's state-owned oil and gas conglomerate), that are in serious financial and other difficulties—for them it is gravely im-

portant that the deal go through. Finally, the approval of officials in foreign governments is required for the transaction. In short, the nature of the deal suggests that it is in a sense tailor-made to create opportunities for discreet and possibly questionable payments.

Beyond that, I explained that I understood that, while Burmah owns a bare majority in Burmast, the lion's share of the minority interest (around 40 percent) in Burmast was subject to blind options whose owners have never been revealed. Hence, I asked MarAd what it understands as to the ownership of Burmast. I also inquired what procedures MarAd follows (a) to assure that it gains a thorough understanding of where the financial and other benefits of its financial programs ultimately lodge and (b) to assure that the transactions or projects in which MarAd involves itself are free of any taint or corruption beyond American shores.

MarAd's response to this was not enlightening. If MarAd knows no more than what it told me, MarAd does not know enough. The April 21 letter simply recited that Burmah owns 57½ percent of Burmast. Nothing was said about who owns the rest. Nothing was explained as to MarAd's procedures.

Again, let me be precise about my concern. I do not intend to make loose charges at the parties involved. I just want the facts to be revealed and permitted to speak for themselves. Opportunities seem to be present here for the kinds of activities that infect the integrity of overseas transactions. It is all the more important to protect the integrity of such a transaction where United States taxpayer backing is present in the form of MarAd title XI guarantees. Who owns the 40 percent? Who is getting the benefits of MarAd's assistance? Why? What did those persons contribute to the transaction in return for this value?

Not even do I mean to charge that MarAd has failed in its duties to this point, however. I do believe that what MarAd has told me is not enough, and in its own way MarAd may feel it has a stake in seeing this project through. I want to know what the facts are in this case. I want to know MarAd's procedures for getting at the essential facts.

Since this does raise questions as to government agency procedures in situations where the agency is deeply involved, in this instance financially, in the overseas transaction, I believe it is highly desirable that there be a further inquiry on this issue as well. It seems to me that this could do much to clear the air of any questions still remaining after MarAd's response to my initial inquiry.

Sincerely,

LES ASPIN,
Member of Congress.

RECENT GAO REPORT SHOWS WASTEFULNESS OF FUNDING FOR UNIFORMED SERVICES UNIVERSITY, SCHOOL OF MEDICINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, on July 28, 1975, the House by a close vote of 190 ayes to 221 noes, defeated an amendment to the military construction authorization bill which would have terminated the plans for completion of the Uniformed Services University, School of Medicine which was initiated in 1972. On October 8, 1975 an amendment to delete the $64.9 million in construction money for this project from the military construction appropriations bill was also defeated. The debate on this issue concentrated on the question of cost-effectiveness of training armed services physicians through the scholarship programs or through the Uniformed Services University, School of Medicine.

In May of 1975 the prestigious Defense Manpower Commission submitted its report to the President and the Congress pursuant to the mandate of Public Law 93-155—Department of Defense Appropriations Authorization Act of fiscal year 1974. Following an exhaustive treatment of this subject the Commission wrote a careful analysis concluding that:

Notwithstanding the minimal start-up expenditures that have already been made, the Commission recommends that the Uniformed Services Unit of the Health Science approach be terminated.

The Commission found that construction costs of $102 million had proven to be substantially understated and that actual costs would be twice that amount. It was also noted that the accession cost per medical graduate would be no lower than $150,000 and might well exceed $200,000. This amount is four or five times the $34,000 cost to the Government of educating a medical graduate through the scholarship program. Moreover, the military university is designed to handle only 170 graduates per year. The same number of individuals could be trained through the scholarship program in private and public universities for about $6,480,000.

Both the report of the Defense Manpower Commission and a study prepared by the House Appropriations Committee's surveys and investigations staff concluded that the university program was substantially less cost effective than the scholarship program. However, a Uniformed Services University study concluded that the university program was more cost effective.

The General Accounting Office issued a study on May 5, 1976, which I commend to all of my colleagues. This study entitled "Cost-Effectiveness Analysis of the Two Military Physician Procurement Programs: The Scholarship Program and the University Program," differs from the previous studies in that GAO attempts to show the full costs of the Department's procuring and retaining physicians. Prior studies were limited to procurement costs; they did not consider costs for pay and retirement.

GAO's analysis shows that in fiscal year 1984—the first full year of simultaneous operation of both programs:

First. The estimated educational costs will be $36,784 for each of the 988 graduates of the scholarship program and $189,980 for each of the 1975 university graduates.

Second. The estimated educational costs per staff year of the expected service will be $4,362 for the scholarship program graduates and $10,232 for the university graduates.

Third. The total cost per staff year of expected service including anticipated pay and retirement costs will be $21,444 for the scholarship program graduates and $26,236 for university graduates.

This huge differential of costs cannot be justified. The GAO report suggests economic alternatives which must be looked at. If we do not end this wasteful project now we may have no choice but to sustain it at great expense in the future. Among the alternatives posed by the GAO report are increasing the size of the scholarship program or DOD full sponsorship of scholarship program participants who take civilian residency training.

In making its conclusions the GAO report states:

Apparently, on no occasion was the Congress given an analysis which identified and compared the potential total costs involved in both procuring medical professionals through each program and then retaining some of those individuals for various periods, taking into consideration their service payback obligations. In our opinion, had such an analysis been provided to the Congress, it would have shown that the Scholarship Program is a more cost-effective method of procuring and retaining medical professionals than the University.

We should also keep in mind language in the 1972 House report on H.R. 2, the legislation which initiated this project. It was noted that "Similar universities would be desirable in other geographic areas of the United States." Thus the university's authorizing legislation indicated that the Congress viewed the current university as a potential forerunner of other military health profession training institutions. Although DOD has no plans for additional universities in the foreseeable future, this initial project should lead us to reconsider such an approach to meeting health profession needs of the Federal Government.

I have long opposed expenditures for this project, not only because they are wasteful but because a military medical school involves the Federal Government and the Department of Defense in areas where they do not belong. This approach to meeting physician needs in the armed services is needlessly expensive and a departure and deviation from the great tradition of academic autonomy of higher education in the United States.

In 1972 the Association of American Medical Colleges stated that it did not believe that the establishment of a self-contained Government medical school would adequately meet either the problems of procurement or retention.

The reasoning behind this belief was thoughtfully set forth by the National Academy of Sciences:

The academic preparation for medicine and other professional careers in health involves a carefully integrated process of education, training, and controlled experience which must be carried out in a broad and diverse community setting which will permit encounter with the full range of diseases, disabilities and health problems. . . . The manner in which this broad community base could be developed for a purely military medical school seems to present a number of difficulties. More importantly, little would seem to be gained from such a step that would compare with the sizable contributions that could accrue both to the nation at large as well as to military needs by continuing the expansion of our existing system of state and privately supported medical institutions for the health professions. It is this series of institutions with their deep community roots and involvement that can provide the soundest base for the development of the highly qualified professionals needed to cope with the full range of health and medical problems, civilian and military.

In coming months the House will take action on a military construction appropriations bill. At that time we will again have the opportunity to terminate this project and give our consideration to more cost-effective methods of meeting the physician needs of our armed services. I urge my colleagues to review the GAO report and to give this matter their studied attention. Following is an editorial which appeared in the Washington Star on Monday, May 24, 1976:

MILITARY MEDICAL SCHOOL—NO

Senators Wendell Ford and William Proxmire don't know when to quit—thank goodness. The two Democrats have written a "Dear Colleague" letter, seeking support for a bill to terminate the "Uniformed Services University of the Health Sciences," a project as ungainly as its name and unconscionably expensive.

The armed forces medical school, as it is called, is under construction on the grounds of the Bethesda Naval Hospital, though there still is time to scuttle the misbegotten institution, intended to provide a cadre of career doctors and dentists for the military.

The notion had its genesis in Congress in 1947, championed by a young House member named F. Edward Hebert; the project was not taken seriously until Mr. Hebert became chairman—the powerful chairman, as they say—of the Armed Services Committee, and was passed in 1972. Enthusiasm for this school has not been widespread, but it was Mr. Hebert's baby, his monument. Although he was deposed as committee chairman, Mr. Hebert is not a toothless tiger and his fervid support for the facility has, so far, succored it.

Senators Ford and Proxmire succeeded in having the Senate approve an amendment delaying release of funds for the school in the Fiscal 1976 military construction appropriations bill but that was not sustained in a House-Senate conference. Despite two close votes in the House, Mr. Hebert's project was resuscitated.

There has been a fistful of studies and analyses of the military medical school in the past several years, largely negative. Now the General Accounting Office has finished a report requested by Senators Ford and Proxmire that makes horrendous reading. Based on estimated costs for the 1984 fiscal year, a scholarship program for medical students (established in the law that also gave birth to the military facility) will cost $36,784 per graduate, compared to $189,986 to educate a graduate of the armed forces medical university.

The General Accounting Office concedes the view of the college's supporters that there may be intangible benefits for the armed forces in training career-oriented doctors and dentists. These intangibles are perhaps real. But certainly not worth the huge differential of costs.

Supporting the position of the two senators is the Military Manpower Commission, a congressionally appointed group. In its interim report a year ago, the military medical school was called an "unjustifiably costly method." A staff paper argued that the original estimates of construction, start-up and operating costs of $102 million "have proven to be substantially understated. The actual costs would very probably be well over double this."

An epilogue to the commission staff paper recently observed, in what could be the motto of too many federal programs: "As time passes and construction proceeds, more of the costs of the USUHS become irrecoverable and hence irrelevant for decisions about the future" (emphasis ours). The GAO estimates it will cost $16 million to end the project. However, that may be cheap considering that better than $75 million already has been approved—with no telling how much more to be poured after that money if the school survives.

Efficient and economical alternatives are available—as suggested by both GAO and the manpower commission.

We trust that colleagues of Senators Ford and Proxmire will find the GAO report persuasive; it may also encourage the more than 200 House members who voted against the school to renew their efforts. Mr. Hebert will be disappointed if they succeed. But maybe we could name a bridge for him.

SENTENCING GUIDELINE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. TSONGAS) is recognized for 5 minutes.

Mr. TSONGAS. Mr. Speaker, this week we are introducing legislation which will authorize the establishment of sentencing guidelines for use in our Federal courts. The bill was first introduced by Senator KENNEDY and cosponsored by Senators ABOUREZK, BAYH, FONG, PHILIP HART, HRUSKA, MCCLELLAN and TUNNEY. The same bill was introduced in the House by House Judiciary Committee Chairman PETER W. RODINO without cosponsors and was introduced by Mr. DODD and myself on April 30, 1976. We believe the concept of guidelines represents a long overdue reform essential to our Federal criminal sentencing process and hope you will support us in our efforts to assure its consideration by the House. The following distinguished colleagues are joining us today in reintroducing this legislation: Mr. BAUCUS, Mr. BEDELL, Mr. BIAGGI, Mr. CARNEY, Mr. COHEN, Mr. COTTER, Mr. DOWNEY of New York, Mr. EDGAR, Mr. FLORIO, Mr. GRASSLEY, Mr. HUGHES, Mrs. KEYS, Mr. KOCH, Mr. LEHMAN, Mr. LLOYD of California, Mr. MCCOLLISTER, Mr. MAGUIRE, Mr. MAZZOLI, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOORHEAD of Pennsylvania, Mr. NEDZI, Mr. NOWAK, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. RUSSO, Mrs. SPELLMAN, and Mr. THORNTON.

The bill is designed to deal with two major problems which plague the Federal court system and the administration of criminal justice: the total absence of guidelines to aid judges during the sentencing process and the wide disparity in the sentences actually imposed in criminal cases.

Under existing laws, judges have broad discretion in determining how long a sentence, if any, a criminal must serve. Recent studies have shown a proliferation of sentencing disparity, in which, all too often, two convicted defendants in the same jurisdiction, with similar backgrounds, convicted of the same crime, receive widely differing sentences. There is a growing feeling that such haphazard sentencing weakens the impact of prison as a deterrent to crime, as a potential criminal has no clear idea of the penalties he faces if convicted, and is, therefore, not deterred by the threat of imprisonment. Furthermore, the arbitrary nature of this sentencing process abridges a defendant's right to equal justice under the law.

Our guidelines bill brings a greater degree of uniformity to the sentencing process by articulating for the first time the general purpose and goals of sentencing to be considered by the judge prior to imposing a sentence. The bill would establish a U.S. Commission on Sentencing to promulgate a specific fixed sentencing range for similar defendants who commit similar crimes under similar conditions. The sentencing court would be required by statute to impose a sentence within the guidelines established by the Commission, unless it could demonstrate in writing a justification for sentencing outside the guidelines. Sentencing outside the guidelines would be subject to appeal by the prosecutor or the defendant.

In addition, the guidelines bill would eliminate indeterminate, open-ended sentencing by requiring judges to sentence a convicted offender to a fixed period of imprisonment. In articulating the general purpose and goals underlying a sentence of imprisonment, it would help the sentencing judge decide not only how long an offender should be imprisoned, but more importantly, would aid the court in determining whether the offender should be imprisoned at all. The real issue is determining, with some degree of fairness and uniformity, which offender belongs in prison and which does not.

The Commission would be comprised of five members appointed by the U.S. Judicial Conference to serve 3-year terms. It would be mandated with the responsibilities for establishing a research and development program to assist Federal courts and agencies in the development, maintenance and coordination of sound sentencing practice and for making recommendations to Congress concerning modification or enactment of sentencing and correctional statutes to carry out an effective and rational sentencing policy.

Adoption of this legislation by Congress would provide a strong incentive to the States to revise their existing sentencing practices. For the consideration of all of my colleagues I would like to insert the text of the bill, as follows:

H.R. 14015

A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a United States Commission on Sentencing, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3579. Imposition of a sentence of imprisonment

"(a) The court, in determining whether to impose a term of imprisonment within a range authorized under this title and, if a term of imprisonment is to be imposed, in determining the length of that term within such range, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanc-

tions have been applied to the defendant frequently or recently; and

"(4) any sentencing guidelines established by the United States Commission on Sentencing.

"(b) In every case in which the court imposes a term of imprisonment within the guidelines for sentencing promulgated by the Commission, the court shall make as part of the record, and disclose in open court to the defendant at the time of sentencing, a brief statement of the reason or reasons for the sentence imposed. A court may impose a term of imprisonment outside of the guidelines for sentencing promulgated by the Commission if it makes as a part of the record, and discloses to the defendant in open court at the time of sentencing, a statement of the specific reason or reasons for the particular sentence of imprisonment imposed. Failure to so comply shall be grounds for vacating the sentence and resentencing the defendant.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3579. Imposition of a sentence of imprisonment.".

SEC. 2. (a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3621. Imposition of a sentence of fine

"The court in determining whether to impose a fine within a range authorized by this title, and, if a fine is to be imposed, in determining the amount of the fine within such range, the time of payment, and the method of payment, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanctions have been applied to the defendant frequently or recently; and

"(4) any sentencing guidelines established by the United States Commission on Sentencing.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3621. Imposition of a sentence of fine.".

SEC. 3. (a) Chapter 231 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3657. Imposition of a sentence of probation

"The court, in determining whether to impose a term of probation in accordance with the provisions of this chapter, and, if a term of probation is to be imposed, in determining the length of such term and the conditions of probation in accordance with such provisions, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed (A) to reflect the seriousness of the offense and promote respect for law by providing just punishment for the offense, and (B) to afford adequate deterrence to criminal conduct;

"(3) whether other less restrictive sanctions have been applied to the defendant frequently or recently, and

"(4) any sentencing guidelines established by the United States Commission on Sentencing.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3657. Imposition of a sentence of probation.".

SEC. 4. (a) Chapter 235 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3742. Review of sentence.

"(a) Subject to the provisions of section 3576 of this title in any case in which a sentence is imposed for an offense, except a case in which the sentence is equal to or less than that recommended or not opposed by the attorney for the Government pursuant to a plan agreement under rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure or a case in which the sentence is equal to that provided in an accepted plea agreement pursuant to rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, a petition to a United States court of appeals for review of such sentence may be filed by—

"(1) the defendant, within the time specified for the filing of a notice of appeal; or

"(2) the United States within the time specified for the defendant's filing of notice of appeal, if the sentence includes a fine or term of imprisonment less than the minimum established by the guidelines for sentencing promulgated by the United States Commission on Sentencing or a minimum established by this title.

"(b) If the court of appeals grants the petition, the clerk of the court that imposed the sentence shall certify to the court of appeals that portion of the record in the case that is designated as pertinent by either or both of the parties, the presentence report, the information submitted during the sentence proceeding, and the statement of reasons for the sentence imposed by the sentencing court.

"(c) Upon review of the record, the court of appeals shall determine whether—

"(1) the sentence imposed is not within the guidelines for sentencing promulgated by the United States Commission on Sentencing (hereinafter referred to as the 'Commission') and is unreasonable having regard for—

"(A) the guidelines for sentencing established in accordance with this title and the guidelines issued by such Commission pursuant thereto;

"(B) the reasonableness of the district court's application of the guidelines established by the Commission;

"(C) the opportunity for the district court to observe the defendant;

"(2) the sentence imposed is within the guidelines for sentencing promulgated by the Commission but is clearly unreasonable having regard for—

"(A) the reasonableness of the district court's application of the guidelines established by the Commission;

"(B) the opportunity for the district court to observe the defendant.

"(d) If the court of appeals determines that—

"(1) the guidelines for sentencing promulgated by the Commission were properly applied by the district court, the court of appeals shall affirm the sentence—

"(A) if the sentence imposed outside the guidelines for sentencing is not clearly unreasonable; or

"(B) if the sentence imposed within the guidelines for sentencing is not clearly unreasonable;

"(2) the guidelines for sentencing promulgated by the Commission were clearly erroneously applied by the district court, the court of appeals shall set aside the sentence and remand the case for further sentencing proceedings;

"(3) the guidelines for sentencing promulgated by the Commission were properly applied by the district court, but that the sentence imposed outside the guidelines for sentencing was otherwise unreasonable, or that the sentence imposed within the guidelines for sentencing was otherwise clearly unreasonable, the court of appeals—

"(A) in the case of a petition for review of his sentence by the defendant, may—

"(i) remand the case for imposition of a lesser sentence to be determined by the district court;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) in the case of a petition to review a sentence submitted by the United States, may—

"(i) remand the case for imposition of a greater sentence to be determined by the district court;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3742. Review of sentence.".

SEC. 5. Part II of title 18, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 238—UNITED STATES COMMISSION ON SENTENCING

"Sec.
"3801. Definitions.
"3802. United States Commission on Sentencing; structure and composition.
"3803. Powers and duties of Commission.
"3804. Powers and duties of Chairman.
"3805. Annual report.

"§ 3801. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Commission on Sentencing;

"(b) 'Commissioner' means any member of the United States Commission on Sentencing;

"(c) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 3803 of this title.

"§ 3802. United States Commission on Sentencing; structure and composition

"There is hereby established as an independent Commission in the judicial branch, for a period of three years from the effective date of this statute, a United States Commission on Sentencing which shall be comprised of five members appointed by the United States Judicial Conference. The Commission shall from time to time designate by majority vote one of its members to serve as Chairman and shall delegate to him the necessary administrative duties and responsibilities. The term of office of a commissioner shall be three years, except that the term of a person appointed as a commissioner to fill a vacancy shall expire at the end of three years from the effective date of this statute. Commissioners shall be compensated at a rate equal to the maximum rate, as in effect from time to time, for Federal judges.

"§ 3803. Powers and duties of Commission

"(a) The Commission, by majority vote, and pursuant to rules and regulations, shall promulgate and distribute to all Federal courts guidelines for sentencing consistent with this title which guidelines shall be considered by the sentencing court in determining the appropriate sentence for a defendant.

"(b) The Commission, by majority vote, and pursuant to rules and regulations, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(4) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(5) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such

contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(7) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(8) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(9) issue subpenas requiring the attendance of witnesses and the production of any evidence that relates directly to a matter with respect to which the Commission or any Commissioner or agent of the Commission is empowered to make a determination under this chapter; such attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States;

"(10) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and the dissemination of information on Federal sentencing practices;

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(11) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing processes;

"(12) publish data concerning the sentencing processes;

"(13) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the criteria set forth in sections 3579, 3621, and 3657 of this title;

"(14) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(15) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(16) devise and conduct a training program of short-term instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(17) make recommendations to Congress concerning modification or enactment of sentencing and correctional statutes which the Commisison finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy.

"(c) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter or as may be provided under any other provisions of law and may delegate to any Commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules, and factors under subsection (b)(1).

"(d) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(e) The Commission shall meet not less frequently than quarterly to establish its general policies and rules.

"(f) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member, on any action taken by it.

"§ 3804. Powers and duties of Chairman

"The Chairman shall—

"(a) preside at meetings of the Commission;

"(b) assign duties among the regional offices, if any, in order to assure efficient administration;

"(c) direct (1) the preparation of requests for appropriations for the Commission, and (2) the use of funds made available to the Commission;

"(d) appoint and fix the basic pay of personnel of the Commission;

"§ 3805. Annual report

"The Commission shall report annually to each House of Congress, the United States Judicial Conference, and the President of the United States on the activties of the Commission.".

AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized.

Mr. BROWN of California. Mr. Speaker, contrary to the whip reports, the bill which is scheduled for floor action this Thursday is not H.R. 9174, the "Automotive Transport Research and Development Act of 1975," but H.R. 13655, the "Automotive Transport Research and Development Act of 1976." H.R. 13655 represents the input from many capable colleagues and staff, and one should not mistake its identity. H.R. 9174 is broader in scope than H.R. 13655, and places management responsibility under the Department of Transportation. H.R. 13655 places management responsibility under the Energy Research and Development Administration.

Since Members have already received H.R. 9174 in their weekly whip packs, it may be too late to remove all of the confusion. This situation is further aggravated by the attempts of some opponents of H.R. 13655 to deliberately confuse matters. I would only wish to cover some of the general background on this bill at this time.

In the 93d Congress I introduced H.R. 10392, and several duplicative bills with over 100 cosponsors. That legislation, which had the same purpose and goals as H.R. 13655, was the subject of extensive hearings in the Committee on Science and Technology. This legislation was reintroduced during the 94th Congress as H.R. 5557, and attracted several dozen additional cosponsors. Hearings were held in the Energy Research, Development and Demonstration Subcommittee, chaired by MIKE MCCORMACK, on H.R. 9174, and several other bills, including my own.

During markup in subcommittee, the bill H.R. 9174, which was used as a markup vehicle, was amended to closely resemble my own original legislation. On May 11, the Committee on Science and Technology reported my bill, H.R. 13655, to the full House.

For more information about this legislation, I would strongly urge my colleagues to read the report to accompany H.R. 13655, House Report No. 94-1169. This report was unfortunately not available until this past weekend, and was not mailed to Members.

At this time I wish to insert in the RECORD a recent article from Environment magazine which gives an interesting overview of recent studies on the need for developing a new automobile engine.

The article follows:

[From Overview, Environment Magazine, May 1976]

LAW—ENGINES FOR THE FUTURE

(By Arnold W. Reitze, Jr., and Glenn L. Reitze)

Our nation's transportation system has long been dominated by the private automobile powered by a spark ignition internal combustion engine known as the Otto engine. In the early days of the automotive industry, electric and steam-powered vehicles competed with the Otto, and it remains a topic for reasonable speculation whether more strenuous efforts at developing steam or electric vehicles, combined with the requisite managerial skill, might not have resulted in a very different transportation system.

Today, bucking the established position of the Otto engine is difficult. The oligopolistic automobile industry can prevent competition through its vertical integration, high promotional expenditures, and the enormous capital investment requirements to enter the industry. Yet it is no secret that the present Otto engine has been wearing out its welcome. The air pollution control laws and, to a lesser extent, the legislative moves for energy conservation challenge the continued dominance of our traditional automobile engine. After nearly three quarters of a century of development by the automobile industry, the reliability and other obvious advantages of the engine preclude its early demise. Capital investment requirements to retool for a new engine mean change will be measured in decades. Yet the legal pressures for a better engine in an era of energy shortages and environmental concern are resulting in governmental efforts to look ahead and see what our options are for the rest of this century.

Some four studies on alternatives to the Otto engine have been prepared in the past two years. One was for the U.S. Environmental Protection Agency (EPA); it is a four-volume report entitled *Current Status of Alternative Automobile Power Systems and Fuels* (EPA-460/3-74-013-[a.b.c.d.]) which was prepared under contract by the Aerospace Corporation and was released in July 1974. A more recent report, *Should We Have a New Engine? An Automobile Power System Evaluation*, was issued last year in two volumes by the Jet Propulsion Laboratory (J.P.L.) and the Environmental Quality Laboratory of the California Institute of Technology, with other consultants. Two other major studies have been made. One, for the Research Applied to National Needs (RANN) program of the National Science Foundation (NSF), is titled *The Automobile, Energy and the Environment: A Technical Assessment of Advanced Automobile Propulsion Systems*, by Douglas Harvey and W. Robert Menchen (NSF-C674, March 1974); the other, the *Report of the Committee on Motor Vehicle Emissions* (February 1973, updated 1974), was done for the National Research Council of the National Academy of Sciences (NAS). There have also been several other studies on specific alternative engine possibilities, including the diesel.

These studies, which take so long merely to list, take a great deal longer to read; they comprise many hundreds of pages. Disagreements abound, of course, but a certain sense of accord appears on many points. At the risk of immense oversimplification, we will

try to summarize the findings—for without at least a partial understanding of the possibilities, attempts to legislate technological change will be hopeless.

Electrics and Hybrids. Despite the successful use in the past (and, to a very limited extent, even today) of electric vehicles for local transportation (deliveries and commuting), the major studies are all pessimistic about the possibility of widespread use of this type of vehicle in the next fifteen or twenty years; only the NSF study indicates that such vehicles *could* be produced by the mid-1980s. Any idea for a new engine faces the inertia of the present automotive industry, the financial problems of retooling and servicing, and, if a new company was formed, the task of overcoming the vast competitive advantages of the present vertical integration of the automotive market. Developers of electric engines also face the problems of expanding the distances such engines can be driven and the intervals between recharging and the challenge of matching the acceleration characteristics of the prevalent internal combustion engine.

The common lead/acid batteries provide a range for an automobile of only about 50 miles and have only modest acceleration ability. Other types of rechargeable batteries are either too costly at present or use materials of limited availability. It is estimated that the promising sodium/sulfur and lithium/sulfur batteries will require at least seven years of optimum effort to perfect.

Fuel cells, which convert fossil fuels directly into electric power, might provide a hybrid possibility if they were not so costly. Other hybrid possibilities, such as the heat engine/battery vehicle or the heat engine/flywheel vehicle, are also dismissed by the studies as being too expensive to manufacture.

Steam Engines. Back in the early 1900s, the Stanley Steamer set world speed records, and in the early 1930s, other steam cars were manufactured with an instant-start feature. Whether it was superior technology or merely better business skill on the part of those managing the companies making internal-combustion engine automobiles which resulted in the economic triumph of that type of automobile is still an open question. Regardless, the Otto engine has had the benefit of more than 50 years of intensive development that has been largely denied the automotive steam engine.

The Rankine cycle steam engine currently is the most popular candidate for a steam-car revival. It could have met the original 1976 air pollution standards, which have since been reduced in stringency to permit Otto engines to be used this year. However, the Rankine's weight-to-power ratio is unfavorable, as is its cost. The J.P.L. study focuses on the Rankine's thermodynamic limitations, poor fuel economy, and high production costs and concludes that the Rankine does not warrant further development effort. However, the EPA continues to fund a Rankine program, and a breakthrough in condenser design has permitted much smaller engines to be produced. In addition, the Department of Transportation is scheduled to take delivery of a prototype steam-powered bus in 1976.

Stirling Engine. The Stirling engine, like the Rankine steam engine is an external combustion engine, and its power source is a substance which is heated in a closed cycle. But instead of using water (or water with additives) to produce steam for pressure, the Stirling uses gases such as hydrogen or helium. Cyclical heating and cooling varies the pressure of the gas within a closed space; this pressure acts on a piston, which delivers the power to the mechanical system.

The Stirling received high marks from all the studies and is considered more feasible than the Rankine for development. Its major drawbacks include its weight and cost. But it has a potential for excellent fuel economy (with a variety of fuels), and emissions, noise, and vibration are all very low.

Brayton (Gas Turbine) Engine. Despite the 1964 decision of the Chrysler Corporation, after twenty years of research and a fleet of 50 experimental vehicles, not to proceed with production, the studies generally agree that the Brayton or gas turbine ("jet") engine deserves study. Overall, it was rated second only to the Stirling in immediate potential for replacing the Otto engine. Obviously, a vehicle "jet" engine does not send its extremely hot exhausts streaming out behind it, as in a jet airplane, but some of the same technology is used in this relatively closed motor. At present, advances in ceramic technology are crucial to this engine's development, in order to permit use of higher temperatures to achieve greater fuel efficiency—which, potentially, is very high. It is estimated that the Brayton engine could be mass-produced sooner than any of the other alternatives to the internal combustion engine—between 1982 and 1985. Research continues at General Motors, Chrysler, the EPA, and the National Aeronautics and Space Administration.

Diesel Engine. The diesel, like the Otto, is an internal combustion engine, but the fuel mixture is ignited by air heated by compression in the chamber. Spark plugs, distributors, and carburetors are thus unnecessary, although a high-pressure fuel injection system is required. Diesel engines are heavier and more costly than Ottos; on the other hand, diesel fuel is cheaper than gasoline, and the engine uses fuel about 5 percent more effectively in highway driving and saves about 50 percent on fuel in city use, although the saving on the EPA urban cycle would be only about 19 percent. But problems of controlling nitrogen oxides threaten this engine's existence. Utilizing exhaust gas recirculation in order to lower nitrogen oxide levels (a common technique for automobiles) results in catastrophic engine wear. Thus, unless a technological breakthrough occurs, our presently most efficient engine may be legislated out of existence.

Stratified Charge. The stratified charge is merely a modification of the spark-ignition internal combustion engine, but it may prove to be the technological "sleeper" of the decade. Basically, the conventional combustion chamber is altered to permit two-stage combustion. A fuel-rich mixture of fuel and air is provided near the spark plug, and a lean mixture is provided in the rest of the combustion chamber. The resulting two-stage combustion process permits operation of the engine at very lean overall fuel-air ratios which is conducive to good fuel economy and low emission of pollutants.

Stratified charge engines can be divided into two classes: open chamber and divided chamber. In the open chamber models (used by Ford and Texaco) air swirl with fuel injection provides the stratified charge. In divided chamber models, such as that of Honda, interconnected chambers are used. Although both types reduce emissions, only the open chamber currently offers general fuel savings.

The EPA study concluded that the stratified charge internal combustion engine is an acceptable short-term alternative to the Otto, since it provides good levels of emissions and fuel economy, but that it offers no major long-term advantages. It seems to be superior to the Otto engine with catalytic controls, and it might have more potential than either the Rankine or gas turbine engine, but theoretical limitations lead most studies to give it lukewarm praise and then promptly ignore it.

Other variations on the present internal combustion engine, such as the rotary chamber Wankel, have not offered enough advantages over the Otto to be considered encouraging except for short-term use.

Thus we have a few choices, but the road ahead remains quite foggy.

WHY ARE WE ASSISTING PARAGUAY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, as a member of the Foreign Operations Subcommittee I have been exploring several areas of our foreign aid program. Of particular concern to me is the U.S. military aid program to Latin America, the purposes and objectives of which appear distorted in favor of aiding the repressive military dictatorships to keep themselves in power while holding back their countries' social and economic progress. The number of military dictatorships in Latin America has grown rapidly in the past few years and we have supported each with our military aid despite the fact that there is no real threat of war in any of these countries. Upon reading the budget justifications for military aid to Latin America, I noticed time and time again references to internal disorder and insurgencies. These references continue to appear despite the fact that section 660 of the Foreign Assistance Act prohibits U.S. assistance to internal police actions and prisons. During the hearings I raised serious questions concerning the validity of using purely internal disorder as a justification for military aid both in light of section 660 and in further consideration of the fact that, where there is no real threat of war, as is true in Latin America, then the only purpose our military aid can possibly serve is to strengthen the hold of these dictatorships on their people.

In past statements on this subject I have questioned our aid to Uruguay and Nicaragua. Today I would like to acquaint my colleagues with a particularly ironic example of the strange twists our military policy has taken. In Paraguay our military aid is supporting a regime which, besides being repressive, is imprisoning members of a humanitarian U.S.-funded project.

Paraguay, under the rule of Gen. Alfredo Stroessner since 1954, has served as a model for more recently created dictatorships. Yet, throughout his reign General Stroessner has been well supported by U.S. military and economic aid, totaling over $160 million since 1954.

From 1970 through 1975, Paraguay received over $13 million in military aid. The proposed appropriation for fiscal year 1977 is $1,440,000, not a huge amount in terms of our overall military assistance program but certainly a substantial aid for a country which has not been under even a threat of war since the end of World War II and has not fought a war since the end of the Chaco War with Bolivia in 1935. Why does Paraguay continue to receive our military aid? Our policy appears to result solely from General Stroessner's staunch opposition to communism. It certainly does not result from any adherence of his to democratic or humanitarian principles.

Paraguay is, in fact, another dark

chapter in Latin America's history of repressive dictatorships. Real press or political freedom is nonexistent. Further, Stroessner has violated both international treaties and universally recognized human rights in the conduct of Paraguay's internal affairs, in which the military play a vital role, not only as the power behind the government but also as an integral part of police operations. Every village in Paraguay is under a three-pronged authority structure—the mayor, the local leader of Stroessner's ruling Colorado Party, and the police chief. A military garrison is attached to each village's police station. Using this structure General Stroessner wields absolute power under color of legitimacy. Since 1954, Paraguay has been declared by Stroessner to be in a constant state of siege. The ostensible excuse for this is a persistent but undefined threat of communism. By making this declaration Stroessner has been able to take advantage of article 79 of the 1967 Constitution—a similar provision appeared in the previous Constitution—which grants him extraordinary powers. Chief among these powers are the banning of public demonstrations and meetings, restrictions of civil rights, search and seizure of private homes, arbitrary arrests and banishment, and detention without charge.

Despite the fact that the Department of Defense in its justification for military assistance to Paraguay in the Congressional Presentation Document for fiscal year 1977 states flatly that there is no active insurgency threat to the Government of Paraguay, Stroessner uses his powers to conduct widespread random arrests to intimidate the general population and to hold a number of his political opponents in prison without trial for years, and the United States continues to provide training and equipment to Paraguay's military. Amnesty International has reported that 150 political prisoners are being held, only two of whom have ever been tried. These two, Prof. Antonio Maidana and Alfedo Acorta, were convicted for their role in the 1958 general strike and were sentenced to terms of 2½ and 1 year respectively, but at the end of their terms, Stroessner invoked his powers to keep them in prison, where they remain today. Amnesty International further reports that many of the prisoners have no idea why they were imprisoned at all.

The treatment of these prisoners has been the subject of reports to the OAS Human Rights Commission requesting investigations of torture, disappearances, and other gross violations of human rights. Amnesty International reports that many prison cells are so crowded that a rotation system must be arranged for standing awake at night due to lack of floor space for sleeping and that in efforts to obtain false confessions "prolonged beating for periods of up to 2 hours nonstop with whips and sticks, burning of sensitive parts of the body with cigarettes, and the removal of fingernails are all common forms of torture used." Even more severe forms of torture have been documented in detail by Amnesty International in their 1971 research report "Paraguay in the Seventies" and subsequent news releases.

In the midst of such repression the arrest last December of Dr. Miguel Chase-Sardi and three members of his Project Marandu team might not be unexpected, but is still a shocking example of the Stroessner regime's detention policy and of the contradictory results of U.S. military aid. Dr. Chase-Sardi, a noted anthropologist, and his colleagues were involved in Project Marandu, an effort to provide medical, economic, and legal information and services to Paraguay's 80,000 Indians as well as to educate the Paraguayans to the Indians' largely unknown traditions. The creation of the project, financed in large part by the Inter-American Foundation, an independent corporation of the U.S. Government, was the result of the international furor created in 1974 by U.N. and OAS investigations into the alleged genocide of the Ache Indians in Paraguay and was initially given strong official support by the Paraguayan Government. However, last December 1, Dr. Chase-Sardi and his three associates were arrested, drugged, and beaten. They are still being held without charges and representatives of the International League for the Rights of Man, affiliated with the U.N., report that unimpeachable sources on the scene confirm that Dr. Chase-Sardi and his associates have been tortured and are in deteriorating medical condition due to lack of medical attention. Although the Paraguayan Government has assured our State Department the arrests were not directed at the project but at Communists, the detention of the project's director and senior staff could hardly be considered helpful to its continuation. The resulting climate of unrest and fear has, reports say, halted the project. The State Department, despite our funding of this project, has protested only mildly and not a cent of military aid has been withheld.

It is no wonder that the people of Latin America are confused by our foreign policy with regard to them. In Paraguay our military aid to a dictatorial regime not only contravenes our basic democratic ideals but runs counter to our other U.S. aid to the country. Which aid represents our true attitude toward the people of Latin America? In view of our present impassivity with regard to Dr. Chase-Sardi and Project Marandu, which aid will the people of Paraguay think represents our true attitude?

THE INDEPENDENCE OF THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 15 minutes.

Mr. ST GERMAIN. Mr. Speaker, I have the honor of bringing to the attention of our colleagues a most erudite and thoughtful address by the distinguished Chairman of the Federal Reserve Board, Dr. Arthur F. Burns, on the occasion of the 113th commencement exercises of Bryant College, located in Smithfield, R.I.

During this turbulent period in our Nation's history when it has become fashionable to be antigovernment, to be destructive of our institutions rather than to work for constructive reforms within the system to meet the complex challenges of our moment in history, it is refreshing and indeed reassuring that the Federal Reserve Board is chaired by a man of the caliber of Dr. Burns, willing to give of himself unsparingly, articulating the issues in a clear and concise manner, as on this occasion, to this Nation's future leaders.

It was in this spirit of constructive reform that the House on May 10, adopted the committee's recommendations by its passage of H.R. 12934 in an effort to increase the public's understanding of the awesome power and the critical importance of the Federal Reserve System to a strong and viable national and international economy. The committee report stated in part the following:

> . . . the Committee was mindful of the long tradition of independence of the Executive branch which the Federal Reserve has enjoyed since 1935. Under this legislation, the Fed would continue to have all the independence of the Executive branch necessary to properly carry out its very important functions. At the same time, the Committee hopes to instill a greater element of public responsibility in the workings of the Federal Reserve System, and to restore the balance between the interests of the financial community and the needs of the rest of the Nation.

As our deliberations on financial reform legislation continue, it is important that Congress keep clearly in mind its own constitutional responsibility to insure that public policy decisions, hopefully, reached in a deliberative manner, are in fact carried out or if adjustments become necessary as a result of conflicting pressures and counterproductive results that such adjustments are made based upon the most timely and fullest information available providing the opportunity for affirmative congressional action, rather than by default.

I commend Chairman Burns for his statement that—

> We at the Federal Reserve have in fact sought to model our conduct on that of the Supreme Court.

I would like to suggest ever so gently, however, that the Supreme Court ultimately decides by written opinion the great questions of law and public policy in our land, providing certain stability and continuity as reflected by the doctrine of stare decisis. These written opinions provide to the legislative branch the opportunity for and indeed at times mandates an appropriate legislative response to the unmet public needs of our Nation.

Thus, Mr. Speaker, the subcommittee looks forward to a continued dialog with Chairman Burns and each of the Governors of the Federal Reserve Board in furtherance of our own constitutional obligations, contributing to still greater public awareness and understanding of the interrelationship of our three branches of Government and their creations. While we indeed will continue on occasion to disagree on the magnitude of problems, the most appropriate means for resolving these problems in a democratic society and the timing for ad-

justment steps, we cannot turn back from the task of seeking constructive reforms essential for the very survival of our economic system.

Mr. Speaker, I insert at this point in the RECORD the full text of Chairman Burns' address:

THE INDEPENDENCE OF THE FEDERAL RESERVE SYSTEM

(By Arthur F. Burns)

It is a pleasure to be here on this beautiful campus and to join the audience in honoring the graduating class of Bryant College.

In earlier and calmer times, it was customary for a commencement orator to address the principles of life that he thought would be most helpful to members of the graduating class. Such pronouncements are less fitting in our turbulent age, which has sharply narrowed the gap in knowledge—if not also in wisdom—that once separated the generations.

Yet each of us, and here your elders may have some advantage, has had opportunity to reflect with more than ordinary care on his own range of responsibilities. I therefore want to share with you today a few thoughts about the Federal Reserve System, which serves as our Nation's authority for controlling the supply of money and credit.

Industrial nations, including our own, nowadays rely heavily on monetary policy to promote expansion of production and employment, to limit any decline that may occur in overall economic activity, or to blunt the forces of inflation.

There are two major reasons for the emphasis on monetary policy. In the first place, manipulation of governmental expenditures has proved to be a rather clumsy device for dealing with rapidly changing economic developments. Secondly, the process of reaching a consensus on needed tax changes usually turns out to be complex and time-consuming. Experience has thus taught us that alterations of fiscal policy, once undertaken, frequently have a large part of their economic effect too late to be of much value in moderating fluctuations in business activity.

Even when the economy is booming, legislatures are rarely willing to increase tax rates or to restrain the rising curve of governmental expenditures. Such reluctance also limits the discretionary use of fiscal measures to counter the forces of recession that develop from time to time in a free enterprise economy. Once reduced, tax rates cannot easily be increased again, and new expenditures programs to stimulate a lagging economy all too often are the source of a new inflationary problem later on.

Fortunately, monetary policy is relatively free of these shortcomings. Flexibility is the great virtue of instruments of monetary and credit policy. Changes in the course of monetary policy can be made promptly and—if need be—frequently. Under our scheme of governmental organization, the Federal Reserve can make the hard decisions that might be avoided by decision-makers subject to the day-to-day pressures of political life. And experience indicates that the effects of substantial changes in the supply of money and credit are rather speedily transmitted through financial markets to the workshops of the economy—that is, our factories, mines, construction yards, and the range of service establishments.

The founders of the Federal Reserve System were well aware of the dangers that would inhere in the creation of a monetary authority subservient to the executive branch of government—and thus subject to political manipulation. Senator Nelson Aldrich, Chairman of the National Monetary Commission, whose investigations of central banking laid the basis for establishing the Federal Reserve System, was deeply impressed with the need for a strong monetary authority capable of exercising discipline over the financial affairs of a nation. Carter Glass, Chairman of the House Banking and Currency Committee when the Federal Reserve Act was passed in 1913, reported that the Committee regarded the Federal Reserve Board "as a distinctly nonpartisan organization whose functions are to be wholly divorced from politics." That view was fully shared by President Woodrow Wilson, who was extremely careful to avoid any suggestion of interference with the newly-created monetary authority, thereby setting a precedent that has been usually followed by succeeding Presidents.

The concept of independence of the monetary authority within the structure of government is congenial to the basic principles of our Constitution. As Alexander Hamilton put it in one of the Federalist Papers, our system of government is based on the precept that partitions between the various branches of government "ought to be so contrived as to render the one independent of the other." Such a division of power, according to another of the Federalist Papers, is "essential to the preservation of liberty."

The principle of independence of the monetary authority within the structure of our Federal Government was embodied in the original Federal Reserve Act in several ways. First, individuals appointed to the Federal Reserve Board by the President were to have 10-year terms, and they could be removed from office only for cause. A President could not, therefore, remove a Board Member from office simply because he disagreed with his views, and the term of office was long enough to minimize the threat of covert political pressure on Board Members. Moreover, the law provided for staggered terms in order to avoid Presidential "packing" of the monetary authority.

Second, the newly-created Federal Reserve Board was required to report on, and to account for, its actions to the legislative branch of government, not to the Administration.

Third, the operations of the Federal Reserve System were to be financed from its own internal sources, and thus protected from the political pressures that may be exercised through the congressional appropriations process.

Fourth, power was to be diffused within the Federal Reserve System, so that the interests of borrowers, lenders, and the general public were to be recognized and blended in the new regional Federal Reserve Banks.

In the years that followed creation of the Federal Reserve System, experience—particularly during the Great Depression—suggested that the degree of independence assigned to the monetary authority was insufficient. The Banking Acts of 1933 and 1935 sought to rectify this and other defects in the financial structure.

Under the new legislation, the Secretary of the Treasury and the Comptroller of the Currency, who originally were *ex officio* members of the Board, were relieved of this responsibility. The terms of the members of the Board were lengthened from 10 years to 12 years, and then to 14 years, to insulate the Board still more from political pressures. A new agency—the Federal Open Market Committee, including representatives of the regional Federal Reserve Banks as well as members of the Board located in Washington—was established to conduct open-market operations, which by the early 1930's had come to play a major role in implementing monetary policy. Moreover, the principle was reaffirmed that funds used by the Federal Reserve to finance its operations were not to be construed as government funds or as appropriated monies. All of these legislative changes strengthened the ability of the Federal Reserve System to resist efforts by the Treasury, or the White House, or any other agency in the executive branch to influence unduly the course of monetary and credit policy.

Senator Carter Glass once stated that intelligent and fearless performance of the functions of the monetary authority "involves as much of sanctity and of consequence to the American people as a like discharge of duty by the Supreme Court of the United States." We at the Federal Reserve have in fact sought to model our conduct on that of the Supreme Court.

In the exercise of our adjudicatory responsibilities, the members of the Board scrupulously avoid any contact with interested parties. In our deliberations on monetary and credit policies, not the slightest consideration is given to questions of political partisanship. Every member of the Board, and every member of the Federal Open Market Committee, weighs the issues of monetary and credit policy solely from the viewpoint of the public interest and the general welfare. My colleagues at the Federal Reserve are highly qualified individuals possessing a diversity of skills essential to the management of the nation's financial affairs. They live and work under a Spartan code that avoids political entanglement, conflicts of interest, or even the appearance of such conflicts. At the same time, the members of the Board, particularly its Chairman, maintain close contact with members of the Executive and the Congress in order to assure that the activities of the Federal Reserve are appropriately coordinated with what other branches of government are doing.

Our system of monetary management, I believe, is thus working in the way the founders of the Federal Reserve intended. Nonetheless, there are now, as there have been over the years, some well-meaning individuals in our country who believe that the authority of the Federal Reserve to make decisions about the course of monetary policy should be circumscribed. The specific proposals that have been put forth over the years differ greatly, but they usually have had one feature in common—namely, control by the Executive Branch of government over the monetary authority.

A move in this direction would be unwise and even dangerous. It is encouraging to find that, despite occasional outbursts of temper, a majority of the Congress share this belief. I doubt that the American people would want to see the power to create money lodged in the presidency—which may mean that it would in fact be exercised by political aides in the White House. Such a step would create a potential for political mischief or abuse on a larger scale than we have yet seen. Certainly, if the spending propensities of Federal officials were given freer rein, the inflationary tendency that weakened our economy over much of the past decade would in all likelihood be aggravated.

The need for a strong monetary authority to discipline the inflationary tendency inherent in modern economies is evident from the historical experience of the nations around the world. Among the major industrial countries, West Germany and the United States appear to have achieved the greatest success—albeit woefully insufficient success—in resisting inflationary pressures in the period since World War II. It is no accident that both countries have strong central banks. In some other countries, where the monetary authority is dominated by the Executive or the legislature, inflationary financial policies have brought economic chaos and even some extinguished political freedom.

It is, of course, essential that the monetary authority observe the spirit as well as the letter of our laws. In our democratic society

the independence of a governmental agency can never be absolute. The Federal Reserve System is thus subject not only to the provisions of the Federal Reserve Act, but also to the Employment Act and numerous other statutes. The original design of the Federal Reserve System recognized this duty by requiring the Federal Reserve to account for its stewardship to the Congress. The oversight responsibilities of the Congress for the conduct of the monetary authority do not, however, require congressional involvement in the details of implementing monetary policy. The technical complexities of adjusting monetary or credit instruments to the needs of a modern industrial economy are far too great to be dealt with by a large deliberative body. At the same time, there is a significant role for the Congress in setting forth the economic and financial objectives that the monetary authority is expected to observe and honor.

Over the past year, the Congress has been exercising its vital oevrsight function through a new and more systematic procedure, spelled out in House Concurrent Resolution No. 133. That resolution requires the Federal Reserve to report to the Congress at quarterly intervals on the course of monetary policy, and to project ranges of growth in the major monetary and credit aggregates for the year ahead.

We at the Federal Reserve regard the dialogue between the monetary authority and the Congress stimulated by the Concurrent Resolution as constructive. It has given the Congress a better opportunity to express its views on the appropriateness of our actions. It has also provided us at the Federal Reserve with an opportunity to explain fully the reasons for our actions, and to communicate to the Congress and to the public at large our firm intention to adhere to a course of monetary policy that is consistent not only with continued economic expansion at a satisfactory rate, but also with further gradual unwinding of inflationary tendencies.

Such a course of policy, I believe, is the only option open to us if we as a nation are to have any hope of regaining price stability and maintaining a robust economy. Our country is passing through a fateful stage in its history. Economic, social, and political trends of the past several decades have released powerful forces of inflation that threaten the vitality of our economy and the freedom of our people.

Defeating the forces of inflation requires determined action. Greater discipline is needed in our fiscal affairs, and structural reforms are required to improve the functioning of our labor and product markets. But all such reforms would come to naught in the absence of a prudent course of monetary policy. At this critical time in our history, any interference with the ability of the Federal Reserve to stick to a moderate rate of monetary expansion could have grave consequences for the economic and political future of our country.

EULOGY TO HON. TORBERT H. MACDONALD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, we were all saddened by the untimely passing of our distinguished colleague from Massachusetts, the Honoraole Torbert H. Macdonald. Few men have left their personal mark on so many pieces of landmark legislation as our late friend "Torbie" Macdonald.

As chairman of the most important Communications Subcommittee of the House Committee on Interstate and Foreign Commerce, he fathered the legislation lifting television blackouts for home team professional football games which sold out. He will also be remembered for his efforts on behalf of public television and for his leadership in the area of limiting spending for political campaign advertising. He also fought for effective regulation of energy costs and free television time for major Presidential candidates.

The former football captain and Harvard roommate of our late President John F. Kennedy, Congressman Macdonald was an active Member of the House since his first election to Congress in November 1954. His courage was demonstrated in war and peace and ranged from his winning the Silver Star in World War II to his personal decision to remove support systems during his final illness.

I join my colleagues in the House in extending our sympathies to his wife, Phyllis, his two sons and two daughters, his grandchildren, his mother, and sisters. We will all miss Torbie and the Nation will remember his many active and productive days in public service.

CONGRESSIONAL PAGE SCHOOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 15 minutes.

Mr. LEHMAN. Mr. Speaker, today I am introducing a concurrent resolution calling for the creation of a joint House-Senate select committee to undertake a thorough review of the operations at the Congressional Page School. To my knowledge this has not been done since the school was formally established in 1946 by the Legislative Reorganization Act. Two independent reviews of the CPS by both House and Senate Committees, were conducted in 1964 and 1973 respectively, but the system for educating the pages remains virtually unchanged.

It is not my intention to attack the page system, but I am very concerned about the quality of education in a congressionally operated school located right across the Capitol's front lawn. One can discount student criticisms as normal juvenile protests about education. It can be found in most any high school in the country. However, the individual responses to the detailed questionnaire that I distributed to each House page indicated an extreme disillusionment, disappointment and discontent with their education at the CPS. In particular the response to question five was a strong index of pages' dissatisfaction with the situation we in Congress have an ultimate responsibility to correct. Over two-thirds of those responding felt the Congressional Page School was worse in terms of the quality of the education they were receiving in comparison to their hometown school.

A joint select committee is preferable if not required since there is a very real absence of any identifiable congressional oversight within any standing committee of either the House or Senate. Under the Legislative Reorganization Act of 1946, the Doorkeeper of the House and the Secretary of the Senate are authorized to enter into an annual agreement with the District of Columbia for the reimbursement of the District of Columbia public school system for the education of the pages. This amounted to over $186,000 for this fiscal year. Next year's request exceeds $176,000. Is it worth the expense? That's the first and fundamental question that the select committee will answer. Quite possibly it would be better to abandon the formal school and permit individual pages to maintain their studies through constant contact with their home school.

To achieve information and data as objective and balanced as possible, teacher questionnaires similar in content to that distributed to the students was also sent to the faculty and administration. Their responses reflected professional frustration in attempting to give students an adequate education under the present circumstances.

Mr. Speaker, to pass off any weaknesses of the Page School as problematic of the overall District school is invalid; to dismiss the students' grievances as typical student dissent is unfair. Despite the reaccreditation of the CPS, I believe there are problems which a joint select committee could deal with in a most timely, fair, and efficient manner. I trust the resolution will be acted upon quickly.

At this point I would like to insert in the RECORD a copy of the resolution as well as the teacher and student responses to the questionnaire.

H. CON. RES. 645

Concurrent resolution to create a Select Joint Committee on the Congressional Page School

Resolved by the House of Representatives (the Senate concurring), That (a) there is created a Select Joint Committee on the Congressional Page School (hereinafter in this resolution referred to as the "joint committee").

(b) The joint committee shall be composed of twelve members as follows:

(1) Six members of the Senate, appointed by the President pro tempore of the Senate, of which three shall be members of the Committee on Labor and Public Welfare, one shall be a member of the Committee on the District of Columbia, one shall be a member of the Committee on Rules and Administration, and one shall be a member of the Committee on Appropriations.

(2) Six members of the House of Representatives, appointed by the Speaker of the House, of which three shall be members of the Committee on Education and Labor, one shall be a member of the Committee on the District of Columbia, one shall be a member of the Committee on House Administration, and one shall be a member of the Committee on Appropriations.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

(d) The joint committee shall select a chairman and a vice chairman from among its members. The vice chairman shall be a member of that House of Congress other than the House of Congress of which the chairman is a member.

SEC. 2. The joint committee is authorized and directed to determine whether it is necessary to have the Congressional Page School, and if the joint committee determines that it is necessary, then the joint committee shall conduct a full and complete investigation and study of—

(1) the Congressional Page School, including—

(A) its method of faculty selection,

(B) its method of curriculum choice,

(C) the adequacy of the location of the school, including an evaluation of its physical plant and any benefit derived from its proximity to the Library of Congress;

(2) the availability of adequate housing for pages attending the school; and

(3) any other matter concerning the Congressional Page School which it deems necessary.

SEC. 3. The joint committee shall report to the House and the Senate as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. If such report is made when the Congress is not in session, it shall be filed with the Clerk of the House and the Secretary of the Senate. Upon submission of such report, the joint committee shall cease to exist.

SEC. 4. The expenses of the joint committee shall be paid from the contingent fund of the House, upon vouchers signed by the chairman of the joint committee, and its total expenses shall not exceed $35,000.

SEC. 5. To carry out this resolution, the joint committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

Fifty questionnaires sent out: 34 responses (including one letter with *no questionnaire* returned).

Received: April 8, 1976.

1. Before you moved you were living:

a. with parents, 31.

b. with relatives or friends of the family, none.

c. other (specify), 3 (includes letter).

2. You presently live:

a. with parents, 7.

b. with relatives or friends of the family, 2.

c. YMCA or YWCA, 5.

d. local boarding house, 11.

e. your sponsor, none.

Apartment, 8 (one other: letter only).

3. How do your present living quarters compare with your previous home facilities:

a. much better, none.

b. better, none.

c. same, 7.

d. worse, 16.

e. much worse, 5.

No response, 4 (1 other: letter only).

(*Note:* one person didn't check any.)

4. The school you previously attended was:

a. pre-high school, none.

b. public high school, 20.

c. private, 12.

d. other (includes letter), 2.

5. How does the Page School compare with your previous school in terms of the quality of your education?

a. much better, none.

b. better, 1.

c. approximately the same, 2.

d. worse, 7.

e. much worse, 22.

Between "worse" and "much worse," 1 (1 *other: letter only*).

6. To what extent does working interfere with the opportunity to learn what you need, and your ability to complete assignments?

a. very much, 3.

b. to a considerable extent, 9.

c. some, 9.

(*Note:* One wrote both b & c.)

e. not at all, 3.

(1 other: letter only.)

7. How many hours do you attend school on the average day?

a. less than e, 10.

b. between 3 and 4, 19.

c. more than 4 (1 other: letter only), 4.

8. How many hours do you devote to homework a week?

a. less than 5, 21.

b. between 5 & 10, 9.

c. more than 10, 3. (1 other: letter only).

9. What is your opinion of the communication between students and teachers in the Page School as compared to your previous school?

a. much better, none.

b. better, 5.

c. approximately the same, 6.

d. worse, 13.

e. much worse, 9 (1 other: letter only).

10. In comparing the Page School to the school you previously attended would you say:

Textbooks are:

a. much better, none.

b. better, none.

c. equal, 18.

d. worse, 11.

e. much worse, 4 (1 other: letter only).

Equipment (charts, maps, lab supplies, audio-visual, learning lab).

a. much better, none.

b. better, none.

c. equal, 1.

d. worse, 9.

e. much worse, 23 (1 other: letter only).

Teachers' apparent knowledge of their subject:

a. much better, none.

b. better, none.

c. equal, 6.

d. worse, 9.

(Note: 2 students checked both c & e; one checked d & e.)

e. much worse, 21. (1 other: letter only).

Teacher concern-teachers' interest in doing the best job they can:

a. much better.

b. better.

c. equal, 8.

d. worse, 20.

e. much worse, 5 (1 other: letter only).

Curriculum—Selection and quality:

a. much better, none.

b. better, none.

c. equal 3.

d. worse, 10.

e. much worse, 19 (1 other: letter only).

No response, 1.

Student interest:

a. much better, 1.

b. better, 2.

c. equal, 8.

d. worse, 15.

(Note: One student checked both c & d.)

e. much worse, 8 (1 other: letter only).

11. Do you think the grading system at the Page School as compared with your previous school is:

a. more fair, 1.

b. equal, 8.

c. less fair, 23.

No response, 1 (1 other: letter only).

d. easier, 12.

e. same, 3.

f. harder, 15.

No response, 2. (1 other: letter only).

(Note: One nothing checked.)

12. As an educational resource center has the location of the school in the Library of Congress been:

a. very helpful, 1.

b. helpful, 8.

c. some help, 7.

d. little help, 9.

e. no help, 9.

Other, 1.

(Note: One checked both c & d.)

13. Do you think the attitude of your fellow students in comparison to your previous fellow students is:

a. more serious, 8.

b. same, 6.

c. less serious, 18.

(NOTE: One nothing checked.) (1 other: letter only).

14. How would you rate the discipline at the Congressional Page School?

a. much better, 2.

b. better, 2.

c. approximately the same, 5.

d. worse, 13.

e. much worse, 11 (1 other: letter only).

15. To what extent are assignments checked, collected, and/or graded on a regular basis?

(NOTE: One person checked all three answers. One nothing checked.)

a. daily, 4.

b. weekly, 4.

c. rarely, 22.

No response, 4. (1 other: letter only).

16. Are there designated study areas in the Page School that are quiet and conveniently available?

a. yes, 7.

b. no, 24.

(NOTE: Two nothing checked.) 1 other: letter only).

17. What is your opinion of opportunities in the Page School for adequate counseling?

a. excellent.

b. good, 2.

c. fair, 6.

d. poor, 25.

(One checked c and d)

No response. 1. (1 other: letter only).

18. In regard to your health do you think the limited physical education program is:

a. very detrimental, 4.

b. detrimental, 5.

c. no problem, 24.

d. no p.e., 1. (other: letter only).

(NOTE: One checked "a" and added "d".)

We received 7 questionnaires from teachers plus one from an administrative assistant. (In many instances the Administrative Assistant responded "n/a" to the questions because as a non-teacher the question did not apply to her.)

1. The school where you previously taught was:

a. pre-high school, 4.

b. public high school, 4.

c. private school, none.

No answer, 1. (one answered A & B).

2. In comparing the Page School to your previous school, would you say:

Textbooks are:

a. much better, 1.

b. better, 1.

c. equal, 5.

d. worse, none.

e. much worse, none.

No answer 1.

Equipment (charts, lab supplies, audio-visual, etc.) are:

a. much better, 2.

b. better, 1.

c. equal, 4.

d. worse, none.

e. much worse, none.

No answer, 1.

Students' preparation on beginning your courses is:

a. much better, 1.

b. better, 3.

c. equal, 1.

d. worse, none.

e. much worse, none.

No answer, 2.

In addition one person checked all 5.

Students' interest in doing the best job they can is:

a. much better, 4.

b. better, 2.

c. equal, 1.

d. worse, none.

e. much worse, none.

In addition, one person checked all 5.
Student motivation is:
a. much getter, 4.
b. better, 2.
c. equal, 1.
d. worse, none.
e. much worse, none.
In addition, one person checked all 5.
Curriculum selection and quality are:
a. much better, none.
b. better, 3.
c. equal, 2.
d. worse, none.
e. much worse, none.
No answer 3.

3. What is your overall impression of the quality of educational opportunity at the Page School compared with your previous school?
a. much better, 2.
b. better, 5.
c. equal, none.
d. worse, none.
e. much worse, none.
No answer, 1.

4. As an educational resource center, do you think the Library of Congress has been:
a. very helpful, 7.
b. helpful, none.
c. some help, none.
d. little help, none.
e. no help, none.
No answer, 1.

5. Are there designated areas in the Page School that are quiet and conveniently available for teacher planning and preparation?
a. yes, 7.
b. no, 1.

6. How many hours do you spend at the Page School on the average day?
a. less than 4, none.
b. between 4 and 5, none.
c. more than 5, 8.

7. How many of these hours are spent in the classroom teaching?
a. less than ⅓, none.
b. between ⅓ and ⅔, none.
c. more than ⅔, 5.
No answer, 3.

8. How often do you generally assign homework?
a. daily, 5.
b. weekly, none.
c. less than once a week, none.
No answer, 3.

9. To what extent do you check, collect, and/or grade assignments on a regular basis?
a. daily, 4.
b. weekly, 4.
c. less than once a week, 2.
No answer, 2.
Two persons checked all three.

10. Do Page School students generally turn in assignments?
a. on time, 4.
b. late, 2.
c. not at all.
No answer, 3.
One person checked two.

11. How many hours do you devote weekly outside the classroom to preparation for class?
a. less than 5, none.
b. between 5 and 10, 1.
c. more than 10, 6.
No answer, 1.

12. Do you have a regular job other than the Page School?
a. yes, 1.
b. no, 7.
If yes, how many hours do you spend weekly at your other job.
a. less than 10, 1.
b. between 10 and 20, none.
c. more than 20, none.
No answer, 8.

13. How would you rate discipline problems at the Page School compared to your previous school?
a. less of a problem, 6.
b. about the same, 2.
c. more of a problem, none.

14. What is your opinion of the availability of adequate counseling for students at the Page School?
a. excellent, 3.
b. good, 3.
c. fair, 1.
d. poor, none.
No answer, 1.

15. Are time and an appropriate place available to counsel individual students with academic problems?
a. yes, 7.
b. no, 1.

16. Due to the limited faculty size, are you teaching subjects for which you do not feel adequately prepared?
a. yes, none.
b. no, 6.
No answer, 2.
Are you teaching subjects in which you are not certified?
a. yes, 1.
b. no, 5.
No answer 2.
If yes to either, what portion of your teaching time is spent in these subjects?
a. less than ⅓, none.
b. between ⅓ and ⅔, 1.
c. more than ⅔, none.

17. What is your opinion of the communication between students and teachers, compared to your previous school?
a. much better, 3.
b. better, 4.
c. equal, 1.
d. worse, none.
e. much worse, none.

18. Do you think the dedication of your fellow teachers, compared to your colleagues in your previous school, is:
a. stronger, 5.
b. about the same, 3.
c. less strong, none.

19. Compared to your previous school, how would you rate the quality and responsiveness of the Page School Administration?
a. much better, 3.
b. better, 2.
c. equal, none.
d. worse, 1.
e. much worse, none.
No answer, 1.

THE FED'S NEW MONEY TARGETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, yesterday Chairman Burns of the Federal Reserve Board released the summary record of the Federal Open Market Committee's April 20 meeting. Our Nation's money policy is decided by the Open Market Committee. It made a small but important change at its April 20 meeting. As chairman of the Subcommittee on Domestic Monetary Policy, I have reviewed and analyzed the summary record of the April 20 meeting in some detail. On the whole, I am encouraged by the committee's decision.

Pursuant to House Concurrent Resolution 133, which we passed last year, the Open Market Committee now sets money growth targets a year ahead. The targets are decided quarterly and announced and discussed at hearings held shortly thereafter. The committee's original target for money growth was 5 to 7½ percent for the year ending March 1976. The lower limit was reduced to 4½ percent last fall, to apply to the year ending the third quarter of 1976. The decision of April 20 reduced the upper limit to 7 percent, to apply to the year ending the first quarter of 1977. The committee's decision to seek money growth between 4½ and 7 percent in the year ending the first quarter of 1977 has been previously announced by Chairman Burns in hearings before the Senate Banking Committee on May 3. The record of the April 30 meeting released yesterday summarizes the discussion underlying the committee's decision.

Some of my colleagues are disturbed by the committee's decision to lower its money growth target, and have urged faster growth. They fear that the new policy could slow or even reverse the recovery. My review of current economic trends leads me to conclude otherwise. We have had a vigorous recovery since the winter of 1975, and it was achieved with annual money growth of 5 to 6 percent. At the same time, inflation has been reduced from the double-digit level to less than 5 percent per year so far this year. The two are not unrelated phenomena. The sharp drop in the inflation rate has helped restore consumer and business confidence; and in turn, renewed confidence has helped to sustain the recovery.

It would be tragic if we now rekindled the fires of inflation. For this reason, the Federal Reserve must be especially careful that money growth does not get out of hand. Past experience shows that if money growth is accelerated sharply in the second year of a recovery, like it was in 1972, it triggers a calamity inflationary boom, like in 1973, ending in recession. By reducing the upper limit of its target for money growth to 7 percent, the Open Market Committee has indicated that it is fully alert to the need to constrain money growth as we start the second year of recovery from the 1973–75 recession.

At the same time, experience in the late 1950's teaches us that sharp deceleration of money growth in the second year of economic recovery can trigger a new recession. By keeping the lower limit of its money growth target at 4½ percent, the committee shows that it is aware of the importance of keeping money growth from declining sharply at this stage of recovery.

As one who strongly supported House Concurrent Resolution 133 in the first session of this Congress, a year ago, I am pleased that the Federal Reserve is taking seriously the resolution's fundamental precept, to wit, decide and announce a year-over-year money target commensurate with both stable prices and maximum employment.

CONGRESSIONAL VIGIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living

up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Chervinsky family.

Mr. Speaker, I would like to insert for the RECORD the sad case of this separated family:

VLADIMIR CHERVINSKI

Vladimir Chervinsky, age 29, applied for an exit permit to join his parents in Israel in 1971. Refused at once, he has since applied each year with the same negative results.

During all this time he has shown remarkable courage in writing complaints and protests to organizations in the USSR, also to international organizations, and to leaders and various public figures in other countries. He has participated in many protests and demonstrations. He has also bravely repudiated his oath of allegiance, returned his military card, and renounced his Soviet citizenship. All these measures have been to no avail. His father now appeals to the Free World for our aid in making possible a reunion with his son.

In a letter from Israel, he writes:

"I, the father of an activist-refusnik of USSR, Aliya, turn to you with an appeal. His mother was not destined to see her son again; she died.

For the past five years I have been trying in every possible way to have my son, Vladimir Chervinsky, join me in Israel. I left him in the UUS in 1971. There, he has no relative or anyone close to him. We, the parents, were given permission to leave for Israel and during all this time both I and my son have been trying to obtain a visa for him, but so far without results.

My son is not the type of man in whom the Soviet Union would be interested or consider him important. He is not a great specialist since has has only a high school education. He has never been connected with any work of a secret nature. He was an Army private and was discharged from service 7 years ago.

Without any formal explanation, without any reason or motivation, and without giving any hope, he is forcibly kept isolated from his family, thereby causing heavy traumas both to him and his family.

For his eagerness to leave for Israel, to his own land, he is subjected to numerous persecutions, repression and humiliation. He has been denied employment and is without means of existence. I beg for your help and defense."

"SUNSET FOR THE FEA"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

Mr. FITHIAN. Mr. Speaker, very shortly legislation to extend the life of the Federal Energy Administration will come to the floor of the House, presenting this body with an acid test of the "sunset" concept within the Federal Government. The outcome of this test is extremely important to those of us committed to reducing the Federal bureaucracy and to the American people who, with increasing reluctance, pick up the tab.

As most of my colleagues are aware, the Federal Energy Administration Act of 1974, which established a separate FEA, expires on June 30, 1976. Section 30 of that act specifies that:

This act shall terminate June 30, 1976.

There is ample reason to believe that the authors of the original legislation meant exactly what they said. In describing the bill during early floor debate, Representative CHET HOLIFIELD, then the distinguished chairman of the House Government Operations Committee, said:

The new FEA will be a temporary organization largely concerned with the immediate and short-term aspects of the energy emergency situation we are facing, because of inadequate energy supplies. FEA's functions will necessarily be carried out in the context of presently available technology . . .

And:

Mr. Chairman, let me emphasize that this is a bill for a temporary agency. The bill provides that the act will terminate 2 years after the effective date. Six months before the act expires, the President is directed to transmit to the Congress a report with recommendations as to the disposition of the agency's functions.

To be sure, the actions of one Congress cannot bind a later Congress. The possibility that the act might be revised and extended under certain circumstances was tacitly recognized by the bill's authors. If the extraordinary circumstances which led to the creation of the agency in 1974 or others equally serious were in effect, the need for extension of the FEA could not be questioned.

But the fact of the matter is that times have changed. Two years ago our energy policy was narrowly focused on immediate results—ending the long lines at the gas pump, making sure that scarce supplies of fuel were fairly distributed, and surviving the Arab Oil Embargo. We needed an agency like the FEA to help accomplish these goals. Things are different today. We do not have the critical short-term supply problems we did in 1974, nor are we likely to see them again in the foreseeable future. Even oil price controls, as you know, are coming off.

There is no question, Mr. Speaker, that we could find other tasks that would keep the FEA occupied for another 39 months. If we did not change FEA's functions, and the legislation recently reported out of the Commerce Committee does not, the agency itself would undoubtedly continue to find things to do on its own. The FEA has already exhibited great talent along these lines.

But ingenuity in finding tasks for Federal bureaucracies is not the answer; it is precisely the problem.

If we can not see through self-serving agency promotions and predictions of doom to do away with this one obsolete bureaucracy, then all of the talk about cutting back on bureaucracy, duplication, and waste in Government will be just that—talk.

Representative SCHROEDER and I plan to offer a rational and responsible substitute measure to the Commerce Committee's bill. This substitute would provide for the orderly transfer of necessary FEA functions to permanent agencies and the formal termination of FEA. The time is right for letting the Sun set on the FEA.

ESTATE AND GIFT TAX BILL

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I include in today's RECORD approximately three pages of material that will help explain the effect of the Estate and Gift Tax Reform Act of 1976—a bill I introduced yesterday. I hope it will be useful to Members and other interested parties.

The material follows:

ESTATE AND GIFT TAX BILL

Tentative revenue estimates

Fiscal year 1978

[*In millions*]

1. Marital deduction—Greater of $250,000 or 50% of adjusted gross estate	−153
2. $29,800 credit (equivalent to $120,000 exemption) and new tax rate schedule	−461
3. Additional credit ($25,000) for farms and other closely held businesses (equivalent to an additional $80,000 exemption)	−58
4. Initial 5-year deferral and then 10-year installment payment of tax for closely held business	−20
5. Farm valuation rather than fair market value	−15
6. Treatment of generation-skipping trusts [1]	
7. Appreciation tax:	
Gross	+48
Deduction	−24
Net	+24
Total (including appreciation tax)	−683
Long run (18 to 20 years):	
Gross	+770
Deduction	−303
Net	+467
Total (including appreciation tax)	−240

[1] No revenue effect for first years.

Source: Staff of Joint Committee on Internal Revenue Taxation. May 20, 1976.

EXAMPLES

The following examples illustrate the effect of the bill on various sized estates.

Example (1): (A) Assume that a decedent has a gross estate of $400,000, that debts and expenses are $40,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that there is $120,000 of appreciation in his assets, but only $40,000 of this appreciation is attributable to periods after 1976.

Present law:	
Gross estate	$400,000
Less debts and expenses	40,000
	360,000
Less martial deduction (½ of $360,000)	180,000
	180,000
Less specific exemption	60,000
Taxable estate	120,000
Tax under present law	26,700

Bill:*	
Gross estate	400,000
Less debts and expenses	40,000
	360,000
Less martial deduction	250,000
Taxable estate	110,000
Tax computation:	
Basic tax	26,800
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	0

*There is no appreciation tax because the rate on the first $50,000 of post-1976 appreciation is zero.

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present law:	
Gross estate	$400,000
Less debts and expenses	40,000
	360,000
Less specific exemption	60,000
Taxable estate	300,000
Tax under present law	81,700
Bill:*	
Gross estate	400,000
Less debts and expenses	40,000
Taxable estate	360,000
Tax computation:	
Basic tax	108,200
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	78,400

*There is no appreciation tax because the rate on the first $50,000 of post 1976 appreciation is zero.

SUMMARY

	With marital deduction	Without marital deduction
Tax under present law	$26,700	$81,700
Tax under bill	0	78,400
Reduction in tax under bill	26,700	3,300

Example (2): (A) Assume that a decedent has a gross estate of $1 million, that debts and expenses are $100,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that his estate consists of stock and savings of $100,000 and a farm which has a fair market value of $900,000 and a farm value of $600,000.

Present law:	
Gross estate	$1,000,000
Less debts and expenses	100,000
	900,000
Less marital deduction (½ of $900,000)	450,000
	450,000
Less specific exemption	60,000
Taxable estate	390,000
Tax under present law	110,500
Bill*:	
Gross estate	700,000
Less debts and expenses	100,000
	600,000
Less marital deduction	300,000
Taxable estate	300,000
Tax computation:	
Basic tax	87,800
Less nonrefundable credit in lieu of specific exemption	29,800
	58,000
Less nonrefundable closely held business credit	25,000
Tax under bill	33,000

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The entire tax would bear interest at 4 percent (since the value of the business is under $1 million).

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present Law:	
Gross estate	$1,000,000
Less debts and expenses	100,000
	900,000
Less specific exemption	60,000
Taxable estate	840,000
Tax under present law	266,500
Bill*:	
Gross estate	700,000
Less debts and expenses	100,000
Taxable estate	600,000
Tax computation:	
Basic tax	192,800
Less nonrefundable credit in lieu of specific exemption	29,800
	163,000
Less nonrefundable closely held business credit	25,000
Tax under bill	138,000

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The entire tax would bear interest at 4 percent (since the value of the business is under $1 million).

SUMMARY

	With marital deduction	Without marital deduction
Tax under present law	$110,500	$266,500
Tax under bill	33,000	138,000
Reduction in tax under bill	77,500	128,500

Example 3. In this example, the decedent's gross estate is $1.2 million. Administrative expenses, funeral expenses, and debts equal $118,500, leaving an adjusted gross estate of $1,081,500; 85 percent of this, or $920,000, is stock in a closely held business. The decedent's basis in the stock was $100,000, but on the effective date of the bill the stock is worth $840,000. Between that date and the date of the decedent's death, the stock appreciated $80,000. All other appreciation is in personal assets having an aggregate value of less than $10,000.

APPRECIATION TAX

Decedent's basis	$100,000
Step up in basis on effective date of bill	740,000
Total basis for appreciation purposes	840,000
Approximate value on date of death	920,000
Appreciation	80,000
Tax on this amount	1,500

CASE 1—FULL MARITAL DEDUCTION

Present law:	
Gross estate	1,200,000
Less deductible debts and expenses	118,500
Adjusted gross estate	1,081,500
Estate after full marital deduction or 50%	540,750
Less exemption	60,000
Taxable estate	480,750
Estate tax	139,540
Bill:	
Gross estate	$1,200,000
Minus deductible expenses	118,500
Appreciation tax	1,500
Adjusted gross estate	1,080,000
Full marital deduction	540,000
Taxable estate	540,000
Estate tax before credits	170,600
Basic credit	29,800
Closely held business credit	19,550
Maximum credit	25,000
85 percent	21,250
Minus 8-percent phase down	1,700
	19,550
Total credits	49,350
Total estate tax after credit	*121,250
Appreciation tax	1,500
Total taxes	122,750

*The tax attributable to the closely held business would be eligible for deferred payment—interest only for the first five years, with ratable payment of the tax over a 10-year period beginning in year 6. The tax would bear interest at 4 percent (since the value of the business is under $1 million).

CASE 2—NO MARITAL DEDUCTION

Present law:	
Adjusted gross estate	$1,081,500
Minus exemption	60,000
Taxable estate	1,021,500
Estate tax	334,085
Bill:	
Adjusted gross estate	1,080,000
Taxable estate	1,080,000
Estate tax before credits	378,600
Total credits	49,350
Estate tax after credits	329,250
Appreciation tax	1,500
Total taxes	330,750

NET CHANGE IN TAXES

	Bill	Present law	Net change
Full marital	$122,750	$139,540	—$16,790
No marital	330,750	334,085	—3,335

Example (4) (A) Assume that a decedent has a gross estate of $5,000,000, that debts and expenses are $500,000, that enough property is left to the decedent's spouse to obtain the maximum marital deduction and that his estate consists entirely of personal assets and publicly traded stock.

Present law:	
Gross estate	$5,000,000
Less debts and expenses	500,000
	4,500,000
Less marital deduction (½ of $4,500,000)	2,250,000
	2,250,000
Less specific exemption	60,000
Taxable estate	2,190,000
Tax under present law	846,300
Bill*:	
Gross estate	5,000,000
Less debts and expenses	500,000
	4,500,000
Less marital deduction	2,250,000
Taxable estate	2,250,000
Tax computation:	
Basic tax	903,300
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	873,500

*There is less than $50,000 of post-1976 appreciation.

(B) Assume the same facts as (A) except that the decedent is unmarried.

Present law:	
Gross estate	$5,000,000
Less debts and expenses	500,000
	4,500,000
Less specific exemption	60,000
Taxable estate	4,440,000
Tax under present law	2,115,400
Bill*:	
Gross estate	5,000,000
Less debts and expenses	500,000
Taxable estate	4,500,000
Tax computation:	
Basic tax	2,205,800
Less nonrefundable credit in lieu of specific exemption	29,800
Tax under bill	2,176,000

*There is no appreciation tax because the rate on the first $50,000 of post-1976 appreciation is zero.

	With marital deduction	Without marital deduction
Tax under present law	$846,300	$2,115,400
Tax under bill	873,500	2,176,000
Increase in tax under bill	27,200	60,600

Example (5). Assume that instead of leaving his entire estate of $5,000,000 by will as in example (4) above, the decedent makes lifetime gifts to his wife of $1,800,000 and leaves the remaining estate to his wife by will. Of the $1,800,000 of lifetime gifts, $900,000 is given in two equal payments of $450,000. The two $450,000 gifts are made in different calendar years, each more than 3 years prior to the decedent's death. The remaining $900,000 of lifetime gifts is made one month prior to the decedent's death.

A. PRESENT LAW

Gift tax under present law

The computation of the gift tax under present law is as follows:

Gift No. 1

Gross amount of gift	$450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
Specific exemption	30,000.00
	258,000.00
Taxable gift	192,000.00
Gift tax on gift No. 1	36,225.00

Gift No. 2

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 2	52,410.00

Gift No. 3

Gross amount of gift	900,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	450,000.00
	453,000.00
Taxable gift	447,000.00
Gift tax on gift No. 3	117,067.50
Tax on gift No. 1	36,225.00
Tax on gift No. 2	52,410.00
Tax on gift No. 3	117,067.00
Total gift taxes payable under present law	205,702.50

Estate tax under present law

Because the decedent paid gift taxes of $205,702.50 in addition to the lifetime gifts to his wife, his remaining estate at his death is $2,994,436.25. The computation of the estate tax under present law is as follows:

Actual estate	$2,994,297.50
Gifts in contemplation of death	900,000.00
Gross estate	3,894,297.50
Less: Administration expense	299,429.75
Adjusted gross estate	3,594,867.75
Less: Marital deduction (50%)	1,797,433.88
	1,797,433.87
Less: Specific exemption	60,000.00
Taxable estate	1,737,433.87
	1,737,433.87
Estate tax before credit for gift taxes paid	635,046.37
Less: Credit for gift taxes paid on prior transfers	117,067.50
Estate tax payable	517,978.87

B. BILL

Gift tax under bill

The computation of the gift tax under the bill is as follows:

Gift No. 1

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 1	32,040.00

Gift No. 2

Gross amount of gift	450,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	225,000.00
	228,000.00
Taxable gift	222,000.00
Gift tax on gift No. 2	74,920.00

Gift No. 3

Gross amount of gift	$900,000.00
Less:	
Annual exclusion	3,000.00
Marital deduction	450,000.00
	453,000.00
Taxable gift	447,000.00
Gift tax on gift #3	166,530.00
Tax on gift No. 1	32,040.00
Tax on gift No. 2	74,920.00
Tax on gift No. 3	166,530.00
Total gift taxes payable under bill	273,490.00

Estate tax under bill

Because the decedent paid gift taxes of $273,490 in addition to the gifts to his wife, his remaining estate at his death is $2,926,510. The computation of the estate tax under the bill is as follows:

Actual estate	2,926,510
Gifts in contemplation of death (including related gift tax)	1,066,530
Gross estate	3,993,040
Less: Administration expenses	292,651
Adjusted gross estate	3,700,389
Less: Marital deduction	1,850,195
Taxable estate	1,850,194
Plus: Adjusted taxable gifts	444,000
Tentative tax base	2,294,194
Estate tax on tentative tax base	924,953
Less: Credit for gift taxes paid during life	273,490
Tax before unified credit	651,465
Less: Unified credit	29,800
Estate tax payable	621,665

A comparison of total transfer taxes under present law and under the bill is set forth in the following summary table:

Summary	Present Law	Bill	Difference
Gift taxes	$205,703	$273,490	$67,787
Estate tax	517,979	621,665	103,686
Total	723,682	895,155	171,473

Example (6). For purposes of this example, it is assumed that *D* is a widower whose total wealth is $100 million. Five years before his death, *D* sets up an irrevocable trust to pay the income to his son *C*, for life and, at *C*'s death the remainder is to be paid to *G*, *D*'s granddaughter. At this time *D* funds the trust with 40 million dollars. *D*'s will leaves his remaining estate to the trust. Thirty years after *D*'s death, *C* dies and the trust corpus is thereafter distributed to *G*. It is assumed that the value of the assets remains constant and there is less than $50,000 of post-1976 appreciation in the assets transferred to the trust by will.

PRESENT LAW

(1) Gift tax under present law:	
Gross amount of gift	$40,000,000
Less gift tax exemption and exclusion	33,000
Taxable gifts	39,967,000
Gift tax	21,872,092
(2) Estate tax under present law:	
Gross estate	38,127,908
Less debts and expense	3,812,791
	34,315,117
Less specific exemption	60,000
Taxable estate	34,255,117
Estate tax	24,764,640
Property passing to trust at death ($34,315,117–$24,764,640)	9,550,477
(3) Total transfer taxes:	
Gift tax	21,872,092
Estate tax	24,764,640
Total taxes	46,636,732
(4) Total passing to trust:	
By gift	40,000,000
By will	9,550,477
	49,550,477
Tax on *C*'s death attributable to the $49,550,477 distributed to G	None
Total taxes for 2 generations	46,636,732

BILL

(1) Transfer tax on gift:	
Gross amount of gift	$40,000,000
Less: Annual exclusion	3,000
Taxable gift	39,997,000
Gift tax	27,018,900
(2) Transfer tax on estate:	
Gross estate	32,981,100
Less: Debts and expenses	3,298,110
Taxable estate	29,682,990
Tax from unified rate table	20,807,893
Less: Unified credit	29,800
	20,778,093
(3) Total transfer taxes:	
Gift tax	27,018,900
Estate tax	20,773,093
Total taxes	47,796,993
(4) Total passing to trust:	
By gift	40,000,000
By deathtime transfer	8,904,897
	48,904,897

New tax imposed on Generation-Skipping Trust at *C*'s death. It is assumed that *C* has a taxable estate of $120,000.

Amount in trust subject to tax	$48,904,897
Less expenses, etc., of winding up trust	2,500,000
	46,404,897
Tax on trust at *C*'s death	31,588,428

TOTAL TRANSFER TAXES

	Present law	Bill	Increase
On D's transfers	$46,636,732	$47,796,993	$1,160,261
On C's death	0	31,588,428	31,588,428
Total	46,636,732	79,385,421	32,748,689

PERSONAL EXPLANATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I was unable to be present in the House of Representatives for the session of Friday, May 21, 1976.

Had I been present, I would have voted "aye" on rollcalls 292 and 293, the votes on the rule and final passage of H.R. 12677, the Comprehensive Alcohol and Alcoholism Amendments of 1976. I would have voted "aye" on rollcall 295, final passage of H.R. 12679, the Extension of the Program for Health Services Research and Statistics and Medical Libraries.

PEPPER POLL SHOWS A MAJORITY OF HOUSE MEMBERS FAVOR BROADCASTING

(Mr. SISK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SISK. Mr. Speaker, our friend and colleague from Florida, CLAUDE PEPPER, recently conducted a poll of House Members to determine whether or not they supported broadcasting of House floor proceedings. A majority of the Members favor broadcasting. Of the 346 Members responding, 238 favor broadcasting. Only 87 Members said they were opposed to the concept. The results of the poll are encouraging, I am sure, to the majority of the House who favor broadcasting, but they have a special significance for Mr. PEPPER.

Back in 1945, when few Americans had ever viewed a television set, then-Senator CLAUDE PEPPER introduced the first resolution to broadcast congressional floor proceedings. Mr. PEPPER was one of only a handful of individuals, I dare say, who recognized the potential of this new medium and had some conception of the enormous influence it would come to have on our daily lives. But, like many a new idea, the time was not quite right.

The Congress, however, did acknowledge the new medium to some extent. Television cameras were permitted in the House Chamber to cover the opening session of the 80th Congress. In the same year, 1947, the first televised congressional hearings were broadcast from the House Education and Labor Committee. These notable firsts, however, awaited many a year for repeat performances.

While the television industry grew and the medium became increasingly important as the principal source of information on public affairs for most Americans, the Congress continued its deliberations without the benefit of this 20th century communications tool. Although legislation was introduced in a number of Congresses, it was not until passage of the Legislative Reorganization Act of 1970 that the House opened its committee hearings to broadcast coverage.

Our Presidents, on the other hand, have viewed television broadcasting quite differently. Recognizing the significance of some 931 television stations broadcasting programs to over 110,200,000 TV sets throughout the country, our Chief Executives have effectively utilized the medium to take their message to the people. The audience that the President can reach via television is staggering. The President's 1974 State of the Union address was viewed by a total of 62.4 percent of all households having television sets or 41,300,000 households. If only two persons per household viewed the speech, the audience was approximately 82,600,000.

It is not surprising, then, to learn that during an 11-year period from 1966 through 1975 our last three Presidents sought on 45 occasions simultaneous television network time to address the Nation. More importantly, perhaps, they received coverage from all three commercial networks on 44 of those occasions. This access to the American people has proved an enormous advantage to each of our last three Presidents.

Congress, of course, has scored its own successes via broadcasting. The public has indicated a keen interest in viewing congressional activities. It is estimated that 20 to 30 million people viewed the 1951 Senate Crime Investigating Committee hearings chaired by Estes Kefauver.

A Gallup poll conducted in August of 1973 indicates that 70 percent of the American people viewed some of the Senate Watergate hearings live, 29 percent viewed a rebroadcast, and only 12 percent had viewed none of the proceedings at all.

Neilsen ratings of the commercial network coverage of the House Judiciary Committee's consideration of impeachment articles against President Nixon indicate that 22.3 percent of all TV households or some 14,499,861 households viewed at least once during the 6-day debate.

Analysis of the Watergate and impeachment coverage shows some interesting facts for those who believe the American people would be bored by congressional debate. Neilsen reports that from June through August of 1973, when the commercial networks rotated the live coverage of the Watergate hearings, the network broadcasting the hearings each day had an audience 12 percent greater than either of the other two networks which carried regular programing. Over the 2-month period the audience for the hearings was 12 percent greater than that for normal entertainment a year prior.

The prime time sessions for the House Judiciary Committee's impeachment proceedings averaged approximately 194 minutes per session according to Neilsen figures. The average household viewed 88 minutes out of the possible 194 minutes. These figures indicated a remarkable attention span for a public that is supposedly bored by congressional debate.

The American public wants broadcast coverage of the Congress. A Roper poll conducted in 1975 shows that 53 percent thought Congress should be covered on television. Another 15 percent wanted television coverage but would limit the coverage to major debate only. Added together these figures indicate that 68 percent favor television coverage of the Congress to some degree.

The House also reflects the attitude of the American people. Mr. PEPPER's poll shows that 68.7 percent of the Members responding favored broadcasting. So that the Members may have the benefit of the total results of the poll, I am including the findings at the conclusion of my remarks.

I also would like to congratulate my colleague on his unstinting efforts to provide the American people an opportunity to watch their Representatives at work via the medium of television broadcasting. Mr. PEPPER has pursued his new idea for 31 years now in both the House and the Senate. It is my sincere hope that finally the time will be right to try a concept that has become mature waiting in the wings for congressional approval. I personally have every intention of pursuing the matter again before the Committee on Rules.

I would remind my colleagues also of an admonition of a somewhat earlier date. In discussing the viability of democratic government, James Madison once wrote:

> A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

These words, I think, are well worth recalling as we celebrate our 200th anniversary as a nation founded on democratic principles.

RESULTS OF THE PEPPER POLL, MAY 21, 1976

The poll was conducted by Congressman PEPPER's staff during the week of April 26. The staff of 413 Members were contacted and copies of the questionnaire were sent to all offices which could not respond over the telephone. Follow-up phone calls were placed to each of these offices to elicit responses. Twenty-two Representatives were not represented in the poll. They include the leadership, members of the Committee on Rules, and the three vacancies in the House.

Three hundred and forty-six Members responded to the first question. The responses to questions 2 through 5 represent the views of the 238 Members who support the concept.

1. Does your Member support radio and television coverage of the House?

Of 346 responding: Yes 238 (68.7%), No 87 (25.2%), Undecided 21 (6.1%).

2. Would your Member support an arrangement whereby a pool of the commercial networks and public broadcasting provides the personnel and equipment for the coverage?

Of 238 responding: Yes 141 (59.2%), No 15 (6.3%), Undecided 51 (21.4%), No Response 31 (13.1%).

3. Would your Member support it if public broadcasting alone provides the coverage and makes it available to other broadcasters?

Of 238 responding: Yes 112 (47.0%), No 34 (14.3%), Undecided 60 (25.2%), No Response 32 (13.5%).

4. Would the Member support an arrangement whereby the House would provide its own equipment and personnel and make the coverage available to broadcasters?

Of 238 responding: Yes 70 (29.5%), No 69 (29.0%), Undecided 67 (28.1%), No Response 32 (13.4%).

5. Should all of the proceedings of the House be open to be covered or should the House leadership decide what should be covered?

Of 238 responding: All should be covered 127 (53.4%), Leadership should decide 28 (11.8%), Undecided 41 (17.2%), No Response 42 (17.6%).

INTRODUCTION OF THE DISTRICT OF COLUMBIA BAIL REFORM ACT OF 1976

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, on numerous occasions this illustrious Chamber has echoed with the despairing cries of my colleagues calling for some action which would stem the tide of rising crime in the Nation's Capital. Out of this hue and cry, a number of measures, some well thought out, others ill advised, have been enacted. One such measure was the District of Columbia Court Reform and Criminal Procedure Act of 1970. That act reorganized the District of Columbia courts and its revision of the Bail Reform Act of 1966, as it applied to the Nation's Capital, was heralded as the long-awaited solution to the crime problem. But the record clearly demonstrates that the Bail Reform Act as applied in the District of Columbia has failed as a tool for stemming the tide of rising crime by hardened criminals and has in fact contributed to the present situation wherein law-abiding citizens feel helpless and deserted in the face of the criminal element.

The time has come in our crime fighting efforts, Mr. Speaker, when we must take action to restore the balance in favor of the law-abiding citizens of our society and deal firmly but justly with the criminal element. Yesterday I introduced legislation, the Bail Reform Act of 1976, which is a first step in achieving this objective. I take this action after having received a most distressing and disappointing response to my entreaty to the District of Columbia Law Revision Commission that it give top priority to revision of the Bail Reform Act.

Rather than take positive steps to respond to an obviously pressing need, the Commission responded by pleading a lack of funds which to some degree is understandable, but the distressing aspect of its response which is the impetus for my action today is its assertion that with respect to the criminal law, the Commission is to give special consideration to an examination of the law for the purpose of discovering defects and anachronisms. This response represents a misplaced emphasis on one aspect of the Commission's mandate and indicates a willingness on the Commission's part to exalt form over addressing a critical problem affecting the lives and welfare of law-abiding citizens.

The Congress clearly contemplated that the Commission would focus its attention on more than discovering defects and anachronisms. I had hoped for a much more forward-moving response which would have precluded me from taking the action I now take. In the face of the Law Revision Commission response, I cannot remain silent and take no action; so my legislation preserves the constitutional rights of the accused while at the same time giving added protection for the safety and welfare of law-abiding citizens.

In more specific terms, my bill will eliminate the maze of different onerous criteria that presently have to be met before pretrial detention may be ordered. My bill will require judges and prosecutors to focus on only one question: Is a person who is charged with such violent crimes as rape, murder, or robbery dangerous to the community or likely to flee? If on the basis of clear and convincing evidence a judge has reason to believe that the defendant will pose a danger to the community or will flee unless he is detained, then the judge may enter an order detaining him.

The defendant's procedural rights would be safeguarded by affording him the right to counsel, the right to a hearing, the right to not have any testimony he may give used against him in his subsequent trial, the right to appeal, the right to an expedited trial, and the right to release if his trial does not commence within 60 days.

By safeguarding the defendant's procedural rights while providing a workable mechanism for detaining those who pose a danger to the community an appropriate balance can be struck between the competing interests of the community and the accused.

This legislation is clearly warranted when we consider the high level of criminal activity committed by persons on probation or parole or while awaiting trial. Various studies of the District's criminal justice system indicate the following: First, about one-fourth of all persons arrested for felonies are out on parole or probation for some previous crime, or else on some form of pretrial release on a pending charge; second, 6

out of 10 persons arrested for felonies have a prior criminal record with 7 percent of the persons arrested between 1971 and 1975 having been arrested at least four times each; third, 5 percent of the persons convicted between 1971 and 1975 who accounted for 15 percent of all convictions have been convicted of at least 3 crimes in the past 5 years; fourth, one-fourth of all present defendants in felony cases in the District are fugitives. Yet, in the face of all this, during a 6-month period during the past year, though the D.C. Bail Agency recommended preventive detention in 52 cases, in not a single one did the Government actually seek detention. If adopted, the legislation which I have introduced will greatly aid the U.S. Attorney and the local judiciary in their efforts to deal effectively with the high rate of crime being committed especially by repeat offenders as well as others who might be on some form of pretrial release.

As I have already indicated, I take this action after receiving an unsatisfactory response from the D.C. Law Revision Commission. Though I would like to see this matter resolved by that entity, I cannot wait for it to correctly interpret the mandate given it by the Congress. I urge and solicit all those sincerely interested in providing a positive and just response to the pressing problem of crime in the Nation's Capital to join me in bringing about adoption of the District of Columbia Bail Reform Act of 1976.

METRO RIDERSHIP THREE TIMES GREATER THAN ESTIMATED

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the Washington Metro transit system has been open to the public for about 2 months. I am pleased to be able to report that ridership on the system has continued to hold at the same high levels that occurred immediately after the system opened. To date, ridership is averaging over 20,000 per day. Original predictions by Metro—predictions termed highly optimistic by some—were for about 8,000 per day.

It is truly encouraging to note that ridership has ranged between 2½ and 3 times the estimates. It says something about the willingness of area residents to make good use of public transportation which is fast and reliable. And the people are saying something too—loud and clear. In polls taken of area residents, the great majority still wish to see this system fully completed—despite the higher cost of construction.

One unique facet of the system is that it shows that Washington actually has three rush hours daily—morning and evening as in other cities, and a noontime rush. Indeed, Metro is carrying more passengers during midday than during the traditional "rush hours." This market is raising a few eyebrows in other cities which are looking at Metro and wondering how they did it.

It is great news indeed that these high ridership levels are holding firm. The fact is that, thus far at least, Metro is a resounding success.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MILLER of California (at the request of Mr. MCFALL), for today, on account of illness.

Mr. HELSTOSKI (at the request of Mr. MCFALL), for today, on account of official business.

Mr. BROOKS, for May 26, 27, 1976, on account of regular session of NATO parliamentarians in Brussels, Belgium, on those dates.

Mr. DANIELSON, on account of official business on Wednesday and Thursday, May 26 and 27, 1976.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. SNYDER, for 5 minutes, today.

(The following Members (at the request of Mr. HALL) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. MCFALL, for 15 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. ASPIN, for 10 minutes, today.
Mr. DRINAN, for 10 minutes, today.
Mrs. MEYNER, for 10 minutes, today.
Mr. TSONGAS, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. BROWN of California, for 10 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. HARRINGTON, for 10 minutes, today.
Mr. DUNCAN of Oregon, for 10 minutes, today.
Mr. ST GERMAIN, for 15 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. LEHMAN, for 15 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. MEZVINSKY, for 5 minutes, today.
Mr. FITHIAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ULLMAN and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $858.

Mr. BROWN of California and to include extraneous matter notwithstanding the fact that it exceeds six pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,716.

Mr. DOWNEY of New York, immediately following the remarks of Mr. PATTISON of New York today.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. MICHEL.
Mr. GRADISON.
Mr. SNYDER.
Mr. WIGGINS.
Mrs. HOLT.
Mr. KETCHUM.
Mr. DU PONT.
Mr. RUPPE.
Mr. BROOMFIELD.
Mr. BURGENER.
Mr. ARCHER.
Mr. FINDLEY in two instances.
Mr. BOB WILSON.

(The following Members (at the request of Mr. HALL) and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MCDONALD of Georgia in three instances.
Mrs. MEYNER.
Mr. BRINKLEY.
Mr. FORD of Michigan.
Mr. DANIELSON in two instances.
Mr. WAXMAN in two instances.
Mr. TSONGAS.
Mr. OBEY in two instances.
Mr. MOSS.
Mrs. KEYS.
Mr. EVINS of Tennessee in two instances.
Mr. MCCORMACK in two instances.
Mrs. BURKE of California in two instances.
Mrs. MINK.
Mr. HAWKINS.
Mr. MOLLOHAN.
Mr. DUNCAN of Oregon.
Mr. HÉBERT.
Mr. KOCH in 10 instances.
Mr. OTTINGER in three instances.
Mr. FARY.
Mr. LUNDINE.
Mr. ROE.
Mrs. SCHROEDER.
Mr. DOMINICK V. DANIELS.
Mr. RUSSO.
Mr. HARRIS.
Mr. SISK.
Mr. HARKIN.
Mr. WIRTH.
Mr. TEAGUE.
Mrs. CHISHOLM.
Mr. LEGGETT.
Mr. OBERSTAR.
Mr. WOLFF in two instances.
Mr. HARRINGTON.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3308. An act to provide for interim regulatory reform as to certain independent regulatory agencies; to the Committees on Interstate and Foreign Commerce, Public Works and Transportation, Merchant Marine and Fisheries, and the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2679. An act to establish a Commission on Security and Cooperation in Europe.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority;

H.R. 12132. An act to extend as an emergency measure for 1 year the District of Columbia Medical and Dental Manpower Act of 1970;

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

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

ADJOURNMENT

Mr. HALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 26, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3371. A letter from the President of the United States, transmitting proposed supplemental appropriations for the legislative branch for fiscal year 1976 and the transition quarter, and budget amendments for fiscal year 1977 (H. Doc. No. 94–504); to the Committee on Appropriations and ordered to be printed.

3372. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the De Luz Heights Municipal Water District, Fallbrook, Calif., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3373. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the Cameron County Water Control and Improvement District No. 19, Harlingen, Tex., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3374. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of his approval of the application from the Hidalgo County Water Improvement District No. 5, Progreso, Tex., for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

3375. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

3376. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend XIX of the Social Security Act to revise the payment reductions required in cases of inadequate utilization controls; to the Committee on Interstate and Foreign Commerce.

3377. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1976 annual report of the Board, pursuant to section 201(c) of the Social Security Act, as amended (H. Doc. No. 94–505); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 10498. A bill to amend the Clean Air Act, and for other purposes (Rept. No. 94–1175, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. EILBERG: Committee on the Judiciary. S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos (Rept. No. 94–1191). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BURKE of California (for herself, Mr. ALLEN, Mrs. BOGGS, Ms. HOLTZMAN, Mr. LEHMAN, Mr. MOFFETT, and Mr. PATTERSON of California):

H.R. 13993. A bill to provide for the establishment of multipurpose service programs for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. CARNEY:

H.R. 13994. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

By Mr. CARR (for himself, Mr. EMERY, Mr. PATTISON of New York, Mr. MILLER of California, Mr. NIX, Mr. EILBERG, Mr. ROSENTHAL, Mr. DRINAN, Mr. PATTERSON of California, Mr. WEAVER, Ms. CHISHOLM, Mr. SEIBERLING, Mr. NEAL, Mr. SOLARZ, and Mr. BEDELL):

H.R. 13995. A bill to amend the Internal Revenue Code of 1954 to deny the business deduction for amounts paid or incurred for lobbying before Congress or other legislative bodies; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 13996. A bill to establish a Department of Health, a Department of Education, and a Department of Welfare, and to direct the President to prepare a reorganization plan providing for the transfer to such Departments of all functions of the Department of Health, Education, and Welfare; to the Committee on Government Operations.

By Mr. DODD (for himself, Mr. TSONGAS, Mr. MANN, Mr. BAUCUS, Mr. BEDELL, Mr. BROWN of Michigan, Mr. CARNEY, Mr. COHEN, Mr. COTTER, Mr. ROBERT W. DANIEL Jr., Mr. EDGAR, Mr. FAUNTROY, Mr. FINDLEY, Mr. FISHER, Mr. FLOWERS, Mr. GIBBONS, Mr. GRADISON, Mr. GRASSLEY, Mr. ICHORD, Mr. KEMP, Mr. KETCHUM, Mr. KINDNESS, Mr. LEGGETT, Mr. LEHMAN, and Mr. MCCOLLISTER):

H.R. 13997. A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence; jointly to the Committees on the Judiciary and the District of Columbia.

By Mr. DODD (for himself, Mr. TSONGAS, Mr. MAZZOLI, Mr. MINETA, Mr. MILLER of California, Mr. MOORHEAD of Pennsylvania, Mr. NEAL, Mr. NEDZI, Mr. NOWAK, Mr. REES, Mr. ROUSH, Mrs. SPELLMAN, Mr. JAMES V. STANTON, Mr. WHITEHURST, and Mr. CHARLES WILSON of Texas):

H.R. 13998. A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence; jointly to the Committees on the Judiciary and the District of Columbia.

By Mr. EDGAR (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BEDELL, Mr. D'AMOURS, Mr. EILBERG, Mr. HANNAFORD, Mr. HARKIN, Mr. LENT, Mr. MCHUGH, Mr. MAZZOLI, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOTTL, Mr. PATTISON of New York, Mr. RANGEL, and Mr. STARK):

H.R. 13999. A bill to amend title 39, United States Code, to establish a special rate of postage for postal cards mailed to Members of the Congress by their constituents; to the Committee on Post Office and Civil Service.

By Mr. FOUNTAIN (for himself, Mr. FUQUA, Mr. LEVITAS, Mr. WYDLER, Mr. BROWN of Ohio, and Mr. HORTON):

H.R. 14000. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; to the Committee on Government Operations.

By Mr. FARY:

H.R. 14001. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. FLOWERS:

H.R. 14002. A bill to amend the Administrative Conference Act; to the Committee on the Judiciary.

By Mr. FORD of Michigan (for himself and Mr. HANLEY):

H.R. 14003. A bill to amend title 5, United States Code, to provide civilian employees of the National Guard certain rights of members of the competitive service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HENDERSON:

H.R. 14004. A bill to amend title 5, United States Code, to extend certain leave benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act; to the Committee on Post Office and Civil Service.

By Ms. KEYS:

H.R. 14005. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources developing projects under the jurisdiction of the Department of the Army; to the Committee on Public Works and Transportation.

By Mr. MATSUNAGA (for himself and Mr. CONTE):

H.R. 14006. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 14007. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities authorized

under such part; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 14008. A bill to establish within the Department of Housing and Urban Development a program providing financial assistance to low-income individuals and families for the purpose of purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Currency and Housing.

By Mrs. SCHROEDER (for herself, Mr. FITHIAN, Mr. KREBS, Mr. D'AMOURS, Mr. BAUCUS, Ms. KEYS, Mr. JENRETTE, Mr. HUGHES, Mr. JACOBS, Mr. LEHMAN, and Mr. EDGAR):

H.R. 14009. A bill to abolish the Federal Energy Administration, to provide for the orderly reorganization of the energy functions of the Federal Government, and for other purposes; jointly to the Committees on Government Operations and Interstate and Foreign Commerce.

By Mr. SLACK:

H.R. 14010. A bill to increase for a 5-year period the duty on certain hand tools, and for other purposes; to the Committee on Ways and Means.

By Mr. SNYDER:

H.R. 14011. A bill providing for certain revisions in the Canal Zone Code; to the Committee on Merchant Marine and Fisheries.

By Mr. TAYLOR of Missouri:

H.R. 14012. A bill to provide a career program for, and greater flexibility in management of, Federal aviation safety employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER:

H.R. 14013. A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes; to the Committee on Ways and Means.

By Mr. TSONGAS (for himself, Mr. DODD, Mr. BAUCUS, Mr. BEDELL, Mr. BIAGGI, Mr. CARNEY, Mr. COHEN, Mr. COTTER, Mr. DOWNEY of New York, Mr. EDGAR, Mr. FLORIO, Mr. GRASSLEY, Mr. HUGHES, Ms. KEYS, Mr. KOCH, Mr. LEHMAN, Mr. LLOYD of California, Mr. MCCOLLISTER, Mr. MAGUIRE, Mr. MAZZOLI, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOORHEAD of Pennsylvania, Mr. NEDZI, and Mr. NOWAK):

H.R. 14014. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. TSONGAS (for himself, Mr. DODD, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. RUSSO, Mrs. SPELLMAN, and Mr. THORNTON):

H.R. 14015. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. WIRTH (for himself and Mrs. SCHROEDER):

H.R. 14016. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. McDONALD of Georgia:

H.J. Res. 963. Joint resolution to stop the sale of one auxiliary submarine to Peru; to the Committee on Armed Services.

H.J. Res. 964. Joint resolution to stop the sale of certain auxiliary ships and craft to Venezuela; to the Committee on Armed Services.

By Mr. MOTTL:

H.J. Res. 965. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of judges of the district courts of the United States; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.J. Res. 966. Joint resolution requesting the President to proclaim the second week in August as "Better Water for People Week"; to the Committee on Post Office and Civil Service.

By Mr. LEHMAN (for himself, Mr. ANDERSON of Illinois, Mrs. BOGGS, Mr. DIGGS, Mr. GUDE, Mr. MCKINNEY, Mr. MILLER of California, Mr. PEPPER, Mr. QUIE, Mr. SHIPLEY, and Mr. YOUNG of Georgia):

H. Con. Res. 645. Concurrent resolution to create a Select Joint Committee on the Congressional Page School; to the Committee on Rules.

By Mr. SEBELIUS:

H. Res. 1215. Resolution to express the sense of the House of Representatives that the President of the United States should direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII,

The SPEAKER presented a memorial of the Legislature of the State of New York, relative to rapid transit serving the Buffalo-Amherst "Corridor" in Erie County, N.Y., which was referred to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DOWNING of Virginia introduced a bill (H.R. 14017) for the relief of Comdr. Joseph A. Siebel; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12169

By Mr. BROWN of Ohio:

Page 7, line 10, strike out "$49,961,000" and insert in lieu thereof "$12,596,000".

Page 8, strike out line 11 and all that follows thereafter down through "1977." on line 14.

H.R. 12645

By Mr. MOORHEAD of Pennsylvania:

On page 37 at the end of the bill, insert the following provision:

"NATIONAL INSTITUTE OF BUILDING SCIENCES

"SEC. 25. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting ", and $5,000,000 for each of the fiscal years 1977 and 1978" immediately after "Fiscal year 1976"."

H.R. 12945

By Mr. ADAMS:

(Amendment to the committee amendment.)

On page 30 of the bill as reported, strike out lines 14 through 17.

By Mr. BADILLO:

On page 37, line 12 add the following new section:

"STUDY OF HOUSING NEEDS IN METROPOLITAN CITIES

"SEC. 25 (a) The Secretary of Housing and Urban Development shall conduct a study for the purpose of assessing the housing needs of individuals & families, especially low and moderate income individuals and families, who reside in metropolitan cities. In making such a study, the Secretary shall give detailed examination to assessing the housing needs in the cities and to determining the best manner in which such needs may be met through Federal housing programs.

"(b) The Secretary shall submit to both Houses of Congress, no later than 12 months after the date of enactment of this Act, a preliminary report of the Secretary's findings and conclusions made as a result of the study described in subsection (a). No later than 18 months after the date of enactment of this Act, the Secretary shall submit to both Houses of Congress a final report containing such findings and conclusions."

By Mr. MURPHY of Illinois:

Page 9, strike out lines 9, 10 and 11 and insert in lieu thereof the following:

SEC. 8(a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "1976" and inserting in lieu thereof "1977".

(b) The Emergency Homeowners' Relief Act is amended by adding the following new section at the end thereof:

"MANDATORY IMPLEMENTATION OF PROGRAM IN STANDARD METROPOLITAN STATISTICAL AREAS WHICH HAVE HIGH HOME MORTGAGE FORECLOSURE RATES

"SEC. 114. The Secretary shall implement the provisions of this title in any standard metropolitan statistical area during any period in which the number of foreclosures on mortgages on one- to four-family dwelling units in such area is greater than 1.2 per centum of the total number of mortgages on such dwelling units in such area.".

Redesignate the succeeding subsections accordingly.

By Mr. RICHMOND:

Page 11, line 10, strike out "$100,000,000" and insert in lieu thereof "300,000,000."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of May 24, 1976, page 15152:

HOUSE BILLS

H.R. 13561. May 5, 1976. Ways and Means. Entitles taxpayers, under the Internal Revenue Code, to elect to take a deduction with respect to the amortization of any qualified school or hospital property, which was purchased from a tax-exempt organization, based on a period of 180 months.

H.R. 13562. May 5, 1976. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make and contract to make periodic assistance payments on behalf of homeowners to mortgagees. Specifies the qualifications for mortgage payment assistance and the amounts of such payments.

H.R. 13563. May 5, 1976. Judiciary. Establishes in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs to furnish financial assistance to citizen and community groups to encourage neighborhood participation in crime prevention and other law enforcement activities.

H.R. 13564. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commision to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13565. May 5, 1976. Interstate and Foreign Commerce. Amends the Regional

Rail Reorganization Act to require the Consolidated Rail Corporation to maintain and preserve for the period of one year after conveyance all rail properties designated in the final system plan for conveyance to a profitable railroad and subsequently conveyed to the Corporation.

Authorizes States to purchase such rail properties during such period.

Authorizes an acquiring railroad to enter into a purchase agreement for rail properties in the absence of an employment offer to the employees of the selling railroad.

H.R. 13566. May 5, 1976. Ways and Means. Amends the Internal Revenue Code to increase the amount of the exemption from industrial development bond treatment for qualified small issues.

H.R. 13567. May 5, 1976. Small Business. Amends the Small Business Act and the Small Investment Act of 1958 to increase specified appropriations for loans made pursuant to such Acts. Changes the loan authority of the Small Business Administration to allow loans to finance residential and commercial construction or rehabilitation. Expands the coverage of the disaster loan program. Permits the Administration to guarantee the payment of expenses incurred in designing or installing pollution control facilities by small businesses. Creates an Office of Advocacy within the Administration.

H.R. 13568. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13569. May 5, 1976. Public Works and Transportation. Modifies the Corpus Christi ship canal project in Texas to require that non-Federal interests agree to contribute 25 percent of the construction costs of the project.

H.R. 13570. May 5, 1976. Post Office and Civil Service. Prohibits the United States Postal Service from changing the nature of postal services provided by any post office unless such change is approved in an election by persons regularly using such facility.

H.R. 13571. May 5, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 13572. May 5, 1976. Education and Labor. Authorizes the cancellation of up to 50 percent of the outstanding principal of national defense higher education loans for specified Armed Forces individuals.

H.R. 13573. May 5, 1976. International Relations. Establishes a Commission on Security and Cooperation in Europe. Authorizes and directs the Commission to monitor the acts of the signatories to the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Agreement) with respect to their compliance with the articles of such Act, particularly with regard to the provisions relating to Cooperation in Humanitarian Fields.

H.R. 13574. May 5, 1976. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlord.

H.R. 13575. May 5, 1976. Banking, Currency and Housing. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 13576. May 5, 1976. Post Office and Civil Service. Prohibits the United States Postal Service from closing any post office which services a rural area or small town unless (1) a majority of the persons regularly served by such post office approve the closing, (2) it establishes a rural station or branch which provides the same postal services as the post office and does not result in any change in the address of persons served by such post office, or (3) it establishes a rural route to serve the area. Allows the Postal Service to establish a rural route as a substitute for an existing post office upon making specified determinations.

H.R. 13577. May 5, 1976. Interstate and Foreign Commerce; Judiciary; Banking, Currency and Housing; Ways and Means. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to impose minimum penalties for specified opiate-related offenses. Amends the Federal Rules of Criminal Procedure to require a hearing to determine whether a term of imprisonment and parole eligibility is mandatory for an opiate-related offense.

Establishes considerations for judicial officers setting conditions for release of any person charged with an opiate-related offense. Makes proceeds of such offenses subject to forfeiture to the United States.

Requires persons exporting or importing monetary instruments in amounts exceeding $5,000 to file a report of such transport.

H.R. 13578. May 5, 1976. Ways and Means. Revises the eligibility requirements for disability insurance benefits for blind persons under the Old-Age, Survivors, and Disability Insurance program of the Social Security Act. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 13579. May 5, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission authorizing specialized carriers.

H.R. 13580. May 5, 1976. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to exclude the service performed by an individual on a vessel used in catching fish or other marine animal life wherein such individual receives as compensation a portion of such vessel's catch, from the definitions of "employment" and "self-employment" for the purposes of deductions, contributions, and benefits under such Acts.

Requires the operator of a vessel employing such individuals to report to the Secretary of the Treasury with respect to the identity of such individuals and their share of the catch.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 616. April 13, 1976. Post Office and Civil Service. Designates the month of April as "Fair Housing Month."

H. Con. Res. 617. April 14, 1976. International Relations. Expresses the sense of Congress that the Soviet Union should release Georgi Vins from imprisonment and allow freedom of religion in that nation.

H. Con. Res. 618. April 26, 1976. Calls for the reenrollment of H.R. 8235 with a specified correction.

H. Con. Res. 619. April 27, 1976. Budget. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authority and the estimated budget outlays for each major functional category. Revises the congressional budget for the transition period beginning July 1, 1976.

H. Con. Res. 620. April 27, 1976. Budget. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authority and the estimated budget outlays for each major functional category. Revises the congressional budget for the transition period beginning July 1, 1976.

H. Con. Res. 621. April 28, 1976. Post Office and Civil Service. Expresses the sense of Congress that the U.S. Postal Service should not close or otherwise suspend the operation of any post office during the six-month period beginning on the date of adoption of this resolution.

EXTENSIONS OF REMARKS

SALEM COLLEGE GRADUATES HEAR CHALLENGING ADDRESS BY C. HOWARD HARDESTY

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 25, 1976

Mr. RANDOLPH. Mr. President, it is particularly gratifying to return to one's alma mater to participate in the graduation of young men and women.

On Sunday, May 16, Salem College held its 88th annual commencement. The ceremony, presided over by Dr. Dallas B. Bailey, the president, was an impressive affirmation of the serious role that today's student has assumed. The meaning and value of education was clearly recognized by this class of 1976. More and more young people do seek disciplines both productive and intellectually satisfying.

In presenting the class of 189 graduates, Dr. Ronald O. Champagne, the dean, told the graduates:

The word credit is used in educational circles primarily as a measure of progress and achievement in academic programs . . . I propose that we consider a different meaning for the word credit, and I believe this meaning represents the whole story. The word credit finds its root meaning in the Latin word "credo," which translates into "belief." The credits you have received represent the belief placed in you and in your intellectual abilities by the people of Salem College, by the faculty especially. They represent the belief placed in you and in your inner resources by the community that you are soon to serve. They represent the belief placed in you and your future development by your families who continually care about your growth. I pray that you will be mindful of this belief and that you will always live up to it.

Honorary degrees were presented to C. Howard Hardesty, a native West Virginian and vice chairman of Continental Oil Co. who was awarded the doctor of science in energy technology; Alice VanLandingham, of Morgantown, W. Va., who next month assumes the presidency of the 8.3 million member American Association of Retired Persons after a distinguished career on behalf of the elderly, a doctor of public service; William R. Cumberford, of Fort Lauderdale, Fla., whose activities include chairmanship of the Council Trust Fund Promotion for the Boy Scouts of America, a doctor of humanics; and James H. Brewster, Jr., a retired Air Force colonel, attorney, and civic leader in Weston, W. Va., a doctor of humane letters. Mrs. VanLandingham, prior to the commencement, presented an inspiring baccalaureate address.

In his commencement address, Mr. Hardesty told the graduates and audience of 1,500 persons that public understanding of and intelligent action concerning this Nation's energy challenges are missing:

Today, most Americans do not sense any urgency in regard to energy matters. Why should they? After all, there is no shortage of gasoline, utilities have adequate supplies of fuel, bigger cars are again in vogue and 55 miles was more appropriate during World War II.

Ignored in this energy euphoria is the fact that in March of this year, for the first time in our history, we imported more oil than we produced domestically. More importantly, imports from Arab producers have increased 60 percent since the embargo of 1973. Increased dependence on imported oil is contrary to our national interest.

Mr. Hardesty warned that:

All of the evidence points to energy scarcity in the next decade, to a dangerous dependence on imported fuels and to a resultant serious economic upheaval.

Since this Nation is without a comprehensive energy policy, it will be a responsibility of today's young graduates and their successors to help formulate such a policy in the years ahead.

Pointing to America's unrivaled advances in productivity, technological achievements and scientific programs, Mr. Hardesty concluded his meaningful and challenging address:

This Nation of ours faces some serious problems, but we do not go into the lists unarmed. Our arsenal bristles with the weapons of achievement and productivity, of technological progress and scientific advancement. Never was a people so well equipped to come to grips with the problems of humanity. In the final analysis, however, the key to your destiny is recapturing the spirit of adventure and accomplishment that characterized our pioneering ancestors. Never before was a people so well equipped to come to grips with itself. The opportunity to succeed exists for each of you.

This past month, I had the privilege of attending a dinner in honor of Howard Rusk who has devoted so much of his life to establishing the World Rehabilitation Fund. The Fund has brought new life to the handicapped and crippled around the world. A wonderful contributing life.

He closed his warm comments with a quote from William Allen White which I pray describes your thoughts about the future—"I am not afraid of tomorrow. I know yesterday and I loved today."

H.R. 12365

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. PATTERSON of California. Mr. Speaker, in the past few weeks I have received correspondence urging my support for H.R. 12365, a bill "To extinguish Federal court jurisdiction over school attendance." The bill has been described as an effective means to stop "forced" busing of schoolchildren. The publicity surrounding this bill has aroused the emotions of many of those who opposed the concept of busing to achieve equal educational opportunity for schoolchildren.

I too am concerned over the problems associated with court-ordered busing to achieve racial balance in schools. While many places have implemented successful busing programs without the controversy and violence that have accompanied current busing endeavors in Boston, evidence seems to indicate that the real academic impact of busing is marginal. Furthermore, busing has not been a social panacea in terms of true integration of our society.

What busing has been is a tool of the last resort in our search to guarantee equal educational opportunity for all, especially those who have been denied such opportunity in the past. Because of the segregation in our housing and in our community patterns, busing has often been the only available means of effectuating equal educational opportunity.

After receiving these letters, I looked closely at the language of H.R. 12365. It reads as follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, pursuant to Article III, sections 1 and 2 of the United States Constitution, no court of the United States shall have the jurisdiction to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school.

This language would, in my opinion, close the door to any efforts to establish plans for school desegregation whether such plans include busing or not. They would, in effect, make the Brown decision and other Federal laws on equal educational opportunity moot. While such laws would remain on the books there would be no way to enforce any part of these laws because the courts could issue no decision which would enforce them. Support of H.R. 12365 or of the discharge petition would, therefore, mean repudiation of the goal of equal educational opportunity for all children. It would indeed have the effect of prohibiting court-ordered busing, but it also would go much further.

H.R. 12365 would set a precedent which, in the long run, could destroy our entire judicial system and, in turn, cause chaos in our society. Our society is built on a system of laws and a belief in enforcement of those laws. The bill proposes prohibiting the courts by law from enforcing other laws. It seems to me to be an inefficient way to approach the problem as well as a dangerous one. What is to stop each group with a particular objection to or interest in a specific law from pushing for passage of other legislation prohibiting court enforcement of that law? This would be an intolerable situation.

It seems to me that drastic action is contemplated by H.R. 12365. We must not let our dissatisfaction with and fear of busing force us into something which would be worse. We must take a comprehensive legislative approach by asking ourselves what is the best way to achieve equal educational opportunity. We must thoroughly analyze this matter, and with the assistance of local school systems and the people come to a consensus on a policy which will produce equal educational opportunity with the least cost and with the least disruption. There are presently bills pending before the Congress which propose alternative methods of meeting these problems, and I believe we should give other approaches a chance before rushing into legislation which would repudiate the goal of equal educational opportunity as well as endangering our system of law.

While I do not believe that busing mandated by the court has achieved the envisioned goal, and hope that we can find other approaches for providing equal educational opportunity, I cannot support H.R. 12365 because the "cure" is worse than the disease. In our haste to alleviate the traumatic upheavals caused by a few busing programs we must not make unwise decisions which will undermine the foundations upon which our society was built and has survived for 200 years.

MEN OF THE YEAR, 1926

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 25, 1976

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a column authored by the distinguished Washington columnist, TRB, appearing in the May 22 issue of the New Republic be printed in the RECORD. The article is a fine tribute to the Senate as an institution and I am grateful to the author and to the publication for this special notice in the Bicentennial Year.

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

MEN OF THE YEAR, 1926

A reporter who occasionally covers the Senate can't help a sneaking hope that Daniel Patrick Moynihan, erstwhile ambassador to the UN, erstwhile envoy to India, erstwhile historian, urbanologist, sociologist, erstwhile everything else, might reach that body. It's stodgy and needs flamboyance. It wasn't always this way. Before radio and television, when a member in a string tie and swallowtails could reach a crowd of 10,000 without straining his tonsils or using amplifiers, the Senate always had a sprinkling of wonderful eccentrics, let alone some noble characters, sometimes combined in one man. They are still there, perhaps masquerading as solid citizens, but electronics has flattened them out, and the disguise is deep.

This isn't an endorsement of Pat Moy-

nihan who, according to some reports, is about to toss his leprechaun's hat into the senatorial race in New York; it is just a nostalgic thought about old times where he might have fitted in better. He's gregarious and controversy-prone, and the fatherless Irish shoeshine boy turned counselor to presidents would liven the Senate up. I found myself turning a red-bound *Congressional Directory*, 69th Congress 2nd Session, December 1926, Calvin Coolidge president, with the cover stamped "Cora Rigby." Half a century ago . . . The Senate list is there, all 96 of them: 53 Republicans in roman type; 42 Democrats *in italic type*, and one Farmer-Labor in ROMAN CAPS—that was Henrik Shipstead, practicing dentist of Kandiyohi County, Minn., who could pass a law or take out a tooth.

My eyes move lovingly down the list starting with witty, courtly Henry F. Ashurst (D) of Arizona, who defined a happy life as one that lasted 90 creative years and ended with a shot from a jealous husband. There is Royal Copeland of New York, with his red carnation. There is gimlet-eyed, austere, Tom Walsh, Teapot Dome prosecutor, born in Two Rivers, Wisconsin but Montanan by choice—the nemesis of Albert Fall. Aiding him in the inquiry was Burton K. Wheeler whose apartment, like Walsh's, was mysteriously rifled, office ransacked, telephone tapped, mail opened and past probed by government agents.

Melodrama didn't begin with *All the President's Men*. Here is the clown from Alabama: "An empty taxi drove up and Heflin stepped out," somebody quipped: an amiable and likable phony, "Tom-Tom" Heflin, who, as *Time* magazine used to say, "mortally hates and fears the Pope of Rome."

What a contrast with humorless Reed Smoot, lugubrious as an undertaker, whose coming to Washington in 1903 occasioned a row because he was a Mormon and did they still practice polygamy? He didn't; in 1926 he was in his fifth term and the author of the violently protectionist Smoot-Hawley tariff. He was immensely powerful (under Coolidge) as chairman of the Finance Committee. Poor chap, he was scandalized by modern laxity and wanted to censor periodicals, provoking the alliterative headline, "Smite smut, Smoot!"

It is a Senate to watch. Reporters loll in their chamber behind the press gallery as they do today, but no longer does the gallery superintendent poke his head through the swing door to cry, "Borah's up!" The room empties in a minute; everybody piles out into the gallery to hear the great rumbling tones of the leonine orator. What an accolade for a man 50 years later; just two words—"Borah's up!"

Down there, too, is Carter Glass from Virginia, founder of the Federal Reserve System, testy and emotional, with an odd twist to his mouth and an accent everybody tries to imitate. "Just think what Carter would say," Woodrow Wilson observed once in pretended awe, "if he used his *whole* mouth!"

"Fighting Bob" LaFollette is gone but his Wisconsin seat is taken by his son. Just two years before in the three-way presidential race LaFollete, Sr. got five million votes. At that 1924 Democratic Madison Square Garden convention another Alabama senator was his state's favorite son. The convention was the first broadcast by radio and ran to 103 ballots. As the battle swung between Al Smith and William Gibbs McAdoo, the roll call started with Alabama, delivered in a stentorian Southern accent—"Al-a-bam-ah casts twenty-fo' votes for (pause) Oscar W. *UN*-derwood!"

What a list. Hiram Johnson, Pat Harrison, Jim Couzens, steely-eyed Jim Reed, that wonderful fraud, Jim Watson. Presiding over it is Gen. Charles G. (Hell-and-Maria) Dawes. They had crackling personalities (like Fiorello LaGuardia over in the House), which somehow the TV age tends to standardize, subdue, flatten. The present election is a media event—for the first time we have an actual Hollywood actor running for president, and inevitably this is a trend so long as we pick candidates by personality parade; television discards issues, parties and the supporting cast of congressmen and throws its spotlight on the Big Shot—the thespian type.

There was one man in the 69th Congress who didn't fit the pattern, George Norris of Nebraska. He was simple, idealistic, rockhard. In the House he overthrew Speaker Joe Cannon, and in the Senate got through the 20th Amendment ending the notorious lame duck session. Then after a 15-year struggle, he won Muscle Shoals for the people. Public ownership shocked Coolidge and Hoover and for the sake of private enterprise Henry Ford offered $5 million to buy the priceless nitrate plant. In his veto Hoover said that public ownership would "break down the initiative and enterprise of the American people . . . I hesitate to contemplate the future of our institutions, of our Government, and of our country if the preoccupation of its officials is to be no longer the promotion of justice and equal opportunity but is to be devoted to barter in the markets. This is not liberalism, it is degeneration." Sounds like Mr. Ford vetoing the daycare bill.

George Norris had arched eyebrows that gave him a surprised look, and he was a poor speaker but, as FDR said of him on a special outdoor stop at McCook, Nebraska (September 28, 1932) as the sunset burned and throbbed above the prairie, "He was the very perfect gentle knight of American progressive ideals."

Quite a crowd when you come to think about it.

KISSINGER'S MISGUIDED AFRICAN POLICY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ASHBROOK. Mr. Speaker, Secretary of State Kissinger's trip to the southern and central regions of Africa has raised much controversy. A look at what he said and promised shows the reasons for the controversy.

Among Secretary Kissinger's promises were the following: tripling of foreign aid from $25 million to $75 million for the regions of Africa he visited; $12.5 million in aid to the self-proclaimed Marxist government of Mozambique; further efforts to return the United States to the U.N.-sponsored embargo on Rhodesia.

In my opinion Secretary of State Kissinger's proposal to increase foreign aid to countries in southern and central Africa from $25 million to $75 million is a bad one. It is more of the same old dollar diplomacy that has not worked before and shows less chance of success now. The basic idea is that by giving American tax dollars to assorted African dictatorships and one-party states that the United States will win their support.

The suggested $12.5 million in foreign aid to Mozambique is not only poor policy but is also wrong. Since the departure of the Portuguese from the country, its dictator has announced that he was turning it into "Africa's first Marxist state." To reach this goal, land has been nationalized and investment has been discouraged. The results are a drastic drop in food production and in production of major cash crops. Unemployment has reached awesome dimensions.

According to European sources, tribal rivalries are beginning to come into play. The dictator Machel draws most of his support from a minority tribe which is persecuting another tribe that is largely Christian. In addition, thousands have been sent to "reeducation centers" which are in actuality concentration camps. Mozambique also has been the active base for terrorists going into Rhodesia.

Mozambique is a country that is unfriendly to the United States, opposes the basic principles of individualism and liberty that our country was founded on, and is a base for terrorism. Yet Secretary of State Kissinger wants to give this dictatorship $12.5 million of the American taxpayers' money.

Another of the Secretary of State's proposal—to reimpose the U.N.-sponsored embargo on Rhodesian chrome—is one that no matter how many times it is defeated by the Congress keeps coming back. Rhodesian chrome plays an important role in the U.S. specialty steel industry. If the Rhodesian supply was cut off, the alternative would be Soviet chrome at higher prices.

Specialty steelworkers know that their jobs are already threatened by often unfair foreign competition. Relying on Soviet chrome would further harm their jobs but yet the Secretary of State ignores this. I will continue to fight efforts to reimpose the ban which will only hurt American workers.

Secretary of State Kissinger has once again ignored basic American interests. This has been a problem for too long with American foreign policy.

Recently my friend Bill Buckley has written on Secretary of State Kissinger and the situation in Southern Africa. He also points out the double standard evident in our policy toward the countries of that region. At this point I include in the RECORD his column from the Washington Star of May 19, 1976:

NEXT TARGET AFTER RHODESIA: SOUTH AFRICA

(By William F. Buckley, Jr.)

We now have Henry Kissinger's testimony to the Senate Foreign Relations Committee in which he explained our discovery of Rhodesia on his recent trip abroad.

Here, briefly, is an account of what went before. When the Rhodesians declared their independence of Great Britain in 1965, Great Britain was greatly miffed, and asked her fellow members on the Security Council of the United Nations to help in declaring an embargo on Rhodesia. That boycott, by the way, was not endorsed by the Conservative shadow government of Great Britain, foreign spokesman Sir Alec Hume taking the position that boycotts don't tend to work. Anyway, the United States, in part because Great Britain was being obliging in the matter of the Vietnam War, went along.

But, in short order, we found we were paying twice as much money for chrome brought up from the mines of the Soviet Union, mostly by slave labor, than others were getting it for from Rhodesia. The final irony came when we caught Russia buying chrome in Rhodesia for the sake of selling it to us at twice the price. That was when Senator Byrd moved in with the so-called Byrd Amendment, which ordered that, boycott or no boycott, American businessmen could order chrome from Rhodesia.

For several years, in response to pressure

from the African states, the State Department asked Congress please to repeal the Byrd Amendment. Congress gave the request a fairly low priority, and the Amendment is still on the books.

Goes now Kissinger to Africa, and we discover that the end of the white government of Rhodesia has suddenly achieved a high priority in American policy. The most exalted assessment of this new policy, said to have hurt President Ford at the primaries, was Senator Jacob Javits': "There are some things more important than being elected president of the United States and this policy is one of them."

It isn't obvious why Senator Javits thinks it is more important to boycott Rhodesia because there is minority rule there than it is to boycott Poland because there is minority rule there, or any of the 45 other African states because there is minority rule there. If what makes the difference is that there is a Cuban presence on African soil, then one wonders whether Cuba was emboldened to send a Panzer division into Africa by the unctuous treatment of Castro a few months earlier by a couple of American congressmen including Jacob Javits.

Anyway, as it stands, the world's perception is that suddenly the United States discovered the great threat to world peace and self-esteem of—Rhodesia. There may be a lot of dumb people in the world, but hardly enough to buy the proposition that the United States only just now discovered the horrors of minority rule in Rhodesia as distinguished from minority rule in the rest of Africa (four states excluded).

The rest of the world will reason, quite plausibly, that what burns us is the Cuba factor. And the rest of the world is sure to reason that the Cubans, by their intervention, prompted the American colossus finally to take an interventionist stand in Rhodesia. Even assuming the best, namely that the black countries surrounding Rhodesia reject Cuban help in assaulting Rhodesia, Cubans will remain national heroes in militant black Africa in virtue of their primary relationship to the liberation, as we call it, of Angola; and their secondary role as catalyst of American aid in the overthrow of Rhodesia.

Now it would appear to be plain, after the fall of Mozambique and Angola, that the days of Rhodesian white rule are numbered. It appears equally plain that there is no assurance whatever that the rule that will replace Ian Smith's will mean a better life for African blacks, or a tolerable life for Rhodesian whites. Kenyatta of Kenya is one of the few rulers who stuck by his word to protect the minority rights of white men. In order to accomplish this, he acquired full, despotic powers for himself. So that it might be said, paradoxically, that in order to maintain the freedom of whites, he took away the freedom of blacks.

In Rhodesia, it is not likely that a successor government, notwithstanding the moderate nature of the men with whom Smith has dealt, is likely to follow the path of Kenyatta in preference to the path of Mozambique-Angola. When the dust from all of that clears, there will sit South Africa, like a mountain of gold, glistening target of African diplomacy, Soviet arms, and American confusion.

H.R. 13650

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WOLFF. Mr. Speaker, on May 7, 1976, I introduced H.R. 13650, a bill to provide that elderly persons residing in dwelling units receiving Federal assistance shall be granted certain rights in connection with their leases or rental agreements. Although I have already outlined my reasons for introducing this legislation—CONGRESSIONAL RECORD, May 12, 1976, 13559–60—I now have received additional information indicating the impact of my proposed legislation.

Briefly, H.R. 13650, provides that an elderly person residing in federally assisted housing who incurs or aggrivates a physical or mental disability to the extent that it is medically advisable for the tenant to obtain more compatible housing is granted the option to terminate, without penalty, the balance of his or her leasehold. Similar rights are also granted to the spouse or estate of a deceased elderly tenant. In each of these situations I believe it could be unconscionable for a landlord to hold the tenant to the terms of his or her lease, and further that it is the landlord, rather than the tenant, who is in a superior position to secure a substitute tenant in such cases.

Figures I have obtained from the Department of Housing and Urban Development indicate that as of December 31, 1975, approximately 304,300 FHA multifamily dwellings were occupied by elderly persons and an additional 460,000 low rent public housing units were also occupied by elderly tenants. It is estimated that elderly tenants in these two classes of federally assisted housing number 429,700 and 713,000, respectively, for a total of 1,142,700. Additionally, the Farmers Home Administration administers some 20,500 rental units occupied by elderly tenants.

By the end of fiscal year 1976, HUD estimates that an additional 400,000 section 8 dwelling units will be available, with approximately 160,000 of these occupied by an estimated 240,000 elderly tenants. Finally, HUD projects that other multifamily housing programs will generate some 10,000 dwelling units occupied by an estimated 14,000 elderly persons.

Thus, according to the Department of Housing and Urban Development, an estimated 934,300 federally assisted rental housing units will be occupied by approximately 1,396,700 elderly tenants at the end of fiscal year 1976. Each year, as the Federal Government continues to provide for the housing needs of our elderly citizens, the number of elderly tenants in federally assisted housing will continue to increase. It is, Mr. Speaker, to these people which my legislation is directed.

I will be circulating a "Dear Colleague" in the near future, and I hope that my colleagues who share my concern over the problems facing elderly tenants will join with me on this bill.

JAMES HAYES, CONTROLLER, MONTEBELLO UNIFIED SCHOOL DISTRICT

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DANIELSON. Mr. Speaker, on June 2, 1976, James Hayes, controller for the Montebello Unified School District, will be honored on the occasion of his retirement after 37 years of distinguished service to the school district. Mr. Hayes, as controller, has been in charge of preparing the budget and financial reports for State and Federal programs, maintaining attendance accounts, securing insurance, and paying salaries for over 3,000 employees.

His service to the school district has been both long and commendable. Over the 37 years that James Hayes has been involved with the district's finances, the operating budget has grown from less than $1 million to more than $40 million annually.

I am happy to join with the students, faculty and administrators of the Montebello Unified School District in thanking Mr. Hayes for the part he played in the expansion of education in our area.

WHO DEFINES "THE PUBLIC INTEREST" FOR OUR NATIONAL FORESTS?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, over the past 16 years there has been a decided movement to include environmental protections in many of our Federal programs, including the management of our national forests. The National Environmental Policy Act helped to weave the consideration of the effects of particular decisions on the ecological habitat which surrounds us all by requiring the various agencies and departments to file environmental impact statements pertaining to such decisions.

But this step does not appear to be enough, for evidence on ecologically destructive soil erosion, water pollution, and nutrient run-off caused by careless timber harvesting practices in our national forests continues to be presented. It is possible that the Congress has not taken into consideration the complete effects of handing over public forest management to the U.S. Forest Service, without the ongoing use of our oversight responsibility, and without any specific restrictions and strong guidelines set down in law.

One of the main problems which can evolve in such a case concerns the clarification of the public good. I would like to quote from a statement made by Charles Reich, published in 1973 by the Center for the Study of Democratic Institutions, on this very subject—which I would like to include in full in the RECORD—"The great danger is that an entrenched professional bureaucracy will become shortsighted in its perception of the public good. It may see only the needs of the next decade when planning for a century is essential. It may see only local demands when national needs cry for consideration. It may see where immediate economic gain lies but fail to see the values of "noneconomic" uses. It may care so much about today's balance sheet that it forgets tomorrow's heritage."

I sincerely believe that it is time for

the Congress to acknowledge the need to play a greater role in the future management and protection of our national forests. We are the direct representatives of the people, and so, simply due to our elected status which encourages us to be more aware of the public's interests and needs, we should exercise our status to insure the preservation of their interests.

I urge my colleagues to read the following treatise on this important subject of public input in the management of public forests:

BUREAUCRACY AND THE FORESTS

(By Charles Reich)

The forests of our nation are a vast experiment in public ownership. The people of the United States hold in common a rich and splendid kingdom of timber, rivers, minerals, and mountains—well over two hundred million acres of land from New England to Alaska.

Ownership is easy. Effective ownership, including a voice in the planning and management of this vast acreage, is difficult. Managing the forests is no mere caretaker's job. There are fundamental choices to be made—choices that pit one portion of the public against another, and that can change irrevocably the character of the domain as a whole.

Forest land can be managed primarily for the exploitation of its material resources—its timber crop, grazing lands, minerals, water supply, and hydroelectric power. Or it can be given over to mass recreation—summer and winter sports, camping, picnicking, and resorts. Or it can be preserved for essentially spiritual values—a wilderness retreat from frantic city living, a sanctuary for the qualities of man that are "best when least in company."

Today's growing population tears insatiably at the forests. As people spread into every corner of the land the forests shrink. Armies of mechanized campers invade. Dam builders covet choice valleys. Sheep nibble the high pastures. The power saw turns beauty into board feet. Roads drive deep wounds into the solitudes.

Management must decide between the competing demands on the forests. When different uses clash, which shall be favored? How are local needs to be balanced against broader interests? Who is to have the benefit of the economic resources, and on what terms? How are the conflicting recreational demands of fishermen, skiers, hunters, motorboat enthusiasts, and automobile sightseers to be satisfied? Should the requirements of the future outweigh the demands of today?

How to make such decisions—and similar decisions in every area of public ownership—is a major dilemma for democratic government. Government is now so complex that often it is impossible for the people, or their elected representatives in Congress, even to be informed of the issues. Professional bureaucracies grow up to do the work of management and planning, and decisions touching the vital interests of the commonwealth are made in rooms insulated from the voice of the people.

In large measure, the power to create fundamental policy for the publicly owned forests has fallen to small professional groups. They make bitterly controversial decisions, choices between basic values, with little or no outside check. How this has come about, and whether there is any way the people can or should assume a voice in determining the future of their forest heritage, are questions that will be explored here.

CONGRESS DELEGATES ITS RESPONSIBILITIES

In a democracy, laws and policies, including laws governing publicly owned resources, must theoretically be made in public by the people's elected representatives. But in today's overcomplicated world an overwhelmed Congress has been forced to delegate a large measure of legislative power to specialized executive and administrative agencies the officials of which are not elected or directly controlled by the people.

When congressional relinquishment of the law-making function first assumed major proportions, in the early days of the New Deal, the Supreme Court tried to halt the trend. The justices declared that legislative power cannot be delegated and that Congress can permit the executive agencies to make "regulations" only within the boundaries of carefully prescribed standards. But growing government soon broke through this retaining wall, and eventually the courts ceased to demand strict standards for delegation.

Congress has passed over the control of different portions of the nation's forest land to three not always cooperative executive agencies of the federal government: the Forest Service in the Department of Agriculture, and the National Park Service and the Bureau of Land Management in the Department of the Interior. The Forest Service has the largest share. It administers all public lands reserved as national forests. The National Park Service has jurisdiction over areas of special scenic or historic significance, including parks, monuments, battlefields, and other reservations. The Bureau of Land Management controls immense stretches of public land, much of it treeless but also including choice timber on the West Coast and other forests in Alaska. Congress has granted each of these agencies sweeping powers of legislation and policy-making.

The basic charter of the Forest Service is a statute passed in 1960[1] which declares:

"It is the policy of Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. . . . The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. . . ."

The two crucial terms are defined as follows:

"Multiple use" means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

"Sustained yield of the several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land.

Earlier statutes giving the Secretary of Agriculture legislative authority were left standing as additional sources of power. A sampling of these shows the nature of the standards fixed as "guides" to the Secretary's action. He is authorized, on thirty days' notice, to sell timber in the national forests "for the purpose of preserving the living and growing timber and promoting the younger growth . . ." to the extent "compatible with the utilization of the forests." He can set aside areas for town sites upon a "satisfactory showing of need therefor." He may permit the use of national forest land for hotels, resorts, facilities, summer homes, stores, or commercial, industrial, or public buildings, provided only that this does not "preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests." When he finds that lands are "chiefly valuable for agriculture," and "may be occupied for agricultural purposes without injury to such national forests and . . . are not needed for public purposes," he may open them to homestead entry "in his discretion." He may permit the use of rights of way for electrical plants, power lines, radio and television, and other communication facilities "upon a finding . . . that the same is not incompatible with the public interest." He may permit roads and railroads, and in his discretion he may permit rights of way for dams, ditches, canals, and reservoirs.

The National Park Service in the Interior Department is required to preserve the special values of its lands; it cannot open them to multiple use. Nevertheless, it can make policy within wide statutory boundaries. The Secretary of the Interior is authorized to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks . . . sell or dispose of timber . . . where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park . . . provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks . . . grant privileges, leases and permits for the use of land for the accommodation of visitors . . . for periods not exceeding thirty years . . . grant the privilege to graze livestock . . . when in his judgment such use is not detrimental to the primary purpose for which such park . . . was created . . . grant said privileges, leases and permits and enter into contracts relative to the same . . . without advertising and without securing competitive bids. . . ."

In addition, the Secretary may grant rights of way for power and communication facilities if these are not incompatible with the public interest; build airports in or in close proximity to the national parks if an airport is necessary to the proper performance of the Department's functions; build roads, bridges, and trails; and contract for services and accommodations for the public. He may also authorize timber sales, grazing, leases of land, and rights of way in specific parks; for example, in Sequoia and Yosemite Parks he may "sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park. . . ."

The miscellany of forest lands under the control of the Bureau of Land Management in the Interior Department is subject to no single pattern of statutory regulation. The lands forfeited under the Oregon and California Railroad and Coos Bay Wagon Road grants—among the nation's finest forests—are to be managed ". . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of tim-

Footnotes at end of article.

ber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities."

Timber in Alaska may be sold by the Secretary of the Interior if necessary for consumption in Alaska; and he may sell "so much thereof as he may deem proper." In cases not otherwise governed by law, the Secretary may sell timber on the public lands if the sale "would not be detrimental to the public interest"; he may also allow public or nonprofit bodies to take timber "in his discretion." He may also sell dead, down, or damaged timber and permit some residents to cut timber.

In general, lands under the jurisdiction of the Secretary of the Interior, not otherwise reserved, may be disposed of in small units to any governmental body or nonprofit corporation for "public" or "recreational" purposes; small tracts may be sold or leased to private individuals for residence, recreation, business, or community sites unless this will impair the use of water for grazing or irrigation. And various types of rights of way may be granted. Many other statutes bear on these lands; they add up to the broadest sort of authority for the Bureau of Land Management.

The standards Congress has used to delegate authority over the forests are so general, so sweeping, and so vague as to represent a turnover of virtually all responsibility. "Multiple use" does establish that the forests cannot be used exclusively for one purpose, but beyond this it is little more than a phrase expressing the hope that all competing interests can somehow be satisfied and leaving the real decisions to others. The "relative values" of various resources are to be given "due consideration," but Congress has not indicated what those values are or what action shall be deemed "due consideration." Congress has directed "harmonious and coordinated management of the various resources," but it has left the Forest Service to deal with the problem that different uses of resources often clash rather than harmonize. Most significantly, Congress has told the Forest Service to "best meet the needs of the American people" but has left it entirely up to the Service to determine what those needs are.

What is the job of Congress if not to determine the needs of the people and how they should be met? The Forest Service has been given authority to decide whether the American people need the forests more for resources or for recreation or for wilderness or for dams and public power. And because Congress has offered no standards or policies of its own, almost any choice by the Forest Service would be within its delegated authority. Whether it cuts trees, builds dams, puts up hotels, or leaves the woods undeveloped, it would be hard indeed to hold the outcome to be legally in conflict with any congressional mandate.

The standards used for the areas under the Bureau of Land Management, and to a large extent those under the national parks, are equally vague. Words like "not incompatible with the public interest," "extent compatible with the utilization of the forests," "satisfactory showing of need therefor," are mere euphemisms that abdicate all real power; they are like the mumbled "drive carefully" employed by fathers when handing over the car keys.

The power granted by Congress is awesome. It is nothing less than the power to determine forever the character and use of the nation's forest heritage. For example, the authority to permit timber to be cut and sold, possessed to some extent by all three agencies, is the authority to make a permanent choice between wilderness and a forest busy with roads and bulldozers. The authority to permit the construction of permanent buildings, specially granted to the Forest Service and the Park Service, is sufficient to allow the commercialization of recreation on a resort basis; parts of Yosemite and Glacier Parks are visible illustrations.

In view of this transfer of authority from Congress to three executive agencies, some very important questions arise. Are the decisions of the agencies made openly or in private? Are they made after deliberation and debate? Does the public have a chance to participate? Is there any check or review of what is decided? Answers to these questions are a measure of the degree to which the people retain control over the two hundred million acres of forest lands that they own.

THE AGENCIES MAKE POLICIES

The forest agencies have adopted elaborate internal procedures in order to exercise their management, policy, and planning functions. Decisions are reviewed and re-reviewed from field offices up to carpeted. Washington chambers in stately administrative progression. But with only a few exceptions—important but limited—decisions are made wholly within the executive agencies, without notice to or participation by the public, and without effective check or review beyond the Secretary of Agriculture or of Interior.[2]

In the Forest Service, procedure begins with planning. National, regional, and subregional guides are prepared, with the assistance of Forest Service personnel on all levels. These tend to be very general. Specific decisions usually follow an upward route from local Forest Service officers, who make the proposals, through review at a regional level, to final approval in Washington. If the decision requires funds, it will also be considered by budget officials in the Department of Agriculture, by the Budget Bureau, and ultimately by Congress as part of the appropriation procedure.

Throughout this activity there are outside influences of varying importance. Local rangers are officially encouraged to participate in local civic activities, and to discuss the Service's plans on the local level. The Service appoints national and regional advisory councils which consult from time to time. On every level there are informal contacts with representatives of organizations, members of Congress, public officials, and interested persons who write in.

Procedures and influences in the National Park Service and the Bureau of Land Management are not dissimilar, but generally speaking they are less elaborate. All three agencies make "institutional" decisions—group decisions in which it is difficult to pinpoint individual responsibility.

In none of the three agencies do the overall procedures provide an opportunity for the general public to participate. The agencies maintain close informal contacts with some outside persons and organizations, but these are not equivalent to the public. The agencies give no general notice of pending decisions and provide no general opportunity for the public to be heard. There is no procedure by which the public can initiate proposals. The post office is always available, but the influence of letters on official action is uncertain.

In short, there is a wealth of informal influence on the decision-making process, but virtually no formal public rights. The distinction is an important one, not only because the "informal public" is selective but because formal expressions of views must receive a degree of consideration and review that informal expressions cannot expect.

One exception to this practice occurs whenever some proposed action will interfere with the contractual rights or other legally protected interests of a particular individual. Then the person affected may seek to have the decision reconsidered. The Forest Service has detailed regulations governing the procedures in such situations.[3] The aggrieved person is permitted to file a written request for reconsideration, and may present evidence at a hearing, after which the agency renders a final decision based upon the record made at the hearing. The Bureau of Land Management has regulations for hearings on timber management units and rights of way in its northwest forests.

This special procedure is actually of very narrow effect. It confers no rights on the general public. And only in rare cases would any person have an individual legal grievance against the broader management or planning decisions of the agencies. Cancellation of a contract to sell timber could be reviewed at the instance of the buyer, but the underlying decision about the use of the land for lumbering, watershed, or recreation would usually not touch on any legal rights.

A far more important exception in terms of public participation is the so-called advisory hearing, which is sometimes held when an announced decision produces a loud enough clamor. This procedure is used on an *ad hoc* basis by the Park Service; the Forest Service has formally adopted it to assist them in their decisions about wilderness classifications. Although the advisory hearing method applies to only a tiny portion of the decisions concerning the forests, it reveals a great deal about the underlying problems of public participation in forest planning.

The Forest Service has recognized the desirability of preserving some forests in their natural state through regulations that provide for the classification of sections as wilderness areas or wild areas. Such areas are closed to lumbering, to roads, and to the more civilized forms of recreational use; they are to be preserved as much as possible in their primitive condition.[4]

Under Forest Service regulations wilderness and wild areas may be established, modified, or eliminated by order of the Secretary of Agriculture for wilderness areas or the Chief of the Forest Service for wild areas. Any such action may be preceded by an advisory hearing at which members of the public can appear and present their views. Notice of the contemplated action must be given at least ninety days before the effective date. Then, "if there is any demand for a public hearing" the regional forester is directed to hold one, and to make a report of it to the Chief of the Forest Service, who submits recommendations to the Secretary of Agriculture.

These regulations, which have the force of law, are supplemented by inter-office directives to Forest Service officials. Under the Forest Service Manual, action is begun by a district ranger, who prepares a report describing the area and assessing its "value for recreation versus value for other uses." The report then goes to the forest supervisor, who reviews it, amends it if necessary, and forwards it to the regional forester with recommendation for approval or disapproval. The latter can reject or forward it to the Chief. If the Chief tentatively approves, the regional forester posts notice of the proposed action and states that a hearing will be held if there is reasonable demand. The regional forester must also see that the notice is brought to the attention of groups known to be interested in wilderness and wild areas.

If the regional forester determines that there is demand for a hearing, it is his responsibility to call one. It is public and informal, and held before a presiding officer

Footnotes at end of article.

appointed by the regional forester. Ordinarily he is an attorney with the Department of Agriculture. The time and place of the hearing are apparently discretionary with the regional forester. At the hearing, a Forest Service representative outlines the proposal under consideration and then other persons are permitted to present their views. Cross-examination is not allowed, but questions for other speakers may be addressed to the presiding officer. After the hearing the presiding officer prepares a report containing a summary of the issues and the testimony, and this is submitted to the Chief to assist him in making his decision.

In any hearing procedure the crucial elements are notice to the public, opportunity to be heard, the method of decision, and the method of reviewing the decision. The advisory hearing procedure raises problems in each of these areas.

Forest Service regulations go to considerable lengths to provide adequate notice: publication in local newspapers, posting, and special notification of interested groups. The difficulty is that wilderness classification is of interest to the public as a whole, yet only local people, plus certain special interest groups, are likely to hear about any given proposal. Hence the hearing is likely to be a debate among local interests, rather than an assessment in terms of national goals. The people of eastern cities have a major stake in forest policy, yet they are unlikely to be represented at hearings. Perhaps there is no realistic way that notice could be given nationally. But the problem is real.

Opportunity to be heard is freely granted to all, but the difficulty is that the issues open for discussion at the hearing may be, as a practical matter, severely limited. It is likely to be a *pro* or *con* debate on the proposal itself without any practical way to consider alternatives. This is not necessarily the fault of the Forest Service procedures but may be inherent in the nature of the advisory hearing itself.

The process of decision, on the other hand, raises problems that flow very clearly from the specific hearing procedures. A proposal to establish or change a wilderness area is initiated by local Forest Service officials. These same officials are then responsible for the appointment of an officer to preside at the hearing. This officer performs only the very limited function of reporting the testimony. According to Forest Service practice, the real decision is that of the regional forester and the Chief, both of whom have been responsible, with their subordinates, for the original recommendation.

As a result, one group of persons holds the functions of advocate and judge. There is no provision for a detached judgment. The procedure thereby does violence to the well-established principle of separation of functions. Lawyers know from long experience that disinterested, well considered decisions are most frequently reached by a clear-cut separation between those who advocate and those who decide. The danger is not necessarily bias or unfairness, but simply the likelihood of a closed or made-up mind, a weakness to which all human beings are subject. Many agencies called upon to decide between competing interests have established a separate group of hearing officers who do not share in the day-to-day work. It is too much to expect that foresters who initiate and argue in support of a particular proposal can then adequately evaluate public criticism or counterproposals that often represent thinking they have earlier rejected.

Another problem with the advisory hearings is that the decision does not have to be supported by a statement of reasons. This can of course be a barren formality, but it can also have the effect of requiring someone to consider the testimony at the hearing and explain to himself (and therefore to others) why one point of view is to be accepted and another rejected. In a purely advisory hearing the public may talk, but there is no assurance that anyone will listen. Requiring an explanation for a decision might encourage listening. Furthermore, a statement of reasons gives some basis for a reviewing officer to determine whether a decision is well taken.

The final defect in the Forest Service advisory hearing procedure is the lack of any method for the public to participate in the review of a decision. If an initial decision is made after a hearing, and based upon reasons publicly stated, dissatisfied persons should have the opportunity to object and argue (at least in writing) before the Chief of the Forest Service or the Secretary of Agriculture makes his final decision. The present procedure has little provision for the correction of error, and little to ensure that final decisions are made only after genuine deliberation.

If public participation in forest agency planning is considered desirable, the advisory hearing procedure has serious shortcomings. It does not live up to the standards of the Administrative Procedure Act and the general law that has developed around the Act. At the same time it must also be said that advisory hearings, even though used for only one of the many types of forest decisions, are better than no hearings at all, and certainly better than relying solely on informal consultations with a few specially interested groups and individuals.

PUBLIC RIGHTS UNDER THE LAW

Does the public have any rights that have been established by statutes or by the courts in these matters to do with public lands? In other words, does the general law offer any means by which members of the public can force an agency to heed their views?

In the few times when citizens have attempted to challenge the decisions of management concerning the public lands, they have been rebuffed by the courts. In 1961 the Superintendent of Yellowstone Park undertook an elk-slaughtering program that aroused intense controversy. Three men, all outfitters and guides, brought a suit in which they alleged that the Superintendent's action would drive them out of business; that it was a wanton, cruel, and needless slaughter; and that the Superintendent had shown a high-handed and autocratic attitude toward the complainants. Dismissing the suit, the court said that it could not "correct mistakes or wrongs allegedly resulting from abuse of discretion or from absence of necessity; [the courts] cannot assume a wisdom superior to that of the executive or legislative departments with respect to the disposition of animals in Yellowstone Park." Similarly, a land classification decision under the Taylor Grazing Act has been held to be non-reviewable, and so has a proclamation setting aside an area as a national monument. And when a citizen sought to challenge a Presidential proclamation prohibiting the hunting of wild geese, he was told that there was no judicial review because the action was "a proper exercise of the unlimited and unreviewable discretion vested and reposed by the [Migratory Bird Treaty] Act."

Congress seems to have intended these results. None of the statutes that confer powers over forest management on the Department of the Interior or the Department of Agriculture provides that the public must be allowed to participate in basic decisions of the National Park Service, the Forest Service, or the Bureau of Land Management. Congress, at least in those specific statutes, has vested sole policy-making authority in the agencies. There is, however, a general statute dealing with the procedures of all government agencies. This is the Administrative Procedure Act, passed in 1946, which lays down procedural requirements for two types of agency processes: "adjudication" and "rule-making." Of the two, most forest management decisions more nearly resemble "rule-making." About this the Act says: (1) notice of proposed rule-making must be published in the *Federal Register;* (2) interested persons must be allowed to submit their views orally or in writing; (3) the agency must incorporate in any rules adopted "a concise general statement of their basis and purpose."

If the forest agencies conformed to these requirements, there would be a substantial increase in public participation. They do not so conform, and it is far from certain that the Act really requires that they must.

In the first place, the rule-making provisions do not apply to "any matter relating . . . to public property." While it may be argued that this refers only to property in the narrow sense of buildings or street lamps, the exception can certainly be read to sweep in all forms of public ownership. In the second place, forest management decisions might be held not to come within the Act's vague and unpredictable definition of rule-making. In the third place, even in cases where the action is clearly rule-making, an agency is not required to observe the Act if it finds, for good cause, "that notice and public procedure are impracticable, unnecessary, or contrary to the public interest." Furthermore, the Act requires no procedures whatever for "interpretative rules, general statements of policy, rules of agency organization, procedure or practice. . . ."

The Act does state that interested persons may appear and present their views to "any agency" on "any issue" unless this would interfere with the orderly conduct of the public business. But this provision has rarely been employed in practice, and it is doubtful if it confers on the public any enforceable rights if an agency chooses to keep the door closed.

Unless the three forest management agencies voluntarily subject themselves to the Administrative Procedure Act, the question of its applicability to them can be settled only by court decision. But here another difficulty arises: the Act says that judicial review is barred on any agency action that is "by law committed to agency discretion." The issue has not been squarely decided, but it seems likely that building a road, classifying a forest area for lumbering or recreation—in fact, all management and planning actions—would be held to be within "agency discretion." In short, the public can look for little help from the Administrative Procedure Act.

Leaving aside the Act's vagaries and exceptions, are there any rules of *general law* under which the public may have a right to participate in forest planning? Here a highly technical but probably insurmountable legal obstacle bars the way. The courts have held that the public as such cannot complain of government action; only an individual with a specialized interest called "standing" can assert any rights.[5] In other words, a member of the public could complain of action concerning the forests only if he had an individual contractual or other special interest to distinguish him from other members of the public. A concessionaire with a contract to maintain a hotel on National Park land might have such a right; one whose favorite fishing spot in a national forest was threatened by bulldozers surely would not. It was on grounds of "lack of standing" that the courts held that a group of American citizens, citizens of Pacific islands, and other nationals could not challenge proposed nuclear testing. In view of

the nature of forest management decisions, it would be rare for anyone to have "legal standing" under which he might participate or protest.

Behind this technical legal rule of "standing" lies a major question: Who is the "interested public" in terms of a planning decision? Clearly it is not just the special interests—the loggers or concessionaires—that are affected; it is the entire population that uses or might use the forests for any purpose. The problem of "interest" lurks under the surface of all discussions of "public rights" in the agency process. In any event, although the law is always in a state of change, neither Congress nor the courts have yet recognized public legal rights in forest management beyond the point of voluntary invitation by the agencies themselves. And it should be added that it is far from certain that judicial review of a typical Forest Service or Park Service decision would have any important effect even if it could be obtained. Courts cannot review the wisdom of agency decisions but only the limited question of whether a given action was a proper exercise of the power granted by Congress. Given statutory authority as broad as the Multiple Use Act, it is hard to see how a court could overturn as "unauthorized" any imaginable decision concerning policy or planning for the forests.

THE PROFESSIONALS AND THE PUBLIC

Is a greater role for the general public in forest management possible or desirable? Before this can be answered, two prior questions must be asked. First, is forest management so technical and specialized that only professionals can intelligently contribute to it? Second, even if forest management is not unrelievedly technical, is unrestricted management by professionals desirable because it is most likely to achieve a balanced response to the public interest?

Virtually every forest management decision depends in part upon factual information of a technical nature. A knowledge of timber, soil, watershed, fire hazards, and recreation is essential to determine what uses can be made of a particular section, and under what circumstances. However, when the technical information is all in and fully evaluated, it will not necessarily dictate, in and of itself, the choices that management may make.

The Forest Service recognizes that management requires conscious planning because the national forests and their resources are not adequate fully to satisfy individual desires for space and other resources. In other words, after the possible uses have been ascertained, there must often be a choice between them. It is this choice that involves non-technical judgments, as well as a consideration of the choice in its relation to overall planning for the future. The Forest Service Handbook recognizes this when it says that, to merit classification as wilderness, an area must satisfy the following condition:

"Its tangible and intangible values as a wilderness area must fully offset the value of all resources which would be rendered inaccessible or otherwise unavailable, both within and adjacent to the proposed boundaries, as a result of the classification."

And there must even be a choice among kinds of recreation:

"The wilderness classification precludes many other types of use and it is necessary to consider all competing values. A majority of people who go to the forest for recreation do not have the ability or the desire to get away from the easy travel made possible by roads. They are interested in camping near their cars, picknicking, touring, and visiting summer homes or resorts. Many feel that the wilderness classification is discriminatory because it permanently excludes them from areas which might otherwise be developed for their enjoyment."

Wilderness classification clashes with many economic interests. It shuts off all revenues that would otherwise grow from the forests. And it directly hurts certain specific elemens in the economy. Among these are the lumber industry, segments of the tourist recreation industry, and local school and road districts, which by law are entitled to 25 per cent of the receipts from timber sales from national forests within their county.

Can it be said that the issues in wilderness classification depend wholly upon specialized knowledge? Clearly the answer is no. On the contrary, the ultimate issue is essentially political—the choice between the desires of different segments of the community. And this is the kind of issue on which the public may have independent views. Thus, in New York State the entire forest preserve was set aside as wilderness through the political process, by virtue of a famous provision in the state constitution:

"The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed. . . ."

Significantly, the constant proposals to amend this "forever wild" provision of the New York constitution in order to permit more civilized forms of recreation always produce widespread concern among the general public.

Wilderness classification is not the only decision demanding a choice between conflicting interests. For example, use of the forests for grazing may interfere with various other values, including recreation, as John Ise has pointed out in his book, *"Our National Park Policy:* "The general rule is that *any* grazing of a forest is injurious, whether by domestic or wild animals, although there may be exceptions to this. . . . The problem of the Park and Forest Services often is: How much damage are we justified in inflicting on the land for the sake of promoting wool or meat production?"

As another example, building a dam for irrigation purposes creates a lake that may look scenic on a map but may actually be an eyesore because of changing water level. Ise says: "A dam usually raises the level of a lake reservoir in the spring of the year, killing the trees along the shores; but this water is for irrigation use, and by the end of the summer the level of the lake is far down, perhaps to the point where there is scarcely any water left, and there is revealed a broad shore strip of dead trees, black stumps, trash, mud or dry earth. A damned lake is usually damned scenically." The greatest disaster ever to occur to a national park was the drowning of Hetch Hetchy Valley in Yosemite, a magnificent canyon, to supply water to San Francisco via a dam on the Tuolumne River.

The major economic use of the forests is lumbering. A decision to lumber has consequences for all other potential uses. It affects grazing and watershed. It profoundly affects recreation, even mass recreation, since the appearance and availability of the woods are altered and the public is crowded into other areas. It permanently changes the character of the region, introduces roads and machinery, and intrudes an element of civilization virtually impossible to eradicate. Even such a seemingly technical question as whether to lumber a wind-damaged wilderness area to protect it against fire may involve major choices of policy, for wilderness values can be destroyed under the appearance of protecting them.

Choices between interests must also be made in such "managerial" decisions as whether to permit hotels, picnic grounds, ski jumps (with or without recorded yodels), or motorboats on forest lakes.

Such choices all require specialized information as a preliminary. How suitable is an area for grazing; how much damage will a given number of animals cause; how great would be the economic return; what are the alternatives? But after this information is in hand, the competition of interests still remains and a choice must still be made—a choice on which the public might have intelligent views.

Moreover, even after the choice is made, there are policies to be determined concerning each type of use. For example, it is decided to devote an area to recreation; judgments must then be made about the relative desirability of closed or open shelters, giant camp-grounds, concessions, paved paths to scenic attractions, and so forth. These are the things that will determine the character of the area. Here, again, the issues are understandable enough to make public participation possible. "Housekeeping" usually involves assumptions about what the public wants. Before concrete bridges for horses are built to keep riders' feet dry while crossing streams, before raucous gasoline-powered tote gotes are allowed to shatter the forest calm, before luxurious hotels are built, and before a man-made waterfall of fire is approved as a nightly tourist attraction in a valley famous for its natural waterfalls, the public might well be given an opportunity to express "non-technical" views.

Expert advice is indispensable. But in view of the general policy of Congress, expressed in the Administrative Procedure Act, that interested members of the public should have a chance to take part in formulating decisions of general and future effect, and in view of the fact that the forests and parks have such relevance to the lives of the American people, exclusion of the public from most decisions is difficult to justify on the ground that the decisions are "technical" only.

Naturally, the mere fact that many of these issues are non-technical ones of interest to the public does not demonstrate that the public should decide them. "The public" can be shortsighted and ill-informed and indifferent. Professional managers, on the other hand, can sometimes take a broader, more detached, and more knowledgeable view of the public interest, and thus give the people better service. There are strong arguments in favor of leaving forest management to the experts. But the issue is not whether the public or the experts are to manage, but whether, and to what degree, the experts should be made aware of, and responsive to, public opinion. The answer to this question depends in part on whether the experts have shortcomings that public participation might remedy.

One problem common to many groups of professional managers in government is the tendency to lean heavily toward one of the various conflicting elements of the public that they serve. The Interstate Commerce Commission, for example, has often been charged with being "railroad-minded" although it also has responsibilities to the customers of railroads, to truckers, and to the public as a whole. The same charge of "one-sidedness has been made about the Maritime Board, the Federal Power Commission, and others. The Forest Service is sometimes considered to be unduly sympathetic to the lumber industry, one of its "clients." It is said to emphasize the timber management and sales part of its function over other aspects of "multiple use." Another complaint sometimes heard is that the Service, which has an unusually decentralized

administrative organization, is overly concerned with the immediate local needs of communities near the forests, and correspondingly less responsive to over-all national and long-range needs. Whether these particular complaints are justified is not important; they merely suggest a general administrative tendency that all agencies have to watch.

Another tendency of professional managers is to develop a definite point of view or mode of thinking that makes them less receptive to attitudes beyond their own perspective. Foresters tend to think about forests in certain ways. They tend to think in terms of productivity. A leading forester once spoke of the Adirondack wilderness preserve as an area condemned to "economic waste," "offset by no tangible public benefits." He argued that lumbering does not destroy scenic values. "Even clear cutting followed by fire affronts the eye only until nature heals the wounds with green."

A somewhat similar point of view is found in the Forest Service Handbook's directions to rangers when they are preparing recommendations on wilderness classification. They are asked to discuss "economic and social values, if any, which would be withdrawn from use if area were established but which might be realized from commodity use, if area were not established. Discuss particularly the effect of withdrawing commercial timber on the allowable cut of adjacent working circles." One Forest Service instruction showed that even a "professional" attitude about beauty in trees may differ from that of the public. "Many people like big timber and do not understand or appreciate vigor or thrift in a tree. To them, a large overmature, spiketopped, catfaced, conky old veteran is magnificent, has character and is much to be preferred to a thrifty intermediate tree. Annual growth and clear lumber are of little concern to people enjoying the area for recreation, hence a big branching wolf tree may be much more desirable than a clear-boled tree."

Many professional managers are also inclined to think of themselves as owners. Having devoted their lives to a particular job of management, they begin quite unconsciously to think of "their" post office, "their" television channels, or "their" forests. It is an easy step from here to the feeling that they alone know what is best, and without always realizing it they may close their ears to the "outsiders."

The profession of forestry has strong elements of solidarity. A vigorous esprit de corps, a proud history, and many common experiences bind foresters together. The same is true of Park officers. These experts sometimes come to believe that they can best perform their responsibilities without "interference" by those who are mere amateurs.

These tendencies of government managers are found in many different agencies. What makes them especially significant in the area of forest and park management is the degree to which the three agencies in this field engage in long-range planning and permanent choices based upon notions of the public interest. Planning of this sort peculiarly requires an openness to many points of view. Indeed, it can be argued that in a democracy the "public interest" has no objective meaning except insofar as the people have defined it; the question cannot be what is "best" for the people, but what the people, adequately informed, decide they want. Professional forest and recreation managers, no matter how dedicated, are not necessarily qualified to engage in this form of planning on their own.

TOWARD A POPULAR VOICE

Professional government, typified by the forest agencies, is an inevitable development. As everything gets more complicated and specialized, government too must "professionalize" if it is to govern at all. Neither the people nor their representatives in Congress can cope with or even fathom the detailed problems of each specialized area. The professionals are today's much needed managers and trustees. But professional government, even at its best, is not easily harmonized with the idea of representative democracy. Decisions are made for the people's benefit, but they are not made by the people.

Because the Forest Service, the Park Service, and the Bureau of Land Management, each of which represents a high standard of dedicated professional service, operate so largely without congressional direction, executive supervision, or public participation, the people lack real control over the management of their own land. Loss of control does not necessarily mean bad management; the management may be the finest people. But the choices made are not necessarily those of the people, and it is the core of the democratic faith that in the end only the people know their own best interests.

Are there any remedies for this problem, which is common to so many of the specialized agencies of government? Congress is the logical starting place for such an inquiry, since excessive congressional delegation of power is in a narrow sense the cause of the problem. Plainly, Congress could draft new forest statutes spelling out "public interest" in specific detail and deciding, to some extent at least, the relative "values" to be placed on exploitation of resources, recreation, water power, wilderness, and other uses.

Ultimately, Congress does settle some disputes. A highly controversial dam like the one proposed for Echo Park in Dinosaur National Monument, major conflicts between water storage needs and the preservation of national parks and monuments, basic wilderness policy such as set forth in the current Wilderness Bill, and the establishment of new forests and parks, all are matters that Congress continues to pass upon. But these disputes are not the central problem. It is the less dramatic area of forest planning and management, with all its subdued but vital policy conflicts, that raises the great issues. Perhaps Congress will assert itself more, but meanwhile it is necessary to look elsewhere if public ownership of the forests is to have any meaning.

Can the courts provide a degree of supervision that Congress has failed to give? The experience of recent times suggests that the answer is no. Judicial review plays a very important role in insuring the fairness of the adjudications that agencies make. This is the ordinary business of courts and they are well equipped to oversee an agency's performance of this part of its work. But what can a court do when it is asked to review agency planning? I can set aside action that is plainly outside the scope of the agency's authority, that violates the Constitution, or that was taken in defiance of procedures set down by Congress. But if the agency meets its minimum requirements, as most of them invariably do, the usefulness of the courts is largely at an end. Courts are out of their element when they try to pass on the merits of policy judgments. And when they attempt to supervise in detail the procedures that are followed in the making of such judgments, they are likely to produce not better results but a procedural mire in which participants flounder and action stagnates.

A device the agencies themselves have adopted to permit public participation is the advisory committee. Members of such committees are chosen by the agencies to represent various organizations and interest groups. But their tendency is to represent mainly special interests. And there is no evidence that they provide any real check on agency action. Nor is the receptivity of the agencies to informally expressed views through advisory committees a substitute for clear-cut rights.

Perhaps the greatest difficulty in approaching the problem of how to control the actions of agencies that deal with publicly owned resources is the failure to recognize candidly that the agencies are really performing legislative functions. It may be well to admit this fact (whether or not it does violence to Constitutional principles) and stop looking to Congress or the courts to supply an inappropriate form of restraint. After all, there are safeguards peculiar to the legislative process itself, and they may offer a better starting point.

What are the principal checks on legislative action? The greatest, of course, is the elective process, a process from which agency officials are well sheltered. But there are other safeguards. In the first place, the public usually has plenty of notice of pending legislation, so that it can make its views known. Virtually nothing is secret in a legislature. Second, hearings usually are held to give the public an opportunity to state its views directly to the lawmakers. Third, there is debate, opposition, delay, and deliberation within a legislature. Fourth, legislation is usually accompanied by a report giving reasons to support it. And, finally, the legislation is reviewed by the executive in the glare of publicity, so that he, too, is subject to popular pressure. Sometimes legislatures disregard these safeguards, but rarely is it to the good of the legislative process.

Could this pattern be adapted to the forest management work of the Forest Service, the National Park Service, and the Bureau of Land Management? Adequate public notice of major long-range plans and significant decisions, including road and other construction, lumbering, and changes in use, would not seem likely to hamper or delay the agencies unduly. Yet this single reform would be an important step toward giving the public time to act, and preventing arbitrary or ill-considered decisions. Even if notice were limited to publication in the *Federal Register*, it would be available to interested groups.

Hearings might not be warranted for every type of action; they could easily pull everything to a dead stop. But the Forest Service advisory hearings have proven useful, and they could be adopted for other major decisions besides wilderness classification. Moreover, they might be held at the preliminary planning stage as well as to check on decisions already tentatively made. In either case, they would be more useful both to the public and to the agency if they were conducted by a person who was thoroughly independent and who would be allowed to make his own report on the merits.

The element of debate, delibration, or opposition is difficult to introduce. On important issues it might be wise to offer an opportunity to submit written views to the Chief of the agency or the Secretary of the department, so that the person vested with final power of decision would have the benefit of several points of view. The risk is that this would become cumbersome, but the advantage, in avoiding rubber-stamp review, might outweigh the risk.

Another way to accomplish this same objective, and one sometimes used in government today, would be to institutionalize different points of view. Outside groups or viewpoints can be given permanent representation within the agency. Thus, the Forest Service might be given a division charged with the duty of protecting recreation or wilderness or grazing from assaults by other uses. Such inside watchdogs can sometimes restore balance to a viewpoint and guard special interests more effectively than the unorganized public. They offer self-criticism in

what may otherwise be an institutional monolith. The new Bureau of Outdoor Recreation in the Interior Department is supposed to coordinate all recreational planning. It is too early to know whether it will prove an effective representative and partisan of recreation in the over-all decisions of the agency.

Finally, those supporting a decision should be required to give reasons for it. This might, as it sometimes does in Congress, help to clarify issues and provide a focus for debate.

Subjecting every agency decision to piecemeal scrutiny might well prove paralyzing, as we have said. A possible solution lies in long-term management plans. Such plans are already a part of Park Service and Forest Service procedure. Public views should be considered in the formation of plans and in the review of plans after they have been made in tentative form, and where specific action is taken that may be inconsistent with an existing plan. This would allow the public to participate in planning for the forests without subjecting each individual decision to time-consuming wrangles. It would be essential, however, that long-term plans be reasonably definite and specific. Some of those which have been adopted are so general that they leave all real issues undecided. In any event, some major individual decisions, such as building a dam or a large hotel, undoubtedly deserve separate consideration.

The public needs one final right—the right to initiate. Of course anybody can make suggestions, whether procedure is available or not. But such suggestions may get short shrift. A procedure is needed to ensure serious consideration and review of public proposals about the forests. A proposal with substantial backing should require a hearing and consideration above the local level.

It is hard to predict what effect these suggestions would actually have. Agencies sometimes assimilate "procedural reforms" without any change in practice; the reforms merely add to the richness of agency ritual and thereby further conceal the real process. If the forest agencies chose to ignore the advice of the public while going through the motions of listening, little good would be accomplished by more hearings. Some government agencies listen and some do not. Procedural reforms may also have too strong an effect. They may cramp an agency into an arthritic stiffness. It may come to believe that it can do nothing without months or years of procedure, and as a consequence it will do nothing most of the time. The public thus exchanges a vigorous, if unrepresentative, professional government for drift or maintenance of the *status quo* by default.

Despite these hazards, ventilation is basically healthy. Bringing decisions out into the open is perhaps the greatest single insurance against arbitrariness. Secret decisions are not only undemocratic, they are also often unsound, for the agency, cut off from other points of view, may become the prisoner of its own preconceptions. The value of a hearing before an agency is much the same as the more general value of free speech in a republican government. A hearing cannot insure a wise decision but it can provide the opportunity for a wise one.

CONCLUSION

As the planet we live on becomes more and more crowded, more wrinkled by worries and complexities, more pressed by needs, the earth's valuables increasingly have to be shared. The work of government as manager of the public resources of the nation becomes one of its major tasks. Decisions about this common property—water power, air space, channels of communication, atomic energy, forests—affect each man's well-being. But the people have lost control over these decisions to the professional management of bureaucracies. These structures, so largely independent of Congress, the President, and the courts, have a natural tendency to believe that they can decide things more wisely for the people than the people can decide for themselves. Perhaps they are right. But the attitude is nevertheless at war with our concept of democracy.

The unavoidable fact is that the agencies, in particular, are engaged in basic planning. They are making fundamental policy concerning resources and in the process trying to accommodate the conflicting interests in society. In discussing recreation, the Forest Service Manual says: "Recreation resources of the national forests will be made available for public use and enjoyment, insofar as this is consistent with the over-all management of the national forests for the greatest public good. Their proper place in the management of the various resources will be determined through specific analysis and weighing of all relevant factors."

Thus the Service recognizes, in the matter-of-fact pages of its manual, that its ultimate job is nothing less than the definition of "the public good," a task once reserved for philosopher-kings. This is the tremendous responsibility that Congress has delegated to all of the forest agencies, and with it the power to determine the very character of the American land.

The great danger is that an entrenched professional bureaucracy will become short-sighted in its perception of the public good. It may see only the needs of the next decade when planning for a century is essential. It may see only local demands when national needs cry for consideration. It may see where immediate economic gain lies but fail to see the values of "non-economic" uses. It may care so much about today's balance sheet that it forgets tomorrow's heritage.

Procedural reforms cannot be expected to solve the dilemma of how planning for the public good can be accomplished in a democracy. Professional planners and managers cannot be dispensed with. But some means of public participation, however inadequate, would at least offer the beginning of a system of planning that would encompass a broader vision and a deeper relation to democratic ideals. For the experts and professionals have their limitations. They can tell us whether an area of forest can be lumbered at a commercially feasible price. But can they tell us whether an "overmature, spike-topped, catfaced, conky old veteran" should be saved for future generations?

FOOTNOTES

[1] Multiple Use Act, Public Law 86–517 § § 1 and 2, 74 Stat. 215, 16 U.S.C. § § 528, 529 (June 12, 1960).

[2] An excellent general description of policy formation and decision-making for the public lands is found in Clawson & Held, *The Federal Lands: Their Used and Management*, Chapter 3 (1957).

[3] 36 C.F.R. § 211.2. There are actually two separate procedures. The first—§ 211.2 (a) (1)—applies to the following persons: "Any person having a contractual relationship with the Forest Service (other than one relating to the construction, alteration or repair of public hearings or works, or to the purchase of administrative supplies, equipment, materials or services), including an application therefor, aggrieved by any administrative action or decision of an officer of the Forest Service relating thereto . . ."

This is the class of persons entitled to hearings. A second class of persons, entitled only to file a written statement and to have a reviewing officer prepare a statement of review and explanation, is described as follows [§ 211.2(b)]:

"Any person aggrieved by any administrative action of an officer of the Forest Service other than those relating to contractual relationships . . ."

The key word here is "aggrieved" which in its legal meaning is limited to persons suffering certain types of "legal injury."

[4] A wilderness or wild area is one in which "there shall be no roads or other provisions for motorized transportation, no commercial timber cutting, and no occupancy under special use permit for hotels, stores, resorts, summer homes, organization camps, hunting and fishing lodges, or similar uses." 36 C.F.R. § 251.20(a).

[5] "Standing" is an elusive term that defies translation into ordinary English. Even a lawyer as free from jargon as the late Judge Jerome Frank could only explain that *absent* a statute a citizen has no "standing" to complain in court about government action unless the action "invades or will invade a private substantive legally-protected interest of the plaintiff citizen; such invaded interest must be either of a 'recognized' character at 'common law,' or a substantive private legally-protected interest created by statute." *Associated Industries of New York* v. *Ickes*, 134F.2d 694, 700 (2d Cir. 1943), vacated as moot, 320 U.S. 707.

DR. H. CLAUDE HUDSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of California. Mr. Speaker, on May 29, 1976, the National Asscociation for the Advancement of Colored People will honor a man whose life stands as a monument to personal courage and integrity. On that day, Dr. H. Claude Hudson, at the age of 90, will be honored at a banquet in recognition of his lifelong devotion to the cause of civil rights and equality for all Americans.

Today, the NAACP is a highly respected organization. But in its early days, to fight against racial discrimination was to do so at the risk of losing one's life. Thus, it is truly a mark of moral courage that in 1921, Dr. H. Claude Hudson became president of the Shreveport, La., chapter of the NAACP. His early participation in the fight for civil rights is simply one indication of the attributes that have been highlights of Dr. Hudson's career.

After moving to Los Angeles in 1923, Dr. Hudson became president of the Los Angeles branch of the NAACP in 1924, serving in that capacity for 10 consecutive years. During that time, Dr. Hudson's leadership was instrumental in making the Los Angeles chapter one of the largest and most effective in the Nation. It has continued to benefit from his leadership and wisdom, as Dr. Hudson has served continuously as either vice president or member of the executive board from 1934, when he stepped down as president, until the present.

In 1950, Dr. Hudson was elected to the national board of directors, NAACP, where he remains an active and respected source of leadership.

Besides his successful career as a dentist, Dr. Hudson has been a force in the financial world. In 1939, when he assumed the presidency of the Broadway Federal Savings and Loan Association, the firm had net assets of $3 million. When he retired in 1972, that figure had grown to $57 million.

This remarkable man was born in Marksville, La., on April 19, 1886. He attended Wiley University in Marshall, Tex., and received his D.D.S. from the Howard University School of Dentistry, Washington, D.C., in 1913. Dr. Hudson practiced dentistry in Shreveport from 1913 to 1923, when he moved his family to the west coast. Dr. Hudson practiced dentistry in Los Angeles from 1923 until his retirement.

Despite his busy professional, family, and activist life, Dr. Hudson often found time to augment his education. In 1931, he received his L.L.B. degree from Loyola University. He has also earned a graduate degree in operational management, savings and loan, from the Savings and Loan Institute.

In recognition of Dr. Hudson's many contributions, Loyola University established a scholarship fund in his name in 1974. The auditorium of Martin Luther King Memorial Hospital, where he serves as a member of the board of trustees, is also named after him.

On April 19 of this year—his 90th birthday—Dr. Hudson received the Distinguished Service Medal from the Los Angeles County Board of Supervisors, their highest honor. He was declared an honorary doctor of humanities at the Wiley University Baccalaureate Commencement Convocation on May 6, 1976. The University of Southern California declared him an honorary doctor of law earlier this year, and he has also received recognition from the Consolidated Realty Board.

Mr. Speaker, I have personally known Dr. Hudson and his family for many years, since the 1930's. In every respect, he is one of the most remarkable individuals I have ever been privileged to know. Bright, personable, and with a sprightliness of step that even now belies his 90 years, he stands as a shining example of dedication, moral courage, and personal conviction. Although a highly successful businessman, he never forgot his own background, and dedicated his life to helping all mankind achieve equality and dignity under the law.

I would be remiss in not mentioning Dr. Hudson's wonderful family, which has always been such an important part of his life. Now a widower, he has been fortunate in having two highly successful marriages and six children: H. Claude Hudson, Jr., who gave his life in defense of his country during the Normandy invasion; Elbert T. Hudson; Gloria Peterson; Melba Sparks; Barry S. Hudson; and Thaddeus Hudson, deceased.

H. Claude Hudson will be long remembered for his outstanding life's work for the cause of equality. My wife, Lee, joins me in congratulating this great man—and old friend—on his life's many accomplishments, and we wish him many more years of happiness to come.

MINORITY EMPLOYMENT IN BROADCASTING DURING 1975 AND EQUAL EMPLOYMENT OPPORTUNITY MONITORING BY THE FEDERAL COMMUNICATIONS COMMISSION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HAWKINS. Mr. Speaker, in January of this year the Subcommittee on Equal Opportunities held oversight hearings on Federal enforcement of equal employment opportunity laws. We had the privilege at that time of hearing a very fine statement from the distinguished actor and director, Ossie Davis. Mr. Davis spoke of discrimination and its effects in the entertainment industry, specifically on television and in motion pictures. Mr. Davis noted that there has been some progress in the hiring of minority members in films and television. He said this improvement had occurred after public hearings were held by the EEOC in Los Angeles in 1969, followed by an investigation into employment discrimination in the motion picture and television industries by the Department of Justice. In spite of this progress, Mr. Davis said, much remains to be accomplished.

The media plays an important role in shaping society's image of itself. When minorities fail to see members of their groups on television for example, they may conclude that such absence is a measure of their worth to society as a whole. The feeling of hopelessness which this engenders can lead to frustrations which may tear at the fabric of society. The consequences of this frustration and anger argue as forcefully for equal employment opportunities as do the concepts of fairness and justice.

The Subcommittee on Equal Opportunities, which I chair, has as one of its mandates the duty to oversee adherence to title VII of the Civil Rights Act of 1964. Accordingly, we remain alert to statistics which show employment trends for minorities. We also seek to discover institutional or administrative barriers which prevent the equitable hiring of minorities and access to legal or administrative redress in the event of employment discrimination.

The Federal Communications Commission which enforces Federal laws concerning the broadcasting industry maintains statistics on minority employment in the industry. I am inserting for the RECORD a synopsis prepared by the Commission of the minority employment patterns in the broadcasting industry in 1975:

EMPLOYMENT PATTERNS IN THE BROADCASTING INDUSTRY, 1975

An annual FCC study of employment patterns in the broadcasting industry shows that employment of women and members of minority groups increased again in 1975, both in number of employees and in percentage of total employees.

Total employment by broadcast units having five or more full-time employees increased from 141,700 in 1974 to 146,345 in 1975, a 3.3 percent rise, compared to 3.5 percent in 1974 and about 5 percent in 1973.

More women were employed in 1975 (38,347) than in 1974 (35,765) and accounted for 26.2 percent of the total, compared to 25.2 percent in 1974 and 24.0 percent in 1973.

Minority groups employment (male and female), including Negro, Oriental, American Indians and Spanish-surnamed Americans, accounted for 12.9 percent of the total, compared to 12.3 percent for 1974 and 11.7 percent for 1973. Blacks, the largest minority group, increased from 11,188 in 1974 to 11,818 in 1975, or 8.0 percent of the total in 1975 compared to 7.8 percent in 1974 and 7.5 percent in 1973. Spanish-surnamed Americans comprised 3.6 percent of the total in 1975 as against 3.3 percent in 1974 and 3.1 percent in 1973.

The study, compiled from annual employment profile reports (FCC Form 395) filed by all broadcast licensees with five or more full-time employees, is divided into states and into individual communities.

A further breakdown shows minority participation in terms of higher and lower pay categories. The higher pay segment includes officials and managers, professionals, technicians, sales workers and craftsmen, while the lower pay area includes office and clerical, operatives, laborers and service workers.

Employment in 1975 for broadcast units having five or more full-time employees is compared to previous years as follows:

	Number of employees (full and part time)			Percentage of total employees		
	1975	1974	1973	1975	1974	1973
Total male and female	146,345	141,700	136,960	100.0	100.0	100.0
Female only	38,347	35,765	33,001	26.2	25.2	24.0
Minority groups (male and female):						
Negro	11,818	11,188	10,296	8.0	7.8	7.5
Oriental	1,098	1,018	902	.7	.7	.6
American Indian	671	611	570	.4	.4	.4
Spanish surnamed American	5,353	4,745	4,371	3.6	3.3	3.1
Total minority groups	18,940	17,562	16,139	12.9	12.3	11.7

Individual station reports are on file in the Commission's public reference room at 1919 M Street, N.W., Washington, D.C. The complete summary is available for examination at the Public Information Office, Room 202.

EMPLOYMENT IN THE BROADCASTING INDUSTRY 1975

All broadcast licensees having 5 or more full-time employees are required to file an annual employment profile report (FCC Form 395). This report (the fourth in a series) includes separate entries for the number of full-time and part-time employees and shows the number of women and minority group employees (Negro, Oriental, American Indian, and Spanish-surnamed American). Employees for each group are further described by the following nine job categories: Officials and Managers, Professionals, Technicians, Sales Workers, Office and Clericals, Craftsmen (Skilled), Operatives (Semi-skilled), Laborers (Unskilled) and Service Workers. The reports for each broadcast station are in the FCC's public reference room at 1919 M Street, N.W., Washington, D.C. In the summaries that follow, the nine job categories have been condensed to two as follows: *Higher Pay*, includes Officials and Managers, Professionals, Technicians, Sales Workers and Craftsmen (Skilled); *Lower Pay*, includes Office and Clerical, Operatives (Semi-skilled), Laborers (Unskilled) and Service Workers.

Employment in 1975 for broadcast units having 5 or more full-time employees is compared to previous years:

	Number of employees (full and part time)			Percentage of total employees		
	1975	1974	1973	1975	1974	1973
Total male and female	146,345	141,700	136,900	100.0	100.0	100.0
Female only	38,347	35,765	33,001	26.2	25.2	24.0
Minority groups (male and female):						
Negro	11,818	11,188	10,296	8.0	7.8	7.5
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Spanish surnamed American	5,353	4,745	4,371	3.6	3.3	3.1
Total minority groups	18,940	17,562	16,139	12.9	12.3	11.7

In the State Reports that follow, only stations with more than 10 full-time employees are listed. Within each state the communities are listed alphabetically. Each station is listed by class under the community name. The two letter code to the right of the call sign is an abbreviation for the class of station as follows:

TV: Commercial television station.
AM: Commercial AM radio station.
AF: Commercial AM/FM station filing combined report.
FM: Commercial FM station.
FA: Commercial FM station associated with an AM station but reporting separately.
ET: Non-commercial television station.
ER: Non-commercial radio station.
HQ: Headquarters report.

At the end of each State listing is a State summary for all units with more than 10 full-time employees.

For each television station, the name of its television market is given. For each radio station located in a standard metropolitan statistical area (SMSA), the name of its SMSA is given. Code numbers for stations and markets may be disregarded.

For comparison purposes, the 1971, 1972, 1973 and 1974 total employment figures for each station are given below the 1975 totals. In a year when a station had 10 or fewer full-time employees, no figures are shown for that year.

All station reports were edited for arithmetic consistency and a number of corrections were made without rechecking with the stations. Therefore, stations should report to the FCC any apparent error in this report, so that their basic data may be corrected in the computer file, for future reports.

A table showing the percentage of minority groups in the 1970 population, by standard statistical metropolitan areas follows the state reports.

MINORITY EMPLOYMENT REPORT FOR U.S. BROADCASTING SERVICES BY STATES

[Number of employees]

	Total employees	Total females	Minorities (including female employees)				
			Total	Negro	Oriental	American Indian	Spanish-American
U.S. broadcasting totals:							
Commercial television	47,382	12,245	6,863	4,344	405	198	1,916
Commercial radio	64,772	16,057	7,509	4,587	318	316	2,288
FM radio	7,631	1,782	870	629	35	35	171
Noncommercial television	8,884	2,877	1,234	683	106	48	397
Noncommercial radio	2,744	761	352	200	13	52	87
Broadcasting headquarters	14,932	4,625	2,112	1,375	221	22	494
All classes for U.S. broadcasting	146,345	38,347	18,940	11,818	1,098	671	5,353

While the figures released by the Federal Communications Commission indicate a positive trend in the employment of minorities in broadcasting, there is cause for some concern about the type of monitoring done by the FCC of these trends. This concern has been voiced by the Citizens Communications Center.

Citizens recently released the results of a study it conducted of the Federal Communication Commission's regulation of the broadcasting industry's enforcement of equal employment opportunity. Citizens is a public-interest communications law firm. Its aim is to assist the public in improving the service it receives from commercial and noncommercial broadcasters, from cable systems operators, and from the FCC.

I would like to give a synopsis for the record of Citizens' study. The objective of the study was to examine the performance of the Federal courts and the FCC in monitoring the efforts of broadcasters in guaranteeing equal employment opportunities. Specifically, the study tried to determine the weight given by the Commission and the courts to statistical evidence which indicates significant disparity in the representation of women or minorities. Citizens believes that statistical evidence can be indicative of effective equal employment practices. Therefore, it relied heavily on such evidence in its determinations of broadcaster-employer discrimination against women, blacks, Hispanic Americans, Asian Americans, and Native Americans.

The study posed the following questions:

First. How can citizens who allege discrimination by a broadcaster influence the FCC to hold hearings or deny a license to such broadcaster at the time of its renewal application?

Second. What criteria does the FCC use for admitting statistical evidence in cases where applications for renewals of broadcasting licenses are challenged on grounds of employment discrimination?

Third. What has been the response of the Federal courts to such FCC criteria?

Fourth. Under title VII of the Civil Rights Act of 1964, what criteria have the courts used to demonstrate the practice of employment discrimination by an employer?

Regarding the use of and the weight given to statistical evidence, are the court-developed standards under title VII and the Communications Act consistent?

Fifth. In the absence of challenges to license renewals, how does the FCC determine that broadcasters are in compliance with prohibitions against employment discrimination?

In order to answer these and other questions which arose, Citizens analyzed the relevant body of Federal law, FCC rules and regulations, relevant court opinions, FCC opinions and orders, and the FCC's internal processing standards.

The authors of the study reached the following conclusions:

First. The standards used by the Commission present a major barrier to the attempts of citizens to insure that broad-

casters in their communities eliminate discrimination and its past efforts.

Second. FCC criteria for the admission of statistical evidence in cases of alleged employment discrimination fall short of the standards set by Federal courts in title VII cases.

Third. Commission standards of performance with regard to equal employment opportunity are vague, variable, evasive, and easily met, even by broadcasters who actively discriminate against minorities and women.

Fourth. The FCC has failed in its internal monitoring efforts to require that broadcast licensees comply with both Federal laws and FCC rules which prohibit discrimination.

Fifth. Eight years after the FCC expressed its concern that broadcasters subscribe to the principles of equal employment opportunity, many licensees still fail to employ any minority persons whatsoever.

As a result of its findings, Citizens made several recommendations to the FCC. Citizens believes the FCC should:

First, follow the practice of Federal courts in admitting statistical evidence in license renewal hearings; or

Second, allow the public to obtain additional information on the employment practices of a broadcaster when the possibility of employment discrimination is demonstrated in a license challenge;

Third, establish clear standards of performance for broadcasters with regard to equal employment opportunity including affirmative action programs of goals and timetables for bringing minority and female employment up to parity;

Fourth, not give weight to a broadcaster's improved equal opportunity employment statistics if such statistics represent unilateral upgrading which occurred after a license challenge has been filed;

Fifth, condition the renewal of licenses of offending broadcasters upon compliance with FCC equal employment rules and regulations, such an agreement should have the force of a court-ordered consent order;

Sixth, tighten its internal EEO review procedures as well as publish the list of stations sent letters of inquiry, the responses to such letters should be made available to the public;

Seventh, adopt other procedures which would be consistent with the litigation procedures of the Civil Rights Act of 1964.

If any of my colleagues would like to obtain a copy of the Citizens report, they may do so by writing Citizens Communications Center, 1914 Sunderland Place NW., Washington, D.C. 20036.

LINDSEY CREEK BYPASS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BRINKLEY. Mr. Speaker, I had the gratifying opportunity last Friday to visit Fort Benning, Ga., in my congressional district, and discuss with staff officers there the pending Lindsay Creek Bypass extension project. The engineers at Benning told me they can have the project underway in the next fiscal year if it is funded by Congress; unfortunately, some in the Senate had been led to conclude that construction could not start soon, and therefore the appropriation could be delayed.

In addition to hearing positive news from Fort Benning officials about this project, I had also the opportunity to inspect the great new facilities for infantry advanced individual training at Benning, and to meet personally with some of the thousands of new troops training there. The move of Infantry AIT from Fort Polk has been successful; three classes of AIT troops have already graduated; and Col. Jack Farris and his outstanding staff in charge of the AIT brigade have seen their initial enthusiasm bear fruit.

As a result of my inspection, I am more convinced than ever before, Mr. Speaker, that the one station unit training concept has come into its own, and that we are in serious error by delaying its implementation at the home of the Infantry, Fort Benning. With AIT in full swing, it is now a matter of bringing basic combat training in and combining the two phases of training into one station unit training.

The Secretary of the Army has told us the Army knows OSUT is a successful concept because of its strenuous testing in other branches at other posts. They are convinced even now that it will prove successful in the Infantry, when finally implemented. Most of all, the morale of the young trainees whom I met on a "surprise" visit in the field—they could not have fooled me if they had tried—so impressed me that I am ready to make that last big push to assure that OSUT Infantry becomes a reality at its natural home—Fort Benning.

JOHN PAPPAS—25 YEARS OF COMMUNITY SERVICE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. STARK. Mr. Speaker, when an outstanding city council member retires, the impact of his or her service is often felt for many years afterward. The community of Hayward, Calif., will long benefit from the 25 years of service of retiring city council member John Pappas.

John's involvement in community affairs began with his election to the Mt. Eden school district board of trustees. This marked the beginning of many years of civic involvement, including service on the Alameda County school boards association executive board, the personnel board of the city of Hayward, and the city planning commission. He served as president of the Mt. Eden school district board and was elected to the city council in 1960, to be re-elected in 1964, 1968, and 1972. During his 16 years on the council, he served as mayor and as vice-mayor of Hayward and as ambassador-mayor to Hayward's sister city, Faro, Portugal.

The diversity of John's interests and concerns is reflected in his other community activities, which have included charter membership in two parent-teacher associations, the Mt. Eden Little League baseball directorship, United Crusade Campaign vice-chairmanship, St. Rose Hospital citizens advisory board membership, honorary charter membership in the Mexican-American Political Association, and membership in the Hayward Community Concert Association.

John will always be a community leader. For him, the first 25 years are only the beginning. Mr. Speaker, I know my colleagues will join me in paying tribute to John Pappas at this important milestone in his life.

MRS. CARLTON BEALL

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. HOLT. Mr. Speaker, my good friend and constituent, Mrs. Carlton Beall, was recently elected president of the Prince Georges Federation of Women's Clubs. In a speech before this organization, she compared the roles and concerns of clubwomen of the 1920's to those of the 1970's. I would like to take this opportunity to congratulate Mrs. Beall and share her remarks with my colleagues:

REMARKS OF MRS. CARLTON BEALL

A few days ago, I had the occasion to look through some of the minutes of club work done during the early years of the County Federation. It was interesting to see that some of the programs which hold our attention today were of concern to clubwomen sixty years ago.

In 1921, clubwomen were asked "to try to influence women generally to take more interest in the coming election, to the end that a larger number of women should cast their votes." But today women are filing for office and being elected!

All too often we hear the phrase "crooked politicians." Have you ever thought why a politician might be crooked? It is because we do not assert our responsibility and exercise the right to vote. I urge you to become involved in the electoral process. Not only is it your right to vote, but it is also your responsibility.

Scholarships for students interested in pursuing a college education but who wouldn't otherwise be able to attend college have been given over the years. Attention is now being directed toward scholarships and loan funds for non-college students who are interested in pursuing a Distributive Education. Have you had an occasion to need the services of a plumber, electrician, tile setter, etc., lately and discover the exorbitant costs for having such work done?

Health rallies for the prevention of tuberculosis were held in the 1920's. Today, clubwomen's attentions are directed toward immunization against childhood diseases, pap tests and breast cancer tests, and blood pressure screening clinics. Alcoholism is another major area for work. Recently, a newspaper article stated that 15 percent of the children in a certain county in Maryland are addicted to alcohol and one-fifth of the female population are alcoholics.

It is interesting to note that crime was not one of the major concerns during this period. Today, the Hands-up Program, which has been made possible through a grant from the Law Enforcement Assistance Administration of the Department of Justice, is a very large project, and it is hoped that every club will participate in it. More rape crisis centers are needed in every community.

These are just some of the programs which need our wholehearted support, and this can be accomplished only through membership responsibility and involvement. In the 60's, membership enrollment was approximately 16,000, but in the 70's membership dropped to about 8,000. Each club member needs to bring one new active member into her club to get back to our former strength.

Encourage active and interested women to join you in waging a campaign against rape, crime, pornography, cancer, high blood pressure, alcoholism. Work for immunization of all children against childhood diseases, water conservation and energy conservation. Be a responsible and involved clubwoman for progress.

FREE SOLOMON DAKHIS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. KOCH. Mr. Speaker, I voice an appeal today before my colleagues concerning yet another individual's bitter fight against Soviet emigration policies. I speak on behalf of Mr. Solomon Dakhis, a 28-year-old chemical engineer with a wife and 5-year-old daughter. He first applied for an exit visa in July 1973 but was refused on the basis of military secrets—meaning he had served in the army. Of note, his army group was demobilized in 1971. Since 1973, he has repeatedly applied for visas but has been turned down each time.

In a poignant letter dated October 30, 1975, his parents wrote from Israel:

We are turning to you with a plea. We are two old people in our seventies. Our children and our entire family was wiped out during World War II. We have only one son left. He applied for a visa to go to Israel together with us. We received our visas but he was refused. Two years have passed since his refusal. We sent many requests to different organizations and individuals in the USSR plus medical certificates stating the fact that both of us are in very poor health. To our deep sorrow, we were never answered and our son and his family have not received permission to emigrate to Israel to join us in our old age. We need to have our family with us in the last years. Our son has applied to many organizations in the USSR but all of his requests have been refused. We ask for your help in this most critical time. Please use all your humanitarian efforts to reunite us with our loved ones. We beg you to help us in our hour of need. As Jews, we appeal to you with all our hearts."

This letter effectively calls attention to the plight of Soviet Jews painfully separated by Soviet emigration policies. It is critical to remember at this time the Final Act of the Conference at Helsinki, which we joined the Soviet Union is signing. It pledges the signatories to facilitate "wider travel by their citizens for personal and professional reasons." It is distressing to note that the Soviet Union continues to violate individual human rights of men like Solomon Dakhis, by ignoring the Helsinki accord which it signed not so very long ago.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE REVEREND ANTHONY JOHN KULIG OF GARFIELD, N.J., UPON THE 15TH ANNIVERSARY OF HIS ORDINATION TO THE PRIESTHOOD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ROE. Mr. Speaker, during this Bicentennial Year as we reflect upon the history of our country and the good deeds of our people which have placed our representative democracy, second to none, among all nations throughout the world, I am pleased and honored to commend to you one of our most outstanding citizens, community leader, prestigious spiritual adviser, educator, and good friend the Reverend Anthony John Kulig, who is revered by all of us for his complete dedication and devotion in responding to the needs of our people.

On June 5, residents of my congressional district and the State of New Jersey will assemble with the esteemed pastor, Rev. Eugene S. Kowalski, his distinguished associates, the Rev. Anthony Robak, and Rev. Bogdan B. Bilinski at St. Stanislaus Kostka in Garfield, N.J., where Father Kulig attended grammar school to celebrate the 15th anniversary of his ordination to the priesthood, and attest to his exemplary achievements in service to God and his fellowman.

Upon his graduation from Seton Hall University and completion of his studies at the Immaculate Conception Seminary in Darlington, N.J., Father Kulig was ordained to the priesthood on May 27, 1961, at Sacred Heart Cathedral in Newark, N.J. As a young curate, the quality of his leadership and richness of his wisdom were deeply imbedded in the St. Patrick Church Parish, Elizabeth, N.J., where he served as high school director, moderator of societies and the Mothers Guild for 8 years.

In 1969 Father Kulig was assigned to Seton Hall Preparatory School where he was a member of the religious studies department. Upon receiving his masters degree in guidance and school administration, he was named dean of men at the Seton Hall Preparatory School where he will long be remembered for his standards of excellence as adviser and counselor in developing the character and acumen of our young people.

Father Kulig served as dean of men for 5 years and now heads up the senior guidance department as college placement officer. He serves the congregation of his home parish of St. Stanislaus on weekends.

The diversity of his interests and achievements is widespread but the underlying theme of his unselfish and compassionate efforts has always been directed toward faith, hope, and charity on behalf of all of our people, which are mirrored in the fine caliber and upstanding character of all of his students who were richly endowed by his teachings and artistic talents.

The direction and guidance that he imparted through musical productions at St. Patrick High School in Elizabeth, N.J., and Mother Seton High School in Clark, N.J., brought joy and happiness not only to our youth who participated but to the audiences who found refreshment and recreation in his presentations.

Mr. Speaker, I appreciate the opportunity to present to you and the other Members of the House of Representatives this profile of one of our most distinguished and revered clergymen. I join with his mother and father, Mr. and Mrs. Anthony Kulig of Garfield, and his three brothers—all of whom are leading citizens and most active in civic affairs in our community—in the pride we all share in Father Kulig and the success of his most significant endeavors in life's fulfillment and purpose which have truly enriched our community, State and Nation. We do indeed salute the Reverend Anthony John Kulig as he celebrates the 15th anniversary of his ordination to the priesthood during our Nation's Bicentennial Year.

A TRIBUTE TO RALPH N. SHAW

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BURGENER. Mr. Speaker, on Friday, May 14, two special agents of the Drug Enforcement Administration took off from Acapulco International Airport on a routine liaison flight. Their plane struck the side of a 12,000-foot mountain and both agents lost their lives in the performance of their duties.

Special Agent Ralph N. Shaw was one of my constituents from El Centro, Calif. His career in the service of his country and his death in the performance of his duties are strong reminders of the danger and dedication involved in the battle against drugs.

Special Agent Shaw had served his country in the Marine Corps, the Immigration and Naturalization Service, and the Bureau of Narcotics and Dangerous Drugs, which later became the Drug En-

forcement Administration. He served in each capacity with dedication and with skill.

I bring the death of this dedicated individual to the attention of the House, because I believe each Member should pause to consider the contribution Special Agent Shaw has made to his country and we should renew our dedication to the performance of our duties in tribute to a fallen public servant.

COMMENCEMENT ADDRESS BY CONGRESSMAN MIKE McCORMACK

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, on May 20, our distinguished colleague, MIKE MCCORMACK, delivered the commencement address to the graduating class of the Stevens Institute of Technology in Hoboken, N.J.

Most commencement addresses usually take the form of congratulatory messages to the graduates and well-wishes on the professional careers which they will soon be launching. But this type of commencement address is really no longer relevant.

College graduates today must go out into a world that is burdened with problems. The first challenge the new graduates will face is finding a job—no easy task in these troubled economic times. The second most important task will be trying to retain their idealism as they also seek to survive economically—again, no easy task.

The young graduates of Stevens Institute and other colleges around the Nation have more than our good wishes going with them as they enter their new world. They have a lot of our hopes resting with them.

This Nation is entering an era of incredible challenges. Old and continuing problems still cry out for resolution, and new challenges have joined the chorus.

As Congressman MCCORMACK pointed out in his commencement address, we live in a world of exploding population and shrinking resources. This untenable situation cannot persist for long—we will soon run up against the very limits to growth if we continue to conduct our affairs in a business as usual manner.

The United States must adapt to this changing world. We have to simultaneously increase our energy supplies and cut our energy demand. We have to come to terms with Third World nations who demand more in the way of economic remuneration for the industrial raw materials which they provide us. We are going to have to come to terms with the continued bellicosity of the Soviet Union and its apparent intentions to become the No. 1 power in this world by the end of the century. We also have to deal with the economic aspirations of developing nations, and assist them in their efforts to both control their population and increase their agricultural production. We have to provide jobs in our own country for the underemployed and for our youth who have been denied employment opportunities. We are going to have to open the doors to equal opportunity for all citizens of our country who want to lead active and productive lives.

MIKE MCCORMACK has touched upon these and other challenges in the eloquent address which he delivered at Stevens Institute. I know all of my colleagues will be interested in the astute observations of the distinguished gentleman from Washington, and I include his address at this point in my remarks:

COMMENTS BY CONGRESSMAN MIKE MCCORMACK AT COMMENCEMENT EXERCISES, STEVENS INSTITUTE OF TECHNOLOGY, HOBOKEN, N.J., MAY 20, 1976

Thank you President Rogers, Congressman Daniels, Dr. Connor, Dr. McLean, members of the Board of Trustees, administration, faculty, graduating students, guests, and ladies and gentlemen.

You of Stevens Institute of Technology do me a great honor by inviting me to address you at your Commencement ceremonies, and by bestowing upon me this honorary degree.

I must admit that I was left almost speechless when I first learned of your intention, but no living politician is speechless for very long, and I was soon asking questions, learning more about you. The origins and history of Stevens, and the high standards of academic excellence that have characterized this Institute catapulted me into a state of deep respect and admiration.

I regret that I have had no opportunity to spend some time on the campus, becoming better acquainted with you, but I am consoled by the fact that, as the situation stands, I am not required to pass any examination, either oral or written.

I want to pay my respects to my friend and colleague, and your Representative in Congress, the Honorable Dominick Daniels. Congressman Daniels is retiring at the end of this term, after 18 years of dedicated service to you and the other citizens of the 14th Congressional District of the State of New Jersey. The admonition that a man is "not without honor save in his own country" is, I believe especially true for Members of Congress, in particular those from the highly populated areas of the urban East. May I suggest that Congressman Daniels has earned your accolades, and that you may all truly say to him "Well done, thou good and faithful servant".

I would like also to pay my respects to one of the new Members of Congress, the Honorable Millicent Fenwick, who I understand is a member of the Board of Trustees here at Stevens. Congresswoman Fenwick asked me to express her greetings, and her regrets that she could not be with you today. She is a woman of great spirit and dedication, and you cannot help but benefit from her interest in you.

Before I say anything else, I want to congratulate all of you who have received degrees today. Yours is a significant accomplishment of which you and your families and your faculty can all truly be proud. You are a credit to yourselves, to Stevens Institute of Technology and to society. I think you should savor this moment. I'm certain your parents will. If you remain outwardly gracious, it will not be amiss for you to be inwardly a little satisfied with yourselves, at least for a few minutes.

I believe that writing a commencement address is one of the most difficult of assignments. Here we are, with you anxious to be on your way to whatever exciting new careers (or even weekend vacations) await you, trapped by the formality of this occasion; and here am I, honored as I am, trying, if you will pardon the expression, to say something relevant—to make my remarks meaningful—to be worthy of your invitation. I am going to try to do that because there are some thoughts I would like to convey to you—and through you, to all of the other young citizens of our society to whom I am, in my own imagination, also speaking.

As I prepared these remarks, I couldn't help thinking about the contrast between the post-World War II era, when I received my degrees, and this era of the 70's and all that has come between. Most of us were young veterans of World War II, and having saved the world, many of us were setting out to attempt to lead it, if not to mold it in our own image. But disillusionment soon set in, with McCarthyism at home and a cold war abroad. The enthusiasm and idealism of the immediate postwar turned to the numbing indifference and apathy of the 1950's. Materialism reigned, more then, I believe, than in any other time in American history. This too ran its course, however, and our country, and particularly those of us who were young, were awakened by a voice that proclaimed that ". . . we shall pay any price, bear any burden, meet any hardship, . . . to assure the survival and success of liberty . . .", and that we should, "ask not what America can do for you, but what together we can do for the freedom of man".

But this dream also turned to ashes and we found ourselves caught up in the searing domestic reaction to our involvement in Southeast Asia, and then in the trauma of Watergate.

Today, our country finds itself irresolute—confused by new concepts and realities that seem to deny the very foundations upon which our culture and our nation were built. We have come to realize that neither our wealth nor our mineral resources, nor our supplies of energy are inexhaustible. We have finally come to recognize that we are living on a finite spaceship with limited supplies rather than an endless frontier that we can pillage without consideration for the future. We find that we can no longer practice gunboat diplomacy and control the policies of small nations to their disadvantage, and to our advantage. We find, to our surprise, that America's wealth is not great enough to control the economies of the world.

I think coming face to face with these facts has been a healthy experience, but it has, unfortunately, led to, or been accompanied by, a loss of faith in our institutions, in our cultural heritage, in the value of truth, in the concept of dedicated service to our fellow man, and most of all, to a loss of faith in ourselves. When I graduated from college, we accepted these articles of faith, and upon them we confidently envisioned that we could help build a better world. Perhaps this was naive, but I mourn this loss, for I believe we and our world were well served by them.

With all our confidence and faith and accomplishments, our country was not mature, however. I believe that during these intervening years, our society has been maturing, coming to recognize what we are and what we are not; what we can do and what we cannot. The experience has, in many respects, constituted the "Coming of Age" for America. Passing through adolescence is rarely a comfortable experience and this probably is more true for a nation than it is for a single individual. All too often it is accompanied by an abandonment of idealism and a surrender to cynicism. All too often

it is accompanied by a rejection of the accepted mores and standards of the past, and an affected embrace of sharply contrasting ideas. All too often—on our college campuses, it has lead to nihilism.

It seems to me that a healthy person or the healthy society is the one that can take what is good and true and honest of both the old and the new, and blend them into a rational position of strength and confidence. I believe this is essential for our society today, and I believe much of it depends on tens of thousands of graduates, such as you, to provide much of the leadership that our society and nation will need for survival during the balance of the century.

Commencement speakers usually fling the door of the future open for graduating students, welcoming them into a new society full of hope and promise, demanding little more than conformance with cultural mores, and, in exchange for a reasonable share of hard work, graceful acceptance of the benefits of an affluent society. However, this is not the picture today. The future I see reveals challenges and problems which, I sincerely believe to be without parallel during the last one hundred years of this Nation's history. This my friends, is not just commencement oratory, it is not just an attempt to be dramatic. If I can convey any one message to you today, it is that this nation is inevitably entering one of the most challengingly difficult, rending periods of change in its history, and that it will last for much of our lives.

It is just coincidence that you happen to emerge upon the scene at this particular moment in history. It is not because you are graduating that I bring you this particular message, but because you are graduating now, rather than some other time. You are faced with as demanding a responsibility as was my generation when we faced, even before we graduated, an all consuming World War.

It seems to me that as we face the problems of the next quarter century, the key elements to success will be our willingness and ability to seek and accept the truth, to accept change, and to establish rational and balanced programs to solve our problems. This will be the test by which history will judge us.

Let me use an example with which I am intimately familiar, to make a point. It is a particularly appropriate one for you, as scientists and engineers, because you will understand and be able to handle many of the problems better than your fellow citizens who do not have the advantage of your technical training and your understanding of mathematics of growth curves or problem-solving.

During the period since 1970, our country has truly passed from one major historical era into another. We have passed from an era of abundant energy and materials to an era of shortages and high costs for energy and materials that will be with us for many decades. We have entered an era of international inflation which cannot be controlled by the American economy. We have entered an era in which small nations possessing resources or facilities important to us, are determined to set their own policies according to their own best interest, rather than ours.

The implications of this transition are far more profound than is generally realized.

One of the symptoms of the public frustration resulting from this change is a tendency for all too many of our citizens to lash out rather than to analyze our situation; to seek scapegoats rather than solutions. Tragically, one of these scapegoats is truth itself. Rarely in history have we responded so irresponsibly in the face of peril.

Here are several examples. Common sense, as well as the best mathematical models we have available, teach us that Spaceship Earth is running out of petroleum and natural gas, and that the only real question facing this country is whether catastrophically low levels of production will be reached in 25 years, or in 35. Common sense would indicate, and mathematical analyses confirm, that there is a direct relationship between energy production and consumption, on the one hand, and the state of economy and employment levels on the other. Common sense will tell us, and even a superficial analysis will confirm, that although we can and should conserve our energy resources and cut back on waste, that there is a limit beyond which cutting back will seriously impact our national defense, our economy, and even our political and societal stability.

An understanding of growth curves, patterns of energy consumption and demographic distribution of our age groups will lead inevitably to the realization that even with spectacularly successful spartan conservation programs, this nation's energy consumption will approximately double by the end of this century.

Common sense will tell us that this nation can develop balanced policies and programs that will provide us with the energy we will need for national defense, economic stability and full employment while protecting our environment and resources and improving the physical well being of our population.

The response to the problem defined by these facts and observations would be dramatically simple. We must establish energy policies and programs to eliminate waste and conserve wherever possible, and to develop every source of energy as rapidly as is technologically and economically realistic, to provide the energy we will need in the future.

But what is the situation? The stark facts are that our domestic oil and gas production has fallen about 10% during the last three years; our coal production, which we must triple by the end of the century, has increased less than 2% during the last year; programs for exploration and drilling are being delayed; nuclear fission, on which we must depend for about one third of energy by the year 2000, and which is clearly the cleanest, safest, cheapest significant energy option we have available, is being subjected to a concerted attack, with every kind of distortion and lie being used to frighten the American people into rejecting it; and every week, we hear of some new "magic solution" that will, according to some press story, solve the energy crisis, usually in violation of the second law of thermodynamics.

Our academic community should respond clearly to this challenge, insisting that its future is at stake along with the nation's, that our energy policies must be based on the best scientific, engineering and economic facts available, that this nation cannot afford to try to base energy policies on fantasies or prejudices or fears or hopes. Unfortunately, this has not been happening, at least as much as it should be.

In fact, the opposite is sometimes the case. Recently, in several instances, on several college campuses, I have encountered students, and even some faculty, who, it seems to me, have rejected the very fundamentals of intellectual responsibility and freedom, insisting that we abandon democracy and individual rights, sweep aside scientific fact, yield to emotionalism, and attack as "tools of the establishment" anyone who speaks out for a rational, scientific examination of our problems.

This may seem to be a harsh condemnation, but it has happened to me, and it has disturbed me deeply.

Earlier I commented that history would judge us according to the way we respond to a changing world. I submit that those to whom I have just referred have failed miserably; failed their society and themselves. However, it is not enough for us to resolve that we won't let ourselves fall into that trap.

Truth cannot survive where falsehoods go unchallenged. As spokesmen for the academic community, and in behalf of scientific and engineering truth, you have a responsibility to go forth among your fellow citizens, and help them understand.

This is the challenge I give to you today; that passive resistance is not enough. You have been drafted by fate just as certainly as I was drafted to fight a war, and you must go, if our nation is to survive.

Several years ago, President John Hannah of Michigan State University, on delivering a Commencement address at that Institution, said, "Your generation is remarkable, in many respects. We know about your intelligence, for we have observed you; we know of your ability, for we have taught you; we know of your concerns, for we have watched you; we know of your dissatisfactions, for we have listened to you; we know of your strength, for we have tested you. (. . .) We believe you can do great things, and will do great things, because we trust you and love you.

"We accept your dissatisfaction, because it is characteristically American to be dissatisfied with things as they are. . . .

"We applaud your idealism, your insistence that society must be better than it is, because these attitudes are nothing new and strange, but as old as America itself. Indeed, we are heartened by your discontent, for you are only restating in your own terms the persistent idealism that led de Tocqueville to make this observation long ago:

'They (the Americans) have all a lively faith in the perfectability of man, they judge that the diffusion of knowledge must necessarily be advantageous—and the consequences of ignorance fatal; they all consider society as a body in a state of improvement, humanity as a changing scene, in which nothing is, or ought to be, permanent; and they admit that what appears to them today to be good may be superseded by something better tomorrow.' "

"So it is," said President Hannah, "that we who have had the job of watching you grow to maturity, and helping you where we could, ask but this one thing of you in return; now make us proud of you."

I believe you will do just that. I too, have faith in you.

Furthermore, I believe we can overcome the challenges that face us if we seek the tough, unwelcome truths without fear—if we go to the new realities of the future; if we can accept the need for change and turn that inevitability to the advantage of society; if we can maintain and protect the highest standards of intellectual integrity; if we can grasp the nettle, then together we can build a better world.

May I once again congratulate you, and thank you for inviting me to address you.

LET THEM EAT CAKE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FINDLEY. Mr. Speaker, if Marie Antoinette were to return today, she would undoubtedly be heartened by the

sight of food stamp recipients taking her advice, "Let them eat cake."

On Friday, I received several telegrams from Mr. Donald Entringer, owner of McKenzies Pastry Shoppes in New Orleans. The telegrams were directed to me because I sit on the House Agriculture Committee which is currently considering food stamp legislation. The wires stated:

Without Food Stamps our business is in danger of closing. We employ 500 people.

It was not clear to me why food stamp purchases would provide the margin separating the business from success and failure. Perhaps, I thought, he sells mostly bread. At any rate, I decided to find out. A member of my staff called Mr. Entringer to find out why he was so concerned.

Mr. Entringer reported that McKenzies is a chain with 40 outlets in downtown New Orleans. He stated that they sell pastry, cakes, cookies, and doughnuts. They have never, he said, made any bread.

Food stamp recipients purchase a variety of baked goods from McKenzies. Mr. Entringer estimates that his stores take in about $10,000 per week in food stamps. The figure is higher on special occasions. For example, during Mother's Day weekend, they took in more than $10,000 in just 2 days, mostly from cake purchases.

In fact, Mr. Entringer said, on several, numerous occasions, he has baked elaborate wedding cakes for people who paid for them with food stamps.

The food stamp program was intended to be a nutritional program. Certainly there is some nutritional value in baked goods. But I fail to see any reason for taxpayers to subsidize the purchase of wedding cakes for food stamp recipients.

VEDA PONIKVAR, VOLUNTEER PAR EXCELLENCE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBERSTAR. Mr. Speaker, the prestigious National Center for Voluntary Action has recently recognized Veda Ponikvar, from my hometown of Chisholm, Minn., for her extraordinary volunteer achievement.

The award cites her "distinguished volunteer service—which—has improved the quality of life in the community. This achievement is worthy of national recognition by the National Center for Voluntary Action."

Mr. Speaker, citations are, of necessity, brief. But behind these brief words is a lifetime of imagination, creativity, and drive, which has inspired this small community on Minnesota's fabled Mesabi Iron Range to lift itself up by its bootstraps.

Miss Ponikvar established the now nationally acclaimed Range Center, which has enabled retarded children to reach their full potential.

She was the prime organizer of the Chisholm All-Class Reunion, which helped bring this town together, rediscover its history, and give it a new pride in itself.

And she is the motivation and driving force behind the truly impressive plans for Chisholm's Bicentennial and Diamond Jubilee celebrations throughout this year.

These are but a few of her lasting contributions to her community and her fellow man.

Veda Ponikvar truly personifies the ideals on which America was built—citizens involved in their community, in the process of government, and in the well-being of all humanity.

She is truly a volunteer par excellence, and I am pleased, proud, and delighted that Veda Ponikvar, publisher, editor, civic leader, has received the recognition she so rightly deserves.

WHAT PRICE DEFENSE?

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARKIN. Mr. Speaker, the Adair County Free Press, published in Greenfield, Iowa, recently carried an editorial by Edwin J. Sidey, editor of the newspaper. Mr. Sidey's editorial goes right to the heart of one of the most important issues that has emerged in this year's Presidential contest. He makes several very important, and very valid points. I commend his editorial to the attention of my colleagues in the Congress.

The editorial follows:

WHAT PRICE DEFENSE?

The "debate" over defense spending by President Gerald Ford and contender Ronald Reagan is sounding disappointingly more and more like "me too but more so" than any clash over an important issue. And now come rumors that Democratic frontrunner Jimmy Carter is having second thoughts about suspending B–1 bomber development and cutting the defense budget as he had indicated earlier.

Defense spending is an issue that needs debate, both now and in the fall. But it needs debate in the context of the strength of the entire country, not just in terms of dollars appropriated for the Pentagon. President Ford has asked Congress for the biggest defense budget in history, $112.7 billion. Presumably Reagan, who has charged the administration with letting the Russians get ahead of us, would up that a few more billion.

What will a few billion, more or less, really mean when the experts estimate that each side now has the capability of killing 100 million people on the other side, regardless of who struck first? Will that few more billion actually buy security?

It is ironic that the defense-gap issue seems to make the most political hay with the extremely conservative . . . Wallace Democrats and Republican right wing alike. Yet these are the very people who froth at the mouth over deficit spending and increasing taxation.

If the United States is going to rattle a bigger sabre, someone will have to pay for it, either by tacking on more billions to a federal deficit which at latest estimates is growing by $50 billion a year, or by raising those much-cussed taxes.

In the long view, a nation which staked its future on controlling ruinous inflation by balancing its budget might present a far stronger defense posture than one which spent a few more borrowed billions for a few more bombers and carriers. A nation's strength finally rests on the loyalty and determination of its citizens. That would be enhanced by fiscal policies that gave some assurance that life-time savings would not be wiped out by inflation brought on by misguided spending in Washington.

SACRIFICE FOR INDEPENDENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WOLFF. Mr. Speaker, I noticed an interesting article by Bob Morgan appearing in a copy of the Williston Times—March 18, 1976—a local newspaper in my district. Most people recognize the great contribution the signers of the Declaration made to the United States; however, too few realize how very much these men risked in order to insure our independence.

I would like to share this article with my colleagues for it presents an important lesson to the shapers of our contemporary government:

THINKING IT OVER

(By Robert L. Morgan)

When the extremists who wrote the Declaration of Independence assembled in Philadelphia from over the thirteen colonies, the first thing to greet them was an anonymous note found on the speaker's table. It said: "Take care. A plot is framed for your destruction and all of you shall be destroyed."

When the final vote was taken in Independence Hall on July 4, every man who signed the Declaration of Independence took his life in his hands. If Washington's ragged, outnumbered army could not repulse the British every signer would be tried for treason to the British Crown.

Have you wondered what happened to the fifty-six men who signed the Declaration of Independence pledging their lives, their fortunes, their sacred honor, that this nation under God, would not perish from the earth? Five were captured and tortured by the British. Nine fought and died from wounds and hardships of war. Twelve had their homes pillaged and burned. Two lost their sons in battle. Another had two sons captured. John Hart was driven from his wife's bedside as she lay dying. Their thirteen children fled for their lives. His mill and fields were laid waste. For more than a year he lived in forests and caves, and he returned home to find his wife dead and his children vanished. A few weeks later he died from exhaustion and heartbreak.

Morris and Livingston suffered similar fates. Carter Braxton of Virginia, wealthy planter and trader, saw his ships swept from the seas by the British navy. He sold his home and property to pay his debts and soldiers looted the properties of Ellery, Clymer, Hall, Walton, McKean, Hayward, Rutledge and Middleton. At the battle of Yorktown, Thomas Nelson, Jr. urged General Washington to fire on his (Nelson's) home which British General Cornwallis had taken over for his headquarters. Washington did, and Nelson, too, died broke.

Who were these super patriots? Twenty-four were lawyers and justices, eleven were merchants. Nine were farmers. These men whom we call patriots today were regarded as radicals by the moderates of their time who counseled, "Come and let us reason together with the King." They all signed the Declaration of Independence knowing full well that the penalty would be death if they were captured. They knew they would be tracked down, persecuted and killed, which they were. They could have gone along like some of our "fatcats" are doing today. Gone along with what they thought was "the wave of the future" and stayed on top—for awhile at least.

NAME CALLING OVER MEXICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. McDONALD. Mr. Speaker, for some weeks now Mr. SYMMS of Idaho and myself have been attempting to call to the attention of this body the danger that is brewing south of our border in Mexico. This effort has brought forth various slings and arrows. Mr. Carl Rowan in a column last Wednesday called me various names and assigned me numerous labels, and even invoked the name of Senator MANSFIELD, but in a very intellectually shallow column failed to discuss the substance of the matter, in a sad commentary on the shallowness of present day journalism. The column follows:

[From the Atlanta Constitution, May 19, 1976]

RIGHTWINGERS CHARGE MEXICO

(By Carl Rowan)

WASHINGTON.—Perhaps you feel, as Sen. Barry Goldwater (R.-Ariz.) does, that some dangerously irresponsible things are being said by Ronald Reagan and others about the Panama Canal.

But Reagan is a model of cautious diplomacy compared with the charges being hurled against Mexico by 30 rightwing members of the House of Representatives.

The greater tragedy may be that while few people in this country take seriously the charges that President Luis Echeverria has taken "long strides toward the imposition of a Communist regime" in Mexico, the leaders and press of Mexico are seething.

Leading the assault on Mexico is a freshman congressman from Georgia, Lawrence P. McDonald, who on April 14 told the House that Echeverria had provided "perhaps a thousand foreign Communists with important government positions."

McDonald asserted that "the outgoing President of Mexico has set his sights upon . . . 'the third world leadership.' Part of the deal is apparently to deliver his own people to the misery of Communist collectivization and strife." As for Jose Lopez Portillo, who will be elected Mexico's new president in July, McDonald said: "There is nothing better to be expected from (Echeverria's) hand-picked successor, who promises to follow the long-term program devised for Mexico by foreign Communists, while denouncing those who defend their land as cowardly fascists."

Now, McDonald is a bigshot in the ultra-reactionary John Birch Society. He made headlines recently by acknowledging that as an Atlanta doctor before his election he injected cancer patients with laetrile, a drug banned from the United States by the federal Food and Drug Administration. McDonald is being sued for $3.5 million by relatives of a patient who died of cancer in 1974 after being treated by McDonald with laetrile. McDonald told me that people who use his John Birch Society membership to try to discredit him "just show their ignorance."

Yet, given his background, most Americans might ignore his allegations regarding Mexico. But on May 5 McDonald was joined by 29 other congressmen in a letter to President Ford asserting that Mexico's alleged drift to Communism is "a grave danger" to the United States.

The signers of that letter—like John Ashbrook (R.-Ohio), Joe D. Waggonner, Jr. (D.-La.), Trent Lott (R.-Miss.) and Philip N. Crane (R.-Ill.)—represent the core of the congressional clique at the far right of the U.S. political spectrum.

Sen. Mike Mansfield (D.-Mont.), the retiring Senate majority leader who has been in 16 interparliamentary meetings with Mexico's lawmakers, says it is ridiculous to even suggest that Mexico is going Communist. He says Mexico is "very much against Communism" and that the charges by McDonald and his colleagues "can only harm relations between the U.S. and Mexico at a time when they should be getting better." McDonald counters that "Mansfield's track record on Southeast Asia was disastrous." The Georgian likens himself to those who in the mid-1950s warned that Fidel Castro was leading Cuba to Communism.

Next to McDonald, Rep. Steven D. Symms (R.-Idaho) has been most active in Congress in screaming about "the coming crisis in Mexico" and how "the infiltration of radical Chileans into high government positions, is setting the stage for another Marxian takeover in this hemisphere."

A senior State Department expert on Mexico refused to be quoted by name. But he called the McDonald-Symms charges "ridiculous." He said the State Department isn't remotely worried about Mexico going Communist, but it is plenty worried about the impact in Mexico of these kinds of charges by members of Congress.

About the same time a letter arrived in my office from the Mexican Ambassador protesting the items that had been placed in the CONGRESSIONAL RECORD. The letter again was a perfect tirade and a strange letter for a diplomat to write. Again, the substance of what had been placed in the CONGRESSIONAL RECORD was not disputed. In discussing land seizures, the Ambassador attempts to link the present incidents with the Aztec past. However, the Aztecs owned their land in a family or clan group. The ultimate owner of the land was not the central government which controlled the farming operations as with a Socialist country. The letter, which is reprinted below, was more worthy of a Mexico City back alley tabloid and not the thoughtful sort of letter one would expect of a diplomat from a friendly country:

EMBAJADOR DE MEXICO,
Washington, May 6, 1976.

Hon. LARRY P. MCDONALD,
U.S. House of Representatives,
Washington, D.C.

MR. CONGRESSMAN: With your letter of April 14, 1976, I received your remarks to the House of Representatives under the title "As it was in Chile, so it is in Mexico", published in the Congressional Record of the same date. Again, on April 29 you took the floor to attack, gratuitously for the second time, my country.

With your remarks you included some documentation regarding, what you consider to be, Mexico's leap toward communism.

You must be aware that under the provisions of the International Security Assistance Bill it is contemplated to suspend aid not to those nations who are pursuing the course and policies most suitable to their own interests, but to curtail asistance to those nations that are violating human rights. In fact, the bill is directed more to the dictatorial militaristic governments that in your estimation are the bulwarks against communism and who have all too often attained notoriety by the treatment applied to their citizens. At the outset let me inform you that Mexico does not receive any direct military aid from the U.S. Government and, therefore, I did not find your remarks either timely or, for that matter, in keeping with the friendly relations that have always existed between the Governments, legislatures and peoples of Mexico and the United States, even though there have been many attempts to poison them with slanderous remarks.

Fortunately, the Government of Mexico does not have to recur to threats of any kind to exercise its constitutional functions. Perhaps you should be aware that the collective tradition of rural property in Mexico dates back to the prehispanic period. This communal property of the indian villages is a trait of which we are both proud and concerned for its preservation. Policy is made by the Mexican Government and is not devised in any other country.

The totalitarian dictatorships are not only governed by non-democratic methods, but they have been severely criticized by your fellow Congressmen and their activities deplored by some Senators. I would like to refer you to the Report isued by Senator Church's Select Committee to Study Governmental Operations with respect to Intelligence Activities.

Constitutional process in Mexico is very much like that of the United States. The Constitution and its amendments are written to benefit all Mexicans. However, we fought a bloody and costly revolution to insure that the deprived masses of rural inhabitants would receive their share of national wealth. Thus the concept of social justice is the prime inspiration and force that moves our legislators to protect and provide for those that have fewer opportunities, those who have been deprived by the rich and the powerful.

We have been accused in the past of being communists. Apparently some misinformed people equate the search for justice with communism. In fact, when President Lázaro Cárdenas expropriated the oil industry in 1938 recovering for Mexico one of its most precious natural resources and thus placing the stepping-stone for modern Mexico, an insidious campaign with many voices not unlike your own, rose in a chorus predicting all sorts of evils for our relations and the threat of communism taking over in Mexico. Of course none of these things happened. On the contrary, our bonds became stronger than ever. We were staunch allies during II World War and our newly acquired national wealth paved the roads for industrialization and progress, thus the United States found a more stable, more peaceful more solid and more friendly southern neighbor.

Dear Congressman McDonald, not only were your remarks untimely unfriendly, ill advised biased, distorted and dangerous but you chose to insult once again the Mexican Government, its President, its political institutions and its people on April 29. I have, therefore, to conclude, much to my regret, that you are actively engaged in trying to create havoc in the midst of a friendly na-

tion that has always preached non-intervention and self-determination of peoples as the two pillars of its foreign policy. It is tantamount to a direct campaign against the Mexican people. I would like to think that your original remarks were the product of your self-righteous attitude which allows you to pass judgment on any and every phenomena that your fancy or your imagination leads you to think is occurring; but your documents, sources and arguments are far too biased and far too one sided to be just the product of mere chance. Therefore, I am led to believe that you are being used by a group of people intending to discredit the social progress that Mexico has proudly achieved in order for them to further their obscure and inconfessable aims.

We will not allow this to happen, the social process begun by our nationalist Revolution in 1910 will not be detained or deviated by provacations or infamy.

Mexico is the architect of its own destiny and its people the sole repository of its sovereignity.

I think that you should reconsider your attitude and present a more objective image of what you know is really happening. Nothing but ill effects and discredit can derive from your present line of conduct. It is not by meddling in the internal affairs of other nations that one serves the oath of office you took when you were installed in the August Chamber.

I do not understand why you want to diminish the excellent relationship that exists between our peoples and our countries.

Sincerely yours,

JOSÉ JUAN DE OLLOQUI.

Needless to say I did not respond in kind and wish at this time to make my response public showing that I was and am receptive to correction of any of my information that was not factual in content. My response is reproduced below:

MAY 17, 1976.

His Excellency JOSE JUAN DE OLLOQUI,
The Ambassador of Mexico,
Washington, D.C.

DEAR MR. AMBASSADOR: Thanks for your letter of May 6, which I received and understand.

However, I must take note of the fact that your letter did not attempt to refute any of the things I have placed in the Congressional Record. It is because I love my country and value the friendship of Mexico and its traditions that I do not wish Mexico to go through the terrible experience of Chile. Mexico is a great country and a good friend.

I am not threatening anyone. When I took my oath of office I promised to protect and defend the interests of the United States. Therefore, it is not wrong for me to call attention to a potential threat to the security of the United States.

Please inform me wherein my information is incorrect, since nearly all of it came from news sources within Mexico? Please assure me that none of these radical Chilean refugees occupies an influential place in the Mexican government!

I await your further response.

Respectfully,

LARRY P. MCDONALD.

Finally, last Friday, WMAL managed, in another fit of shallow journalism, to make a whole story out of the fact that some 30 of us had sent a letter to the President concerning Mexico and another organization had reprinted that letter in the form of an ad soliciting funds for its Latin American broadcasts, and that some of the Members who signed the letter had been unaware of it going to be reprinted in the press.

One wonders, with this town teeming with experts, why no one has bothered to dispute my statements on an intellectual basis or has the Nation's Capital and its press simply become an undisciplined horde of name callers unable to write anything else.

More to the point in support of efforts to show the dangerous path Mexico is treading is the announcement that Mexico has refused to attend the Organization of American States meeting in Santiago, Chile, on June 4. The Mexican Foreign Minister stated that Mexico would not attend the meeting because it would legitimize "a military regime * * * that was built on the death of a democracy and the tomb of Salvador Allende." As is now well known Senor Allende committed suicide in despair over being overthrown and the chances for the survival of democracy under Allende were about zero with the Communists closing their grip on the country. How much influence Allende's former lieutenants, now in the Mexican Government, had in making this decision is not known, but the outlook appears to be anything but rosy down Mexico way.

"MANNIX"—"OHANIAN," MIKE CONNORS TO BE HONORED

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DANIELSON. Mr. Speaker, I wish to call the attention of my colleagues to Mike Connors, whose real name is Krikor Ohanian, one of the most genuine people in show business.

Mike Connors will be honored at a gala dinner on Sunday, May 30, 1976 at the Beverly Hilton Hotel in Beverly Hills, Calif., and deservedly so.

We are all proud of him, especially those fortunate enough to be of Armenian ancestry as is Mike whose real name, as I have said, is Krikor Ohanian. Mike has been tireless in assisting a great number of good causes, including Armenian causes, giving generously of his time and his great talents.

Connors has proven his talent with his exceptionally popular "Tightrope" and "Mannix" television series. Recognition from his peers has come in the form of a Golden Globe Award as "Best Actor" and five Emmy nominations. A recently completed pilot entitled "Ohanian" was aired on television not long ago, and may prove to be the basis for a new series with the same title.

Mike Connors does not forget his cultural and proud identity, for his scripts are often laced with dialog in the Armenian language and references to fine Armenian cooking, which thoroughly delight his Armenian viewers and endear him to them even more closely.

To Mike Connors, his wife Mary Lou, his son, Matthew Gunnar and daughter, Dana Lee, a very special greeting and warmest good wishes for the evening of Sunday, May 30, 1976.

NATIONAL HEALTH INSURANCE AND CATASTROPHIC ILLNESS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OTTINGER. Mr. Speaker, a constituent in the 24th Congressional District has recently called my attention to a series of articles that appeared in the New York Daily News on April 1 and 2, 1976.

These articles focus on the tremendous burdens created for American families by the occurrence of a catastrophic illness. A prolonged hospital stay or the need for highly specialized medical treatment during a serious illness can bring financial disaster even to those with good incomes and sizeable savings. Add to this the enormous psychological burdens placed upon the patient and the family in coping with the gravity of the illness itself, and you can understand the anxiety that people in this situation face.

I believe these articles point out most clearly the need for a universal program of National Health Insurance to protect all Americans, regardless of financial circumstances, against the economic consequences of prolonged illness. I take this opportunity to insert this series into the RECORD as further evidence of the need for prompt congressional action in adopting a plan for National Health Insurance:

CATASTROPHIC ILLNESS: FOR THE SICK AND OLD, THE FINANCIAL BURDEN IS CRUSHING

(By Ken McKenna)

Benjamin R., 65 and weakened by a severe respiratory illness, entered the Bronx's St. Barnabas Hospital in the spring of 1973, not worrying about medical expenses. He qualified for Medicare and had a fat bank account and other assets worth more than $80,000.

By the time of his discharge last November, he was a virtual pauper. After his Medicare benefits expired, he paid the medical bills himself for a year. When he had emptied his bank account of $78,000 for hospital expenses, he was almost penniless and qualified for Medicaid. Medicaid officials, however, stipulated that he give the hospital $233 a month from his Social Security check, leaving him $7 a week for personal spending during his hospital stay.

Such a lengthy period in the hospital is extraordinary but its financial consequences are not. Thanks to modern medical technology and soaring hospital costs, more Americans every year undergo treatment that at the least severely strains their financial stability and sometimes forces their families deeply into debt.

FINANCIALLY DISASTROUS

At the worst, a prolonged hospital stay can turn an individual into a poverty-line case dependent on government or private charity. In today's medical parlance, a "catastrophic" illness is not only life-threatening but financially disastrous.

In Congress and in state legislatures, a galaxy of bills have been introduced that would provide aid to individuals with so-called catastrophic illness along with other forms of national health insurance. One Congressional bill zeroes in specifically on the problem of huge medical costs with a program that would cost $3.6 billion a year.

In the case of one disease, the federal government, in effect, already is funding a program to aid victims of whopping medical bills. In 1972, Congress extended Medicare coverage to persons with kidney failure, which turned out to be a $300 million annual commitment for 20,000 persons taking dialysis treatments in 700 centers around the country.

The kidney project illustrates the intrinsic problems in helping chronically ill persons: relatively few individuals treated at enormously high costs. No one is sure how many Americans suffer catastrophic illnesses that result in ruinous medical bills. One study put the number at a million a year. Another estimated that 0.8 per cent of the population, or 1.7 million persons, had $5,000 in medical expenses in any year.

MOST THINK THEY'RE COVERED

The expense figure did not impress Sylvia Weissman, an official at Cancer Care Inc., a private group that aids cancer patients. "Most people think they're covered, that they have enough insurance," she said. "The other day I talked to a woman whose husband had terminal cancer. She told me they had $5,000 in insurance. My heart dropped, $5,000 could go in a week."

For most Americans, a prolonged illness in the family imposes an impossible financial burden. Most private insurance plans have limits. Some companies have introduced plans that boost the allowable benefits to $250,000 and beyond, but the price tag is high and the elderly, the most likely victims, mostly are ineligible. Medicare requires an individual to be at the poverty level in order to qualify.

At Montefiore Hospital in the Bronx, Myra Eisen, who works in social services, told of a woman, a retired city employe, who had just learned that her husband must enter a nursing home. The woman's savings and city pension put her above the Medicaid level but were not enough to finance an open-ended stay in a nursing home. "Now she's going to have to reduce herself to a welfare budget for the rest of her life. Here's a middle class lady with a middle class standard of living that will be gone forever," the social services worker said.

The Health Insurance Association of America estimates that 144 million persons are protected under major medical plans but, with astronomical medical bills, individuals have difficulties in handling even a small percentage of the cost of a long hospital seizure.

A Nassau couple's 10-year-old girl was hospitalized for leukemia and built up a $20,000 hospital bill. The couple had major medical which left them with $3,000 to pay themselves. They did not have the money.

Cancer Care's Sylvia Weissman pointed out, "Everybody's overextended these days. Many people just don't have $2,000 or $3,000 to spare. And that's a mountain of money when you don't have it."

Cancer Care officials have found that the middle class families they serve are nearly drained of resources when they appeal for help. "They're in worse shape today than they were a few years ago," said Mary Overton, assistant executive director. "They've exhausted their savings. It's a combination of inflation, the high cost of medical care and lack of adequate insurance."

EMOTIONAL STRAIN

These illnesses have a ripple effect on the entire family of the victim. First, the family finances are drained, often unendingly. Then, the emotional strain of family members is corrosive. With older persons, the pressure can lead to other illnesses such as heart attacks.

"The emotional effect can be worse than the financial thing," Mrs. Overton said. "We had one case where a man whose wife had terminal cancer couldn't hold a job. He couldn't focus his attention on it. He wanted to be home with his wife."

In another case, a garment industry cutter became accident prone while his wife was undergoing treatment for cancer. He almost severed his finger in one mishap before his son realized how distracted his father was and forced him to stop working.

Mrs. Magda Bondy, of the Visiting Nurse Service of New York, described a typical situation when the wife is crippled or chronically ill. "The children have to fill in where possible and the husband has to be there almost always. Everything in the household centers around the wife. There's little left for the rest of the family."

Cancer Care is paying a portion of the medical bills for a mechanic, 39, who was operated on for cancer three years ago. The cancer spread from the lung to other parts of his body and he is now disoriented and almost in a coma. The family has seven children, the oldest 13.

Mrs. Weissman observed, "His wife on a conscious level wants him to live but on an unconscious level, she wants him to go. So she can start her life again."

Many children of elderly, sick parents face a wrenching struggle with their consciences over the extent to which they are willing to sacrifice both their time and their financial resources. In some cases, a family already is burdened with expenses they are barely handling.

An unmarried, highly successful millinery designer made the extreme decision of giving up her job to care for her mother, who was in her 80s, partially blind and had a heart condition.

The daughter, 44, felt a strong obligation. She had promised her father on his death bed that she would take care of her mother. In three years, her $50,000 in savings were spent and she sought out the Visiting Nurse Service of New York for a home care worker so she could return to work.

In a twist that demonstrates the legalities that bedevil financial benefits for the chronically ill, the mother was rejected for Medicaid. Over the years, the daughter had maintained a joint bank account with her mother, even though she herself was the main contributor. Medicaid regarded the money as her mother's property and would not qualify her for benefits until the savings were almost depleted.

REALISTIC REACTION

A young man whose mother-in-law was undergoing a series of operations was more realistic in his reaction. "You get to thinking about the money. You try not to. You want to do everything you can for her. But despite yourself, you can't help thinking about how much all this is going to cost."

The municipal hospital system accepts indigent patients and then tries to get reimbursed for their outlays through welfare or some federal program that might cover the patient. A Bellevue Hospital spokesman explained, "They get the same services as everyone else, the same care or lack of care. A nurse would have no knowledge about a patient's financial resources. She may consider some nice patients, some she may consider bastards. But who does and doesn't pay his bills doesn't really affect her."

MEDICAID'S TANGLE OF REDTAPE OFTEN MAKES SICK PEOPLE SICKER

(By Ken McKenna)

Despite the crippling costs of medicine today, persons hobbled with chronic illnesses do not suffer from lack of agencies that exist to assist them.

Over the years, layer upon layer of governmental and private organizations have been created to assist individuals under stress to pay medical bills, to make doctors available, even to arrange for care at home for disabled persons.

But the complex social service apparatus does not always deliver the maximum results for its clients. Community Service Society, one of the oldest private agencies in the field, a few weeks ago received a phone call from a woman distressed about Medicaid. She was worn out by the monthly routines necessary to get approval for medical expenditures.

"It made me so ill, I nearly died. My blood pressure went up to 200. When I threw the Medicaid card in their face and left, I felt better." An agency official asked where she was getting her medication now. She wasn't. "I'd rather die than go back there and sit all day and be treated with such lack of dignity," she said.

DEMANDS ONEROUS

Social workers repeatedly complain that Medicaid, which was set up to service indigent persons, is difficult to deal with. Some find its employes hostile and inflexible. They adhere to rules with an infuriating exactness, one said, and the documentation required is onerous, often impossible to assemble. "When Medicaid started, you had to fill out a two-page application. Now, it's 10 pages," a social worker remarked. "You have to run an obstacle course to get service."

If social workers have trouble dealing with Medicaid, the recipients of its aid—almost always disabled by illness or age—have infinitely more serious difficulties. And when an individual with a serious, prolonged illness finds that his insurance coverage has run out, when his private funds are gone, his only recourse for medical assistance is Medicaid.

To qualify for Medicaid, a single person's income cannot exceed $225 a month, which is less than most pension payouts and means the individual is living on the edge of poverty. Assets must be under $1,850. For individuals with a higher income, the government works out an arrangement whereby part of the income is surrendered in exchange for Medicaid benefits.

The arrangement can be arduous. Community Service counseled a 75-year-old woman who was hospitalized for a broken hip, then forced to undergo a mastectomy. She needed homemaker service when she left the hospital and applied to Medicaid. She was paying $180 out of her $260 Social Security for rent and utilities, yet Medicaid ruled that she had to contribute $12 a month out of the remaining $80 for the homemaker.

In addition, Medicaid patients under this type of arrangement must visit a district office each month for authorization of all medical bills. The trip usually involves waiting hours for service.

Mrs. Gertrude Elowitz, who directs the older persons service for Community Service complained: "Our people are sick and handicapped. You got to be 18 and healthy to do that. They'll tell the patients to get their children to come to the office. Well, your children come to visit you once a month on Sunday and you don't want to spoil the relationship by asking them to take a day off from work and go to Medicaid for you."

The stiff financial provisions necessarily exclude many needy persons. The Visiting Nurse Service of New York is assisting a 54-year-old woman immobilized by a disease of the nervous system. "She can't move a pinky. She's helpless," said Visiting Nurse official Magda Bondy.

Her husband earns $900 a month as a factory foreman and is snowed under by medical bills. The couple own a house in Queens which, though it is fully mortgaged, complicates the possibility of receiving Medicaid. Their daughter, 16, is having difficulty coping with the emotional situation in a house

centered on her crippled mother. The husband, frustrated by mounting bills and problems in finding some one to care for his wife, has vowed to quit his job and go on welfare.

Medicaid has become notorious for its slowness in processing paperwork. For persons who have to impoverish themselves to qualify for the program, the delay can result in a torturous situation. Mrs. Elowitz explained, "The first month the Medicaid patient has to spend the money on medical bills to prove how much they cost. Some patients can't get any other assistance so they don't eat very well that month. Maybe Mt. Sinai Hospital can wait three months but some one who spent the money the previous month out of a $250 Social Security check can't."

Medicaid's glacier-like operation can have unhealthy effects on patients with dire illnesses who are not in a particularly rational state of mind. In fact, many patients refuse to accept that they are seriously ill and hence do not apply for Medicaid or other disability benefits.

HALTED THERAPY

At Cancer Care, Inc., a man with Hodgkin's Disease was resisting therapy which, in his case, would have made the difference between possible cure or remission. He finally applied for Medicaid and when the card did not arrive promptly, he used that as an excuse for discontinuing therapy.

Medicaid's slow billing pace has led many private doctors to reject patients under the program. (The low Medicaid reimbursement rate also is a factor.) Since there are few individual physicians who accept them, the patients are forced to go to hospital clinics, which are often inconveniently located and, again, involve hours of waiting.

The Visiting Nurse Service's Mrs. Magda Bondy told of a 65-year-old diabetic whose leg was amputated during a two-year illness. He visits the clinic once a week but should go more often. Doctors are trying to save his other leg. Confined to a wheelchair and struggling to live on $280 a month Social Security, he breaks many appointments because he cannot afford a taxi fare.

Many professionals in the health field contend that most proposed and current government programs place too much emphasis on protection against medical emergencies and not enough on long term care for the chronically ill. Robert O'Donnell, executive director of the New York State-wide Senior Action Council, makes this point repeatedly.

"We feel that there must be some form of national health insurance that would take care of chronic illness. Most of our medical institutions and medical insurance policies are built on acute care, not chronic care. Young doctors want to become specialists but no one wants to be a specialist in chronic care. It's time consuming and what rewards are they going to get? The patient never gets better."

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on May 25, 1776, upon the recommendation of the committee meeting with Generals Washington, Gates, and Mifflin regarding the protection of the northern border of the country, the Continental Congress resolved:

That it is of the highest importance that post be taken at Dehambeau and that the same be fortified; that works be likewise erected on the islands in the river St. Lawrence at the mouth of the river Sorrel, as well to keep open the communication between Dechambeau and St. Johns as to prevent the enemy's passing to the upper country, should the forces of the United Colonies be compelled to retreat from Dechambeau.

The resolution also stressed the importance of engaging the Indians in the defense of the Colonies.

The congressional resolution reflected the rapidly deteriorating position of the American forces in Canada.

OSHA STRIKES AGAIN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ASHBROOK. Mr. Speaker, the Occupational Safety and Health Administration—OSHA—has been in operation now for approximately 5 years. This agency has been a continuing source of problems for businessmen and farmers in Ohio and throughout the Nation.

Many of us have come to expect the preposterous from OSHA. Nevertheless I cannot help but comment on one of its more notable acts of stupidity.

The latest misadventure is into a cut nail factory founded in 1819 in Massachusetts. After 128 years of successful operation, OSHA has decided that the plant is unsafe.

OSHA's "solution" to the problem would seriously interfere with the basic operations of the plant as well as destroy the historic atmosphere of the place. According to OSHA, the old stamping machines would have to be boxed in although this would make it hard to repair the machines and might even make it impossible to run them. Acoustical tile would have to be placed on the ceiling, covering the old hand-hewn roof timbers. The belts and pulleys that drive the machinery are called a safety hazard—even though the president of the firm cannot ever recall one breaking and says no one would be hurt even if a belt did break.

This is pure foolishness. But, to come to think of it, so is so much of what OSHA does.

Following is the text of an editorial on this subject which appeared in the May 19 Washington Star:

LET'S GET THIS NAILED DOWN

It's a little hard to get excited over nails but there's a controversy in Wareham, Mass. over a "cut" nail factory that seems worthy of attention.

"Cut" nails are those old-fashioned, foursided, very hard nails that not only arouse nostalgia but hold better than the new-fangled, softer, round "wire" nails that have come into vogue because they're easier, faster and cheaper to make.,

The market for cut nails hasn't vanished entirely, though. They're used, for example, in nailing to concrete and cinder blocks.

But, according to a recent article in *The Wall Street Journal*, only three cut nail plants still exist and one of them is in danger of being done in by government regulation. The latter is the Tremont Nail Co. of Wareham, which opened for business in 1819 and still cuts nails from high-carbon steel in much the same way it did 128 years ago.

Enter the Occupational Safety and Health Administration. This federal agency, which was set up a few years ago to administer tough new laws governing the health and safety of industrial workers, doesn't like what it sees at Tremont.

The old overhead pulleys and belts that make the machinery go are safety hazards, says OSHA. Tremont President James S. Kenyon Jr. says he can't remember one of the big overhead canvas belts breaking and anyway, he adds, the machinery runs so slow that probably no one would get hurt if a belt did break.

Acoustical tile should be installed on the ceiling, says OSHA. Never mind that it would cover up the massive, hand-hewn roof timbers that are held together with wooden pegs.

The old stamping machines—for which, incidentally, parts are getting harder and harder to come by, since the machines haven't been manufactured for 75 years—should be boxed in to cut down on noise, says OSHA. Mr. Kenyon protests that operators wouldn't be able to spot potential breakdowns and it would be hard to get at the machines for repairs. It might even make it impossible to continue running the machines, he says.

Besides, says Mr. Kenyon, all this face-lifting would ruin the place: "This is a landmark, and we'd like to preserve it pretty much in its natural state. There's a museum aspect to what we do." He's hoping to get the plant designated as a national historic site.

Surely OSHA can find a way for Tremont to continue making cut nails without destroying the historic atmosphere of the plant. We need to be reminded of the past; and we need those cut nails. Ever try driving one of those wire nails into a concrete block?

TWO NORTHERN MICHIGAN RESIDENTS AWARDED CERTIFICATE OF HONOR

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RUPPE. Mr. Speaker, the Department of the Interior has recently brought to my attention the courageous action of two northern Michigan residents who have distinguished themselves through their heroism and quick thinking when confronted with the emergency rescue of a fellow worker. Norman Gill and Edward van Ackeren have been awarded a certificate of honor for their actions, and I would like to bring the details of their lifesaving to the attention of my colleagues by quoting from the Interior Department account:

Norman B. Gill, 55, of Amasa, Mich., and Edward van Ackeren, 49, of Stambaugh, Mich., electricians at an iron-ore processing mill of the Hanna Mining Co. Both were involved in rescuing fellow-electrician Alfred Spigarelli, who touched a 440-volt wire during installation of temporary wires to an electric motor. Spigarelli was in a kneeling position when he touched the live wire. Unable to break loose, he yelled for help. Van Ackeren, trying to pull the victim loose, was himself shocked and had to let go. Gill then took hold of Spigarelli's loose shirt and pulled the victim free. Spigarelli suffered severe physical shock and third-degree burns on his hand and arm.

PEPPER POLL SHOWS HOUSE MAJORITY FAVORS BROADCASTING DEBATES

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, a poll taken by my distinguished colleague on the Ad Hoc Subcommittee on Broadcasting (Mr. PEPPER) reveals that nearly 70 percent of the 346 respondents favor radio and television broadcast coverage of the floor proceedings of the House of Representatives. That is roughly comparable to the 68 percent public support for floor broadcasting revealed in a Roper poll published last summer.

Mr. Speaker, I wish to commend the gentleman from Florida for taking this confidential poll in an attempt to measure just how interested House Members really are in giving the electronic media the same access to the House Chamber which the print media now enjoy. I think the Pepper poll results give lie to the myth that a majority of the House Members publicly support yet privately oppose broadcasting. The gentleman from Florida holds the historic distinction of being the first Member of Congress to ever propose broadcasting congressional proceedings, having introduced such a joint resolution when he was a U.S. Senator back in 1944. I think the gentleman's broadcast poll of House Members unmistakably demonstrates that this is an idea whose time has come, having had a gestation period of over 30 years.

Mr. Speaker, as Members may be aware, the Ad Hoc Subcommittee on Broadcasting of the House Committee on Rules brought its House broadcast resolution (H. Res. 875) before the full committee on March 24, 1976, only to have it recommitted to subcommittee by a 9 to 6 vote. At that time, the distinguished chairman of our subcommittee, the gentleman from California (Mr. SISK) vowed that the broadcast resolution was not dead and that he fully intended to report a measure back to the full committee around the first of June after giving further thought and consideration to the matter. I am pleased to report that our subcommittee is moving forward on that effort. The outstanding question that confronts us is not whether there should be floor broadcasting, but rather, how to do it. The subcommittee had concluded that the most effective and least costly method would be for a network pool to provide coverage and make it available to any interested broadcast stations. At the suggestion of certain Rules Committee members, we are now reexamining various other options for coverage including an in-House broadcast system and coverage by the Public Broadcast Service.

In this regard, Mr. Speaker, the gentleman from Florida asked House Members which system they would prefer. Of those expressing support for one or more of the options, 43 percent favored the network pool, 35 percent supported the Public Broadcast Service, and only 22 percent favored the in-House broadcast system. Since Members were not precluded from expressing support for more than one option, it might be more useful to examine the percentage of support and opposition to each of the options: network pool—90 percent support and 10 percent opposition; Public Broadcast Service—77 percent support and 23 percent opposition; in-House system—50 percent support and 50 percent opposition. The actual number of Members expressing support for each of the options were: network pool—141; Public Broadcast Service—112; and in-House system—70.

Mr. Speaker, any way you read the above figures, I think it is evident that the network pool proposal comes out on top and ahead of the other options.

Moreover, I think it should be noted at this point, in all fairness, that the public broadcast service option is not really a live option. Our broadcast subcommittee has asked the Public Broadcasting Service whether it would be willing to exclusively provide the coverage of our floor proceedings. In a letter to Chairman SISK, dated May 24, 1976, PBS President Lawrence K. Grossman and WETA President Ward B. Chamberlin, responded in part:

> In the best interests of both the House and of public television, we very strong urge that you and your colleagues carefully assess the superiority of coverage by a four-network pool and must with all respect decline such an undertaking by ourselves alone.
>
> On grounds of professional quality and technical competence, cost to the House, and public acceptance of floor coverage as a wholly objective reflection of the House at work—on all these grounds, and speaking as broadcasters eager to make extensive use of the product, we recommend the four-network pool as far the best of all possible vehicles.

Mr. Speaker, unless the Congress should decide to overrule PBS and mandate by law that it provide this coverage—something which I think would be blatantly violative of freedom of the press and would convert the perception of PBS from public television to Government television—we are realistically left to decide on one of two options: either the network pool arrangement or an in-House broadcast system. After reexamining these alternatives, I think the network pool is still far preferable because it is the more capable and less costly of the two approaches, and because it insures for broadcasters the same freedom which their print colleagues now enjoy and employ in covering our floor proceedings. In short, I do not think the House should control the cameras any more than we now control the pens of the newspeople now sitting in our press gallery. Such control would only increase rather than reduce public cynicism and mistrust in the Congress.

In addition to House support for the network pool over the other options, the Pepper poll contains a further indication that Members do not think the House should exercise control over broadcast coverage. In response to a question as to whether all our proceedings should be covered or whether the leadership should decide what should be covered, an overwhelming 82 percent favored coverage of all proceedings, as opposed to 18 percent who thought the leadership should decide.

Mr. Speaker, on the basis of this poll and public support for House broadcasting, it is my hope that the broadcast subcommittee and the full Rules Committee can and will report a resolution to the House which will provide the broadcast media with full and free access to our floor deliberations. I know of no better time to take such action than on the 200th anniversary of our noble democratic experiment.

At this point in the RECORD, Mr. Speaker, I include the results of the Pepper poll:

RESULTS OF THE PEPPER POLL

1. Does your Member support radio and television coverage of the House?
Of 346 responding:
Yes, 238 (68.7 percent).
No, 87 (25.2 percent).
Undecided, 21 (6.1 percent).

2. Would your Member support an arrangement whereby a pool of the commercial networks and public broadcasting provides the personnel and equipment for the coverage?
Of 238 responding:
Yes, 141 (59.2 percent).
No, 15 (6.3 percent).
Undecided, 51 (21.4 percent).
No response, 31 (13.1 percent).

3. Would your Member support it if public broadcasting alone provides the coverage and makes it available to other broadcasters?
Of 238 responding:
Yes, 112 (47.0 percent).
No, 34 (14.3 percent).
Undecided, 60 (25.2 percent).
No response, 32 (13.5 percent).

4. Would the Member support an arrangement whereby the House would provide its own equipment and personnel and make the coverage available to broadcasters?
Of 238 responding:
Yes, 70 (29.5 percent).
No, 69 (29.0 percent).
Undecided, 67 (28.1 percent).
No response, 32 (13.4 percent).

5. Should all of the proceedings of the House be open to be covered or should the House leadership decide what should be covered?
Of 238 responding:
All should be covered, 127 (53.4 percent).
House leadership should decide, 28 (11.8 percent).
Undecided, 41 (17.2 percent).
No response, 42 (17.6 percent).

PERSONAL EXPLANATION

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. DU PONT. Mr. Speaker, yesterday I was absent on business in Delaware, and missed four recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 297—"aye."
Rollcall No. 298—"aye."
Rollcall No. 299—"aye."
Rollcall No. 300—"aye."

NATIONAL TAVERN MONTH IN THE BICENTENNIAL YEAR

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FARY. Mr. Speaker, before the current month comes to an end it should be noted that May is National Tavern Month, sponsored by the National Licensed Beverage Association, a trade association which does much useful and necessary work in behalf of its members.

In this Bicentennial Year, according to the association's press release—

May 1976—National *Tavern Month*—will honor the taverns and the tavernkeepers of the Revolutionary War years, stressing the importance of the tavern industry in the social, economic, and political development of our country. Two hundred years ago this country was led by scattered handfuls of citizen-soldiers who met in the local taverns and sought for the supremacy of liberty, equality, and justice in their new land.

Since our side managed to win, we must assume that these leaders were able to tear themselves away from the joys of the tavern long enough to fight the Revolution to a successful conclusion.

I include here some of the data made available by the National Licensed Beverage Association on "Taverns in the War for Independence":

TAVERNS IN THE WAR FOR INDEPENDENCE

With the American Bicentennial Celebration fully upon us, many Americans are looking into their histories to determine what roles their ancestors and townspeople might have played in the Revolutionary War.

Tavernkeepers can be justifiably proud of the part their predecessors had in the economic, social and cultural development of early America. Particularly during the War for Independence, America's taverns served as meeting halls, barracks and even medical centers for the colonists fighting for our freedom.

BUCKMAN'S DOOR

From a second story window of Buckman's Tavern in Lexington, Massachusetts, Paul Revere watched the approach of the British troops. He and the notorious "Minutemen" had, only moments before, been meeting in the taproom downstairs. Now a skirmish with the redcoats was inevitable.

When the blue-gray powder haze had cleared, the Minutemen had vanished and wounded British soldiers were brought into Buckman's Tavern. Although the first, it was not to be the last time that Buckman's Tavern was to serve as a first-aid station for the wounded.

The Buckman Tavern, restored to its original appearance, stands today in Lexington. Among the authentic furnishings is the tavern door with a bullet hole, clear through, as testimony to the British attack at Buckman Tavern.

THE MENOTOMY MASSACRE

Many colonial towns suffered the loss of citizens during the Revolutionary War, but none more so than Menotomy (now Arlington), Massachusetts.

Near Cooper's Tavern the fighting was fierce, causing the deaths of forty British and twenty-five American soldiers. A stone marker tells of an 80-year-old patriot who single-handedly fought and killed three Redcoats. Although bayoneted during the action, patriot Whittemore recovered and lived to age 98, long enough to see his dream of an independent American nation realized.

Inside Cooper's Tavern two townspeople attempting to escape the British troops were found hiding and killed on the spot. The proprietor and his family had taken refuge in the Tavern cellar, however, and escaped execution by British troops.

ELMENDORF TAVERN

In 1777, the war with the British was very much a fact of life. In Esopus, New York (now Kingston) the state Senate House was destroyed by British troops. The State Committee of Safety was forced to hold their meetings several blocks away at the Elmendorf Tavern. Because taverns were quite frequently the only buildings in town with rooms large enough to accommodate meetings, the inns of the Revolutionary War served as meeting halls, headquarters, and even barracks for the "Revolutionaries."

THE ORANGETOWN RESOLUTIONS

It was July 4, 1774, and the townspeople of Tappan, New York, had gathered for a most momentous occasion in the Publick Room of Mablie's Tavern. Out of the rhetoric and reasoning came the so-called "Orangetown Resolutions" terminating the import and export commerce with Great Britain and the British West Indies.

Later, the same tavern was to serve as quarters for Major Andre (who had acted under the orders of Benedict Arnold) during his trial. The execution of Andre took place on the hill behind, and within the sight of Mablie's Tavern.

This historic tavern still operates today, although it is now known as the "'76 House," and visitors can lose themselves in reveries on its historic role in the War for Independence.

TARGET: KEELER'S TAVERN

Since the earliest of colonial times, Keeler's Tavern in Ridgefield, Connecticut, has served as a center of the community and a waystation for weary travelers on the New York to Boston coach trip.

During the Revolutionary War, it was used to house the French officers of Rochambeau's army, thus becoming a prime target for British cannon. Keeler's Tavern came under fire during the Battle of Ridgefield and local legend has it that at least one cannonball became lodged in the tavern's walls during the fierce barrage.

Upon their departure from Ridgefield, the Redcoats set the tavern ablaze to prevent it from being used again as a shelter for the Continental troops. Fortunately, a Tory who owned the house next door was allowed to extinguish the fire before it damaged his home and enough remained of Keeler's Tavern to allow its restoration.

GEORGE WASHINGTON'S FAVORITE TAVERNKEEPER

The Fraunces' Tavern in New York City was a favorite of George Washington's before and during the Revolutionary War. It was here, on December 4, 1783, that General Washington embraced each of his officers in an emotional farewell to his troops.

When General Washington met with Sir Guy Carleton in Tappan, New York, to arrange for the British evacuation of New York City, he called on Sam Fraunces to cater the dinner at the now-famous De Wint House. Again, when he moved to the newly-created nation's capital in the District of Columbia, Washington couldn't bear to leave Sam Fraunces behind. He was hired as the first personal aide to the new President.

Fraunces' Tavern now houses a Revolutionary War Museum and is a favorite of visitors to New York. The original tavern sign from the colonial period is still there—a symbol of the hospitality of America's Taverns for over 200 years.

DEFEAT AT DRIVER

While the British troops led by General Matthews advanced southward toward the Continentals' supply depot at Suffolk, Virginia, the local militia gathered at Hargrove's Tavern to organize their forces. Hargrove's, also known as "The Halfway House," had long served as the local commandpost for the Virginia forces.

The locals fought bravely under the direction of militia Captains King and Davis, but they were too few and the Redcoats marched on by them after a brief but bloody battle. The British reached Suffolk and destroyed the patriot supplies.

Hargrove's no longer stands just east of Driver, Virginia. But it is remembered in local history along with Captains King and Davis and their men who fell during the British raid.

AN "ORDINARY" TURNING POINT

Lightfoot, in York County, Virginia, was but a tiny village in 1781. But it was here at Spencer's Ordinary (a common name for colonial taverns) in June 26 that patriot troops under the command of Colonel Richard Butler turned back a much larger force of British and Hessian troops.

Colonel Simcoe and his mixed band of British and Hessian troops were returning to Cornwallis's encampment in Williamsburg after raiding a colonial supply post on the Chickahominy River. When Lafayette heard of the raid he immediately sent Butler and his men on a forced march through the night to catch up with British.

It was at Spencer's Ordinary that the troops came upon each other. Although it is said that the British had the upper hand during the ensuing fight, Simcoe feared that the patriots would be reinforced by troops rumored to be nearby. The British withdrew to Williamsburg.

Colonel Simcoe then took the initiative against the patriots, his force now bolstered by fresh troops from Cornwallis' main army. The patriots, in turn, withdrew, leaving Simcoe with Spencer's Ordinary and a shallow victory.

BATTLE OF WARREN TAVERN CANCELLED DUE TO RAIN

Following the Battle of Brandywine, British and Patriot troops squared off again at Warren Tavern, near the present town of White Horse, Pennsylvania. Never a shot was fired, though, due to the torrential rains. General Howe, commanding the British, backed off and managed to out-maneuver General Washington and the Colonial forces.

General Howe was moving his troops from Wilmington, Delaware, with the objective of capturing Philadelphia. Washington positioned his troops to form a buffer zone around Germantown, Pennsylvania. Howe made a feint toward a supply depot at Reading, forcing the Colonial troops to move to protect it. This done, Howe changed direction and crossed the Schuylkill River capturing Philadelphia and occupying the city until July 1778.

As outstanding citizens of their community, tavern owners not only provide for the recreation and enjoyment of their patrons, but also contribute through sponsorship of, or participation in, many civic, charitable and social activities of their community.

At this time it is fitting to honor the little corner tavern keeper and his fine wife who with their boundless hospitality have solaced so many, and to give him the well-merited praise and recognition he so richly deserves.

As an expression of our sentiment and thankfulness for all the good will he has

fostered among so many people, the Nation offers to all tavern owners with a symbolic lift of our glasses, the "Toast of the Nations" that have sent their sons and daughters to settle this great land of ours:

The Polish will say: "Na Zdrowie";
The German will say: "Gesundheit or Prosit";
The Lithuanian will say: "On Svekatus";
The Bohemian will say: Nazdar";
The Scotsman will say: "Hoot Mon";
The Swede will say: "Skol";
The Norwegian will say: "Skal";
The Italian will say: "Buona-Fortuna A Salute";
The Jew will say: "Lachaim";
The Greek will say: "See-E-Yah";
The Frenchman will say: "Bonne Sante";
The Spaniard will say: "A La Tienna";
And the U.S. American who will drink it all say:
"Cheers";
"Here's Mud in Your Eye";
"Bottoms Up";
"Down the Hatch";
"Here Goes";
"To Your Health".
We salute the tavern owners.

CINCINNATI PROUD OF BICENTENNIAL SYMBOL DESIGNER

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. GRADISON. Mr. Speaker, throughout the Bicentennial year, the red, white, and blue Bicentennial emblem has been increasingly evident throughout the Nation. Bruce Blackburn, the designer of the emblem, graduated from the College of Design, Architecture, and Art at the University of Cincinnati in my district.

In 1971, Mr. Blackburn was an associate with Chermayeff and Geisman Associates, which was one of the design firms which was invited by the American Revolution Bicentennial Committee to submit proposals for the official Bicentennial logo. A panel of recognized design experts from government and industry selected Mr. Blackburn's design.

In creating the logo, Mr. Blackburn decided that the five-point star was the only traditional American design which could be translated into contemporary terms. In the designer's words, however:

The raw, five-pointed star has a sharp, hard, aggressive, kind of shape, with almost militaristic overtones. So the symbol that I ultimately designed, based on the star, was a "soft" star, wrapped with red, white and blue "bunting" to make it less aggressive and more unique.

After designing the logo, Blackburn acted as a consultant to ARBC. Since then, he has started his own design firm called Danne & Blackburn, Inc. In addition to having major corporations as clients, he has designed the new logo for NASA.

I congratulate Mr. Blackburn for his accomplishments and am proud of the University of Cincinnati's College of Design, Architecture, and Art for producing such a fine designer.

IN MEMORY OF MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RANGEL. Mr. Speaker, on May 19 I submitted for the RECORD a commemoration to Malcolm X in honor of his birthday. Today I would like to submit a supplement to my commemoration entitled "Down Memory Lane," printed in the New York Amsterdam News and authored by attorney and journalist Wally Ford. The article admonishes the black community for allowing the press to shatter their image of a black man who should be deemed as "our black shining prince." It is noted that few blacks feel confident in demanding official recognition of Malcolm as we have done for other black leaders because of the image with which the press has labeled Malcolm. However, it is emphasized that Malcolm did speak for the rights of the black race when it was unpopular to do so. What emerges is the fact that Malcolm X set a precedent upon which other black leaders could protect the rights of our people without fearing the accusations of "revolutionary" or "radical" which made less legitimate Malcolm's own campaign to encourage equality for all races.

Herewith, I submit "Down Memory Lane":

DOWN MEMORY LANE

(By Wally Ford)

Right now, somewhere in Ardsley, New York, breezes cooled from their travels over the mountains of upstate New York are making their way over the cement ribbons of highways, freeways, expressways and thruways, past the shrubs, hedges and manicured lawn carpets of suburbia.

Somewhere in Ardsley, New York, there is a place far from the hustling jive of 125th Street on a Saturday afternoon, a place far from children's playground laughter and the thunder of love's embrace.

Somewhere in Ardsley, New York, there is a gravesite with no eternal flame or awe-inspiring monument or long lines of reverent pilgrims or roadstands selling memorial postcards and souvenirs.

Somewhere out in Ardsley, New York lies the body of Malcolm X, also known as El Hajj Malik Shabazz, also known as Malcolm Little, also known as Big Red. Those of you know who knew him or knew of him, take your pick.

It was not too long ago, it was February of 1965, that the New York Times printed an editorial in commenting upon Malcolm killing that this tragedy was proof that "those who live by the sword die by the sword". But we knew that it was not true then, and maybe we can take a moment to remember, more than a decade later, that it is still not true.

What is the point?

MALCOLM'S BIRTHDAY

May 19 was Malcolm's birthday, and although a few people did remember, a few people did make a memorial pilgrimage to Ardsley, and maybe a few people stopped for a moment to think about him, by and large, we have not remembered.

We have not remembered the man that Ossie Davis rightly called "our own Black shining Prince". We have not remembered the Black man who showed the way for many of us. It may or may not be important that an individual is remembered by national holidays or schools named after him/her.

But what is it that so few of our own institutions are used to remind the young people of our communities that there was a Black man who did stand up before others and proclaimed our right to dignity and freedom?

Why is it that very few of our Black spokesman have had the temerity to demand a day of remembrance for Malcolm X as they have for others?

Is it because they believe that false New York Times editorials? Is is because we no longer believe that he was our "Black shining prince"? What is the problem? What is the mystery?

HARD TO BELIEVE

Whether or not there is a memorial day or school or bridge or swimming pool named after Malcolm is not the point, though? I find it hard to believe that this would be of paramount importance to him although we never met. What is important is that we try to remember the ideals for which he stood. Be you Muslim, Moslem, Christian or agnostic, you have to respect the man for having stood up when it was not popular to do so.

We must respect the man for having had the heart to say what needed to be said, what is so obvious now, but what was so hard to say then. And what about the things that need to be said now? What about the things that need to be done now?

Wouldn't that be the best way to remember the man once known as Big Red on the corner of what is now Powell Boulevard and 125th Street?

The truth still needs to be told. We still have poor housing, the hospitals in our communities are being closed, we have teachers who will not teach our children, hunger is still our too constant companion. To remember our Black shining prince, there is no need for you to ask others to set aside a day, there is no need to travel to Ardsley, New York.

What we can do is to tell the truth, what we can do is to come together for a better day for all of the children who have yet to smile.

"Somewhere in Ardsley, New York, breezes cooled. . . .

TRIBUTE TO THE LATE HON. TORBERT H. MACDONALD

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. MINK. Mr. Speaker, it was with great sadness that I learned of the death of our colleague, the late Hon. Torbert H. Macdonald, on May 21. I join the Members of this House in extending our sympathies to his wife, Phyllis, and to his sons and daughters and other members of his family.

Congressman Macdonald's expertise in the field of communications will be sorely missed by the House. As chairman of the Subcommittee on Communications, with jurisdiction over Federal policies regulating radio and television,

Torbie had a great deal of influence on the lives of many millions of Americans. His concern for the powerful effects of our broadest media on viewers and listeners was reflected in conscientious attention to the program material to which the people of this country were exposed. We must remember, too, our colleague's support for public broadcasting, and the new influence which that alternate programing has had on the lives and education of the people in this country.

It was with great sorrow that I learned of the Congressman's illness and hospitalization recently, and it is with still greater sorrow that we must pay tribute to his memory now at the time of his death. We will miss this dedicated Representative from Massachusetts.

CBS NEWS GETS AWARD FOR COVERING WORLD AIRWAYS' LAST FLIGHT FROM DANANG

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. LEGGETT. Mr. Speaker, I wish to extend my congratulations to both CBS News and World Airways of Oakland, Calif., for an award recently made to CBS for coverage of an especially noteworthy World flight. The Overseas Press Club of America awarded CBS its 1975 Prize for Best TV Spot News Reporting From Abroad for CBS' coverage of World's famous "Last Flight From Danang." The award honored not only World Airways and its president, Ed Daly, but also CBS reporter Bruce Dunning and the camera and sound men of CBS. The plaque bearing the citation is now displayed in CBS' Tokyo office.

CBS' unforgettable film of that flight registered indelibly in our minds the trauma and confusion which marked the final agony of South Vietnam in general and Danang in particular. They showed us Ed Daly and his crew battling mutinous South Vietnamese troops who were trying to push aside civilian refugees to get abroad the last plane out, and other troops clinging to the aircraft's undercarriage and wheelwells as that last flight from Danang took off. And only a few days later we read of World Airways' pilot Ken Healy taking off from Saigon, against the orders of the Tan Son Nhut air controller, with the first 58 orphaned Vietnamese children destined for the United States.

Both Ed Daly and his crews threw themselves and their aircraft into the chaos of South Vietnam's final collapse with characteristic abandon. And CBS covered these efforts with unforgettable panache. I salute them both, and I regard both as equally deserving of this award.

At this point I would like to include in the RECORD the telegram which Ed Daly sent CBS News president Richard Salant on learning of the award:

OAKLAND, CALIF.,
April 27, 1976.

RICHARD SALANT,
President, CBS–News,
New York, N.Y.

I received this morning the following message from Bruce Dunning in Tokyo:

"Overseas Press Club of America has been kind enough to award CBS News its 1975 prize for foreign television reporting for the flight of World Airways 691 from Danang. I know Mike Marriott and Mai Van Duc would join me in saying the award includes all the great people from World who brought 691 back safely. It was a great job of flying. . . . And thanks for taking us along.

Best wishes.

BRUCE DUNNING,
CBS News, Tokyo."

I extend my heartiest congratulations to CBS News for this award from the Overseas Press Club of America.

The last flight from Danang was in my opinion the most dramatic single event of the closing days of the Vietnam conflict. The film footage by the CBS team and the narration by Bruce Dunning epitomized the panic and the terror of those last days and foretold the collapse of Saigon a short time later. Their vignette graphically portrayed the fast deteriorating military situation and the desperate plight of the refugees. Since I was involved personally on this flight, I can vouch for the tremendous job that Bruce Dunning, Mike Marriott and Mai Van Duc did on that memorable trip. CBS can well be proud of Bruce and his associates for a job accomplished in the highest traditions of journalism under the most difficult of circumstances.

EDWARD J. DALY,
President and Chairman of the Board,
World Airways, Inc.

GOLDEN ANNIVERSARY

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. RUSSO. Mr. Speaker, the year was 1925. Appropriately, the month was June, the time long associated with "moon and spoon" and "love and marriage." For Steve Fialkowski and Virginia Lizik, the month marked the beginning of a long romance.

Introduced by Virginia's brother, Joseph, they went on their first date to the Asher Theater and Gayety Ice Cream Parlor. How often do we find in retrospect the true significance of such seemingly simple occasions. That first trip to an ice cream parlor has resulted in 50 years of walking life's path together. Steve and Virginia Fialkowski will be celebrating their 50th wedding anniversary next month—50 years of sharing, growing, and caring.

Married at St. Michael Church on June 2, 1926, the wedding reception lasted 3 days. I think there are probably more modest time estimates for the mass at St. Michaels and the reception following on June 6 this year. Still, it will be a day of celebration of love grown fuller and richer with the years. Memories will be recalled—perhaps of the 25th anniversary that the Fialkowskis noted with a reception and then a honeymoon. Little did they know that while they were gone they would become grandparents. Today they have three daughters—Marie Royer, Florence Kucnich, and Christine LoPiccolo—and seven grandchildren and one great-grandchild.

I know my colleagues join with me in wishing Virginia and Steve Fialkowski continuing joy and congratulating them on reaching this romantic milestone.

THE CONGRESSIONAL BUDGET CONTROL ACT OF 1974

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. PATTERSON of California. Mr. Speaker, in 1976, the year of our Nation's Bicentennial, Congress faces the test of restoring confidence and faith in the American system and in our Government. For the first time in our history we have the opportunity to responsibly and realistically deal with Government spending and the Federal budget in order to bring back economic stability and security to the people of this Nation.

This is the first year that the Congress will be required to operate under the Congressional Budget Control Act of 1974. This new law is perhaps one of the most important and progressive governmental reforms in our history. This legislation was enacted so that Congress could assume a measure of control over the size of the Federal budget. Under the provisions of the act, Congress must set spending ceilings, taking into account anticipated revenues, the state of the economy, and the economic impact of Federal spending and borrowing.

We have just completed the first step in this new budget process by approving the House Concurrent Resolution 611, which outlines our spending and tax collecting policies for the next fiscal year. By September 1976, Congress must have passed all its spending bills and approve a second budget resolution setting final budget figures. These figures are binding, and if legislation is passed which exceeds these spending limits, spending must be cut by the same amount elsewhere or taxes must be raised. By setting spending ceilings, we can begin to get a handle on and eventually eliminate our Federal deficit.

The new budget process has empowered Congress to approve a budget outlay figure considerably less than it could have been without the new process. The total of all the House committee's recommendations for spending that were submitted to the Budget Committee amounted to $442 billion. This sum was reduced by the budget resolution to $413.6 billion, a savings of over $28 billion. Although I would have liked to have seen a greater savings, this resolution exercised some restraint and it indicates that Congress is finally beginning to get serious about how much money it spends and is beginning to make necessary cuts.

When the first budget resolution was

considered on the floor, I supported an amendment offered by Congressman ROUSSELOT which provided for a balanced budget by making cuts in nearly all functional categories. I supported it because I felt that we must act with fiscal responsibility to try to live within our means. Although this and other amendments to reduce outlays failed, I supported the budget resolution as an indication of my support for budget control and fiscal responsibility.

The first budget resolution is an important first step toward meeting our ultimate goal of a balanced budget. It provides the necessary guidelines for continuing our current economic recovery without excessive inflation. The resolution provides enough money for jobs to support over 1 million more jobs than what the President recommended in his budget. There are private jobs created through public works, environmental protection, construction, housing, highways, and public service employment. There are also programs to provide jobs in the public sector. Included in the budget resolution is enough money to continue our economic recovery and push unemployment down to 6 percent by the end of 1977. The resolution also contains the necessary funds to start a program of national health insurance and will cover initial startup costs for the Humphrey-Hawkins Full Employment Act. The latter bill attempts to provide a job for every American able and willing to work and sets a goal for unemployment of 3 percent.

In the area of national defense, the first budget resolution provides for an adequate amount of funds to meet our national security needs. I would like to point out, however, that the defense request for fiscal year 1977 proposes a significant savings expected to result from legislation to provide increased efficiencies in the defense budget and from legislation in the area of civilian and military pay.

The major controversy over the proposed resolution has been the fact that it results in a Federal deficit of $50.8 billion. Without the resolution the deficit could be as high as last year's figure of $74.1 billion.

Although the size of the Federal budget has grown from $69.7 billion in 1954 to a proposed $413.6 billion in 1977, we must view the budget not only in terms of actual dollar increases, but in relationship to the rest of the economy. As the gross national product grows, so must the budget. No one would expect General Motors to have the same budget today as it did 20 years ago. In 1954, the budget outlays represented 19.5 percent of our GNP. The proposed budget for fiscal year 1977 will represent 21.5 percent. We must keep in mind that much of this disparity results in the great amount we pay for unemployment compensation due to our depressed economy.

In conclusion, I commend the House Budget Committee for responsible leadership in establishing the necessary guidelines for future legislative action in the area of Federal spending and the budget. I also commend the Congress for taking this necessary action to bring Federal spending under control.

THE CASE AGAINST SHLAUDEMAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRINGTON. Mr. Speaker, I am submitting for the RECORD the testimony I delivered this morning before the Senate Foreign Relations Committee opposing the nomination of Ambassador Harry Shlaudeman as Assistant Secretary of State for Inter-American Affairs. I believe the evidence shows that Mr. Shlaudeman deceived the Congress in previous testimony about the actions and purposes of the U.S. Government in Chile during the Allende years, when Shlaudeman was serving as Deputy Chief of Mission in Santiago.

Now the President wants to elevate this man to the top State Department position for Latin American relations. I hope and trust that the Senate will have a higher regard for the basic standards of candor and integrity.

My testimony follows:

TESTIMONY OF HON. MICHAEL J. HARRINGTON

The President's nomination of Ambassador Harry W. Shlaudeman as Assistant Secretary of State for Inter-American Affairs should be rejected by the Senate. There are two principle grounds for rejection: First, as Deputy Chief of Mission in the U.S. Embassy in Santiago, Chile from June, 1969 to June, 1973, Mr. Shlaudeman participated in the formulation of recommendations and the execution of instructions which resulted in the destruction of Chilean democracy. As a result of the reports of the Senate Select Committee on Intelligence, we know a great deal more about those activities and policies than we did in February, 1975 when Mr. Shlaudeman was confirmed as Ambassador to Venezuela.

Second, given what we know now about the actions, and the purposes of the actions, of the U.S. Government in Chile during Mr. Shlaudeman's tenure there, much of Mr. Shlaudeman's testimony before committees of the Congress was, at best, misleading about the actions and purposes of the U.S. Government in Chile in those years, and, at worst, simply untrue. For example, on June 12, 1974, Mr. Shlaudeman testified before a joint meeting of the House Foreign Affairs Committee's Subcommittees on International Political and Military Affairs and International Organizations that:

". . . We had nothing to do with the political destabilization in Chile, the U.S. Government had nothing to do with it." [1]

The Senate Select Committee on Intelligence, in providing a full and authoritative account of U.S. covert intervention in Chile between 1963 and 1973, called that involvement "extensive and continuous." Between 1970 and 1973, the CIA spent $8 million, and in 1972 alone spent over $3 million.[2] In addition a policy of vigorous economic pressure against the Allende government was adopted by the highest levels of the U.S. Government and overtly carried out by the relevant agencies.[3]

There are three major questions relevant to Mr. Shlaudeman's nomination which are raised by the facts as they have been disclosed: First, what were the purposes and intentions of the actions and policies of the U.S. Government, both overt and covert, in Chile during Mr. Shlaudeman's tenure?; second, to what extent did Mr. Shlaudeman know of the overt and covert actions and their purposes?; and third, is it fair and proper to hold Mr. Shlaudeman accountable for the policies he was instructed to execute, and the account of them to which he has testified before congressional committees?

Footnotes at end of article.

I. U.S. INTENTIONS AND PURPOSES

In his June 12, 1974 appearance in the House, Mr. Shlaudeman testified that:

"Certainly there was never any intention on the part of the United States to produce political destabilization."

The following exchange then took place:

"Congressman HARRINGTON. Did we spend funds to your knowledge?

"Mr. SHLAUDEMAN. For political destabilization, no, not to my knowledge . . . My remarks on Chile and U.S. policy toward Chile should be understood in those terms, in light of the commitment strongly affirmed by the Secretary to the hemispheric principle of non-intervention." [4]

Mr. Shlaudeman took the same position in February, 1975 during his testimony before the Senate Foreign Relations Committee regarding his nomination to be Ambassador to Venezuela:

"I know nothing and I do not believe that there was any attempt to subvert or to overthrow the Chilean government, nor was there any involvement by the United States in a coup." [5]

The argument that Mr. Shlaudeman seems to be making is that the expenditure of funds did not constitute an effort at "destabilization" or to "subvert" or "undermine" the Chilean government. Indeed, he conceded before the Senate committee that he had knowledge of covert expenditures:

"What I have been saying is not that covert activities did not take place, but that they were not intended to, nor did they, in my view, result in the overthrow or the destabilization of the Allende regime." [6]

This testimony can only be squared with his answer to questioning quoted on p. 2 above if the U.S. purpose was something other than the destabilization of the Allende government. Shlaudeman argues that the purpose was to strengthen democratic forces in Chile:

". . . support was given to parties and to media which were under very great strain. I know nothing, and as I said just now, I do not believe that there was any attempt to undermine or subvert or overthrow the government of Allende." [7]

This final statement is simply not true. To know that covert support was being given to media and political parties entailed knowledge of the intentions and purposes of that support, which were to undermine the Allende government both by aiding its opponents and by promoting disorder to hasten the downfall of the government by one means or another. Shlaudeman's testimony about the purposes of U.S. activities in Chile is misleading and fallacious.

A brief review of the record demonstrates conclusively the objectives of the programs of which Shlaudeman concedes he has knowledge. Generally the Senate Select Committee found them to be:

". . . to maximize pressures on the Allende government to prevent its consolidation and limit its ability to implement policies contrary to U.S. and hemispheric interests." [8]

(1) Media propaganda—Shlaudeman concedes he knew of support to friendly media, and according to the Senate report, this was the "most extensive covert action activity in Chile." [9] The report itemizes the propaganda campaign.

"The CIA spent $1.5 million in support of *El Mercurio*, the country's largest newspaper and the most important channel for anti-Allende propaganda. According to CIA documents, *these efforts played a significant role in setting the stage for the military coup of September 11, 1973.*" (Italics added.)

The major propaganda project funded several magazines with national circulations and a large number of books and special studies.

Material was developed for the *El Mercurio* chain; for "opposition party newspapers, two weekly newspapers, all radio stations controlled by opposition parties," and several regular television shows on three channels.

During the period of September 15, 1970 to October 24, 1970 while Allende's election was in doubt, a massive propaganda campaign was launched including "support for an underground press, placement of individual news items through agents, financing a small newspaper, indirect support of *Patria y. Libertad*, a group fervently opposed to Allende, and its radio programs, political advertisements, and political rallies." [10]

The propaganda campaign was the most important constituent of the CIA's efforts to convince the Chilean people, and even world opinion, that Allende was dangerous, a failure and should be replaced. Shlaudeman's claims that the media/propaganda program was not intended to undermine the government contradicts the CIA documents cited by the Senate Select Committee as attributing it a significant role in the ultimate *coup*.

(2) Support for political parties and groups—Again the Senate Select Committee's report on covert action in Chile itemizes support of parties and groups in Chile. These programs fall into three categories:

September and October of 1970: Money was given the "right-wing paramilitary group" *Patria y Libertad* "in an effort to create tension and a possible pretext for intervention by the Chilean military." This aid was continued indirectly throughout the Allende government. By July, 1973, this group announced it "would unleash a total armed offensive to overthrow the government." [11]

The Chile report found that "The issue of whether to support private groups was debated within the Embassy and the 40 Committee throughout 1972 and 1973." [12] In October of 1972 $1.5 million was approved to support opposition groups. It is highly improbable that Mr. Shlaudeman, as DCM, was not privy to these discussions and the subsequent decision.

Following the 1973 municipal elections "there did appear to be a possibility that increasing unrest in the entire country might induce the military to re-enter the Allende government to restore order." Consequently "the 40 Committee approved a proposal granting $1 million to opposition parties and private sector groups with the passage of the funds contingent on the clearance of the Ambassador, Nathaniel Davis, and the Department of State." [13] Although the coup occurred three weeks later and the funds were never passed, it is improbable that the DCM was unaware of the program.

It is important to understand that much of our support to violent and disruptive forces was given indirectly and under cover, precisely in order that diplomats such as Mr. Shlaudeman could make the sort of statements quoted above. The level of knowledge conceded by Mr. Shlaudeman requires him to have penetrated to the real purpose of the programs. In this connection, the Senate report concluded:

Given turbulent conditions in Chile, the interconnections among CIA-supported political parties, the various militant trade associations and paramilitary groups prone to terrorism and violent disruption were many. The CIA was aware that links between these groups and the political parties made clear distinctions difficult.[14]

II. EXTENT OF MR. SHLAUDEMAN'S KNOWLEDGE

As indicated above it is clear that Mr. Shlaudeman was aware of the major CIA covert action programs and must have therefore divined their purpose. This contradicts his testimony. For example:

"Despite pressures to the contrary, the U.S. Government adherred to a policy of nonintervention in Chile's internal affairs during the Allende period.[15]

"Senator SPARKMAN. In other words, you are telling us that you had no hand in the overthrow of Allende?

"Mr. SHLAUDEMAN. That is exactly right, Mr. Chairman. To my knowledge, there was no U.S. involvement . . . I know nothing of any attempt to subvert anybody or overthrow Allende." [16]

At the same time Mr. Shlaudeman denies knowledge of anti-Allende activities and their purposes, there is evidence of his participation in policy-formulation to undermine the Chilean government:

"Senator BIDEN. Were you any part of making recommendations to the Administration that they (Chilean parties and media) were in danger?

"Mr. SHLAUDEMAN. Obviously, I participated in formulating the reports in which these decisions were taken. I had nothing to do with the decision-making process." [17]

The record shows that the Embassy was often more eager to take action against Allende than was the State Department, and again it is implausible that the DCM was not involved, as he himself concedes he was.

In December, 1969, six months after Mr. Shlaudeman's arrival, the Embassy and the CIA Station in Santiago made a joint proposal for an anti-Allende campaign in the upcoming 1970 elections. The proposal was killed in Washington "because of the State Department's qualms about whether the United States should become involved at all." [18]

"On March 25, the 40 Committee approved a joint Embassy/CIA proposal recommending that 'spoiling' operations—propaganda and other activities—be undertaken by the CIA in an effort to prevent an election victory by Allende." [19]

On June 18, 1970, Ambassador Korry "submitted a two-phase proposal to the Department of State and the CIA for review. The first phase involved an increase in support for the anti-Allende campaign. The second was a $500,000 contingency plan to influence the congressional vote in the event of a vote between the candidates finishing first and second." [20] Again it is unlikely that the DCM was unaware of his superior's plan to bribe the Chilean Congress.

In July, 1970 the CIA ended up helping ITT pass money to the National Party and to conservative candidate Jorge Alessandri. "The Station Chief informed the Ambassador that the CIA was advising ITT in financing the Alessandri campaign," but did not tell him about payments to the National Party.[21]

When attention turned toward bribing the Chilean Congress, "The funds were to be handled by Ambassador Korry and used if it appeared that they would be needed . . ." [22]

Between September 15 and October 24, 1970 the CIA promoted a *coup* by the Chilean military. Although the Ambassador and the State Department were explicitly cut out of this, Korry suspected that the CIA was "up to something behind my back" and directed Mr. Shlaudeman to investigate. "I questioned him and others closely and repeatedly as to whether they had discovered anything corroborative. No one could find any basis for suspicion." [23]

Korry was, however, "authorized to encourage a military coup, provided Frei concurred in that solution. At the 40 Committee meeting on September 14, 1970 *he* (Korry) *and other 'appropriate members of the Embassy mission'* were authorized to intensify their contacts with Chilean military officers to assess their willingness to support the 'Frei gambit'. The Ambassador was also authorized to make his contacts with the Chilean military aware that if Allende were seated, the military could expect no further military assistance from the United States. Later Korry was authorized to inform the Chilean military that all MAP and military sales were being held in abeyance pending the outcome of the congressional election on October 24." [24] (Italics added)

III. THE FAIRNESS OF HOLDING MR. SHLAUDEMAN TO ACCOUNT

As Deputy Chief of Mission, Mr. Shlaudeman was a senior member of the U.S. Embassy in Santiago. He tries to make a distinction between "formulating reports" on which decisions were based, and the "decision-making process" in Washington. With respect to those decisions, Mr. Shlaudeman has testified:

"Let me say that I certainly supported the decisions when they were taken, and I certainly thought at the time that there were good reasons for those decisions.[25]

"Senator BIDEN. In light of what you have learned since your post there, have you changed your view?

"Mr. SHIAUDEMAN. No, I have not, Senator." [26]

Thus there is no desire on the part of Mr. Shlaudeman to disassociate himself from the course pursued by the decisionmakers in Washington in regard to Allende. His appointment is a reaffirmation at the highest level of our government that those policies are approved, unlamented, and that those who are identified with them, such as Mr. Shlaudeman, will be rewarded.

In other words, the authoritative and official disclosure of the destabilization program against Allende have not prevented the Administration from elevating one of the symbols of that program to responsibility for all of Latin America. It is clear that Mr. Shlaudeman was not a reluctant executor of the anti-Allende program. The evidence indicates the opposite, that he was part of an Embassy team that was pressing Washington for more activity than Washington was always prepared to endorse.

Finally, there is ample evidence here that Mr. Shlaudeman has not told the truth to congressional committees before which he has testified. He has conveyed the impression that the U.S. followed a policy of non-intervention in Chile when we were in fact, and to his knowledge, intervening deeply. He has then argued that we simply tried to help democratic forces withstand the pressure of Alelnde, when the facts demonstrate the opposite, that we actively promoted unrest and disorder to create tensions that would force Allende out.

If Mr. Shlaudeman did not understand these things that were going on all around him, then he should not be confirmed on grounds of incompetence. If he did understand them, then he has deceived the Congress. In either instance, his nomination should be rejected by the Senate.

FOOTNOTES

[1] Hearings before the House Foreign Affairs Subcommittees on International Political and Military Affairs and International Organization, June 12, 1974.

[2] "Covert Action in Chile, 1963–1973", staff report of the Senate Select Committee on Intelligence, November, 1975, p. 1.

[3] Ibid., pp. 32–35.

[4] House Foreign Affairs hearings, June 12, 1974, p. 136.

[5] Hearings before the Senate Foreign Relations Committee, February 19, 1975, p. 71.

[6] Ibid., p. 75.

[7] Ibid., p. 73.

[8] Senate Chile Report, p. 27.

[9] Ibid., p. 7.

[10] Ibid., pp. 24–30.
[11] Ibid., p. 31.
[12] Ibid., p. 30.
[13] Ibid., p. 30.
[14] Ibid, p. 31.
[15] House Foreign Affairs hearings, June 12, 1974.
[16] Senate Foreign Relations hearings, February 19, 1975, p. 71.
[17] Ibid., p. 77.
[18] Senate Chile Report, p. 20.
[19] Ibid., p. 20.
[20] Ibid., pp. 20–21.
[21] Ibid., p. 21.
[22] Ibid., p. 24.
[23] Hearings on Chile, Senate Select Committee on Intelligence, December 4, 1975, p. 32.
[24] Senate Chile Report, p. 26.
[25] Senate Foreign Relations Committee hearings, February 19, 1975, p. 78.
[26] Ibid., p. 77.

A TRIBUTE TO KEVIN KELLY

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. KEYS. Mr. Speaker, a young constituent of mine was recently featured in a news story that detailed his outstanding success at juggling the demands of attending high school and participating in interscholastic athletics while at the same time farming 700 acres and feeding 200 head of cattle. Mr. Kevin Kelly's industry and achievements provide an excellent index to the continued viability of the family farm, so I would like to share his story—Topeka Capital Journal; May 20, 1976—with my colleagues:

A TRIBUTE TO KEVIN KELLY

(By Matt Walsh)

HOYT, KANS.—Farming 700 acres of land, feeding 200 head of cattle, attending school and running track are all in a day's work for Kevin Kelly.

"Nothing I can't handle," Kelly says.

Kelly began farming about age seven—when he said he "started driving a tractor . . . and getting into it."

But farming became more important two years ago, after his father slipped on a tire while working at Goodyear Tire and Rubber Co. A disc exploded in his father Milton Kelly's back, leaving him disabled and partially paralyzed.

Kelly's father became limited to about two hours a day of farming, so he turned his 92 acres and farm machinery over to Kelly.

Kelly was only 14 then. Kelly's older brother, Kenneth, didn't want to take over the farm.

"I wasn't worried about turning it over to him," Kelly's father said, "because I knew that I was here if he wanted to ask any questions." And if Kelly's father couldn't help Kelly could seek the advice of Ed Ryan, his vocational agriculture instructor at Royal Valley High School.

Farming, going to school and playing sports was a little rough at first, Kelly said. "But then I looked at it as something I had to do. Then I just kept on at it," he said. And gradually over the past two years Kelly increased his farm acreage to 700.

For two years now, Kelly bas kept a jam-packed daily schedule of work, school and sports. Sometimes, Kelly said farming does interfere with school, athletics and his social life, but "not seriously." His grades are close to a "B" average and he "generally" tries to go out at least one night a week.

Recently, farming efforts were rewarded, too.

Kelly was awarded the Crop Proficiency Award given by the Future Farmers of America for the northeast district of Kansas high schools. Competing with students from 18 other high schools, Kelly was recognized for the quality and quantity of crops he produced in the last year.

Kelly, who will be a senior next year, also recently was elected president of the Royal Valley chapter of Future Farmers of America.

Of the 700 acres he farms about 500 acres are rented. The area is divided into 335 acres of hay, 250 acres of wheat, 140 acres of milo and 75 acres of oats. Most of the land is within three miles of the Kelly home on the northwest outskirts of Hoyt. But some of the land is as far as 8½ miles away.

Ten of the cattle Kelly takes care of are his—registered Angus, the other 190 belong to a Topeka real estate man who owns land near Hoyt.

During planting season, Kelly sometimes will stay home a day from school to tend to farming. He said a few of his teachers object to that, but Kelly's father said most of them "know the situation pretty much."

Each morning Kelly feeds the cattle from 6:30 to 7:30. Then he goes to school, and afterwards, depending on what season it is, practices football, basketball or track.

Kelly, 16, stands 6 feet, one inch tall. In football he started at defensive end and offensive halfback. He started "off and on" at center in basketball and ran the 100-yard, medley-relay and 880-yard events and long jumped in track.

Last weekend in Wichita, Kelly competed in the Kansas State High School Class 2–A long jump, but was hampered by a pulled hamstring muscle. He was only to make one attempt, before being sidelined by the injury.

Kenneth, who holds the 2–A mile top time, also competed in the state meet at Wichita where he placed second.

Often when Kelly is overloaded with farm chores, he will work until about 10 p.m., after he gets home from practicing a sport.

From June to August—the haying season—is usually the busiest time of year for Kelly. And not having to contend with school or athletics then, Kelly says 16-hour work days aren't uncommon. But that doesn't bother him.

"I don't get bored with it," Kelly said. "It's something different every day. During the haying season, the weather's right and I know what I'm doing. It's a little more easy-going during the summer."

After harvesting his crops, Kelly hauls them to the local grain elevator, storing them until he decides to sell.

The money he receives usually is used to put in his next crops or to make payments on his farm machinery, which is worth about $50,000.

Having another year of eligibility to compete for the state FAA crop proficiency award, Kelly will try to increase his crop production this year. State competition is limited to one entry a person, so Kelly decided to wait another year.

After high school, Kelly said he probably will go to a vocational technical school to learn a trade, so he can become more adept with repairing farm machinery malfunctions.

Then, he said, "I imagine I'll take on more ground and expand the cattle operation. It'll take more time, but I'll have more time."

Farming is Kelly's ambition. "That's where I like to live. It's a lot of work, but I have fun doing it." Playing football, basketball or track and going to school are only steps along the way.

MINING IN DEATH VALLEY

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. KETCHUM. Mr. Speaker, in the midst of the controversy over S. 2371, the legislation to ban incompatible activities in the national parks, the Washington Star last Friday printed its own—most irresponsible—version of this issue. I was most gratified that the editors saw fit to print my response to their widely advertised article, although the facts did not receive similar front-page billing. I would like to share the article, my response and that of my colleague, Steve Symms, with you today:

Enclosures: First, "Pressure On as National Park Strip Mining Ban Nears," Washington Star, May 14, 1976;

Second, "Mining in Death Valley Defended," Washington Star, May 24, 1976:

PRESSURE ON AS NATIONAL PARK STRIP MINING BAN NEARS

(By Thomas Love)

The huge earth-scrapers raise billowing clouds of dust as they rip the surface of Death Valley, Calif., rushing, to some eyes, to scar huge areas of the National Monument before new strip mining within the National Park System becomes illegal.

A continent away, in the filtered air of congressional halls, the director of the Bureau of Mines holds a private briefing for opponents of House strip mining legislation—clearly, to some eyes, an attempt to torpedo the bill.

In the committee which is to consider the House bill—the Senate has already enacted a strict measure—further consideration has been put off until the end of June, a move seen by environmentalists as a possibly fatal foot-dragging ploy backed by the mining industry.

Even the state of California has gotten into the anti-legislation act with an official report backing further mining at Death Valley—a report which is erroneous and a deliberate attempt to further the interests of the mining industry, according to a federal mining engineer.

When it first became generally known, following a story in The Washington Star last September, that strip mining was permitted within the national park system, public outcry was immediate.

Within days, bills were introduced in both houses of Congress to close the parks to further exploitation.

But since then, the mining industry has made its clout felt and the environmentalists see that they are facing a far more serious problem to save the parks than they first thought.

Although mining is now permitted in six national parks and monuments, controversy has centered on two—Death Valley, where there is widespread mining now, and Glacier Bay National Monument in Alaska, where there is no activity now but the potential is seen by the industry as great.

Death Valley, a popular tourist attraction where the mining scars are visible to thousands of people a year, is the most controversial.

According to a recent study by National Park Service mining engineers, the mining in Death Valley is unnecessary since the United States produces ample supplies of borates and talc—the two minerals mined

there—to meet the nation's needs without mining any in the monument.

Within Death Valley, however, the mining companies have speeded up their activities, according to visitors. When Mary Ann Ericksen, a representative of the Sierra Club in Los Angeles, visited there recently, she was appalled at the mining activity.

"They are stripping the overburden off great areas to beat the legislation," she told a meeting of environmentalists here recently. "They aren't even trying to mine, they're just tearing things up so they can claim they've started."

Robert T. Mitcham, a Park Service mining engineer stationed at Death Valley, charged that Pfizer, Inc., "has more than doubled its mining area since September."

The firm, which is mining for talc, "is stripping off waste way out ahead of its mining schedule. They've hired a large outside contractor for the first time, who did work mostly in November."

He pointed out that the proposed legislation permits companies to continue mining all previously disturbed areas." All the talc companies are doing it," he added.

A spokesman for the company said, "Pfizer denies charges that it is indiscriminately disturbing the surface of Death Valley in anticipation of restrictive legislation or a mining moratorium."

He said "at present" there are only four company employes at work in Death Valley and that the firm has had no outside contractor working there "for the past two months."

He didn't know how many employes have worked there since September or whether there were contract workers before the past two months, he added.

The California Division of Mines and Geology issued a report earlier this year titled "Mines and Mineral Deposits in Death Valley National Monument, California" which concludes that the minerals mined in Death Valley are important, if not essential, to the nation.

Although the report doesn't make any specific recommendations, a reader is left with the feeling that the authors are strongly backing continued mining in the monument.

In a critique of the document, Mitcham concludes that "the manner of review and slanted implications discredit the report as an independent answer to questions regarding ore reserves and products mined in Death Valley."

The document, Mitcham said, "is a real push to propound the mining companies' point of view. It's terribly slanted." Two conclusions of the study—which do echo industry positions—are just untrue, he contends.

The first is that Colemanite, or calcium borate, is necessary for the manufacture of fiberglass, and since Death Valley is the only production site in the United States, mining must be continued there. This is particularly true since we already import large amounts of the mineral from Turkey, the study concludes.

The second is that deposits of metalic minerals are indicated within the monument.

As to the first, Mitcham said, any boron-bearing mineral, such as sodium borate, can be used in making fiberglass—in fact, much now is. It's more expensive than Colemanite, but it works. He questioned tearing up a national monument to save money for the fiberglass industry.

The second point just isn't true, he insists, since there is no evidence—or even indication—that there are any deposits of metalic minerals in the monument.

Besides borates—both Colemanite and Ulexite (a combination of calcium and sodium borates)—only talc is mined in Death Valley. And talc, Mitcham pointed out, is a very common substance.

The publicity surrounding the strip mining within the National Park system has had at least one temporary result. The Tenneco Co., now the only active borate miner in the monument, has "withdrawn" its claim to mine at Zabriskie Point, one of the most popular tourist attractions in the monument.

However, Mitcham complained, the firm had not relinquished the claims in writing. Thus they can be restaked at any time. "They're just waiting for the heat to come off," he charged.

A Tenneco spokesman explained that his company had no intention of mining at Zabriski Point even if it were able to overcome preexisting claims to the property. However, he added, "no mining company could give up that potential right. As a company vice president put it, 'It's not a right I could, as a reasonable person, give up'."

On May 25, Director of the Bureau of Mines Thomas V. Falkie gave a briefing to some members of the House Interior and Insular Affairs Committee which is considering the House bill. Although he claimed to be a backer of administration policy which supports the bill, his presentation was more a statement of the mining industry position, according to some present.

Rep. Philip E. Ruppe, R-Mich., requested the briefing and asked Rep. Jim Santini, D-Calif., an opponent of the bill, to invite interested Democrats.

As it turned out, according to John F. Seiberling, D-Ohio, who sponsored the legislation, only opponents were there. He charged Falkie, whose bureau is generally considered to be an ally of the mining industry, with a deliberate attempt to kill the bill.

"It is highly improper for the Bureau of Mines to go around and surreptitiously try to sabotage the bill when the administration is backing it," he said.

Falkie, however, denied he was making any such attempt. "It is absolutely not true," he said. "We were asked to come up to give them a presentation on the minerals in Death Valley and Glacier Bay. We gave them a factual presentation.

"I didn't even know who was there," he said. "We just came at the request of Congress."

"I told them that I support Secretary (of Interior Thomas S.) Kleppe's position on the legislation," he added.

The day after the briefing, the committee voted to put off action until May 26, but then several members opposing the legislation expressed a desire to visit Death Valley, Seiberling said. This, he explained, will put off any action until late in June.

"If some go, I'll go," he added. "I don't want just those people opposed to the bill to go look and see."

Although the administration generally supports the same legislative approach as those passed by the Senate and pending before the House committee, there is one major difference.

The congressional approach to the problem would prohibit further mining claims and limit mining at present claims in all parts of the national park system now open to mining.

Besides Death Valley and Glacier Bay, mining is allowed in Crater Lake National Park in Oregon, Mt. McKinley National Park in Alaska, Organ Pipe Cactus National Mounment in Arizona and Coronado National Memorial in Arizona. But since there have been no extractable minerals found in any of the other four, so at this point there is no argument about closing them to further claims.

All other parts of the park system are specifically excluded from the mining laws which cover the rest of the country.

The administration, however, favors excluding Glacier Bay from any restrictive legislation. It is the one of the six where additional ore discoveries are considered likely.

Nathaniel P. Reed, assistant Interior secretary for fish and wildlife and parks, told a House subcommittee in October that he personally objected to the exemption but that it was a necessary compromise to get administration support for any restrictive legislation.

At this time it is considered too expensive to mine the minerals—mainly copper—at Glacier Bay, but future developments could change this, industry officials say. They insist that the possible use of the copper reserves should not be precluded by legislation.

An attempt to add an exclusion for Glacier Bay to the Senate bill failed, but a similar attempt is expected in the House.

MINING IN DEATH VALLEY DEFENDED

I am shocked and outraged by, Thomas Love's May 14 "In Focus" coverage of the legislative controversy over mining in the national parks ("Miners seek to make their mark before ban begins"). As the representative from California's 18th Congressional District, in which over 95 percent of the Death Valley National Monument lies, I wish to outline the facts which Mr. Love most unfortunately failed to discuss.

Firstly, the representation of the mineral status of Death Valley is highly erroneous. Boron compounds—including colemanite—are indeed used for the manufacture of fiberglass, as well as enamels, soaps, fluxes, chemicals and herbicides, to name just a few. At present, 65 percent of the colemanite consumed in the U.S. is produced domestically, e.g. in Death Valley. Should this supply be cut off, we would be entirely dependent upon Turkey for this valuable resource.

Moreover, although only 10 percent of the total national production of talc came from Death Valley (we supply domestically 74 percent of U.S. consumption), California talc is of a superior grade which cannot be substituted industrially. Mr. Love's offhands dismissal of this resource is quite irresponsible, since U.S. self-sufficiency in any product is a significant factor.

Death Valley encompasses 2,067,763 acres of which 4,412 are privately owned by mining companies (U.S. Borax, Tenneco, Pfizer, etc.), figures which refute the picture painted by Mr. Love of the entire Monument being gobbled up by rampant mining activities.

As a matter of fact, the Death Valley Monument is a significant portion of the 86 percent of Inyo County land which is publicly administered and thus tax exempt. However, the combined mining interests infuse Inyo County with over $200,000 in tax revenues while supporting a $2¼ million payroll. Should mining activities be totally curtailed, the tax base of the Death Valley Unified School District would be reduced by 39 percent and that of the Southern Inyo Hospital District by 7 percent. Quite understandably, in view of these serious economic consequences, the Inyo County board of supervisors opposes inclusion of Death Valley National Monument in the provisions of S. 2371.

My position on this bill is based in large part on just such misrepresentations of the situation as Mr. Love's. When the decision before the Congress is one of such serious national and international economic repercussion, it must not be founded on pure emotionalism. One day of subcommittee hearings were conducted by each house before reporting the bill to the full Interior Committees.

Therefore, I advocate complying with the moratorium provisions of the bill which allow continued lateral activity on currently active valid claims, and suspending the 1933 mining law for the duration of the moratorium. During that period, a comprehensive environmental and economic impact study shall be conducted by the appropriate

agency. Then—with all the facts available—Congress can make the responsible decision necessary as to the future of Death Valley.

What we don't need at this crucial point in the legislative process are visions of "billowing clouds" and "bulbous scars" to blur the issue. Nor are the slurs upon the California Division of Mines and Geology's official report acceptable; their rebuttal to Mr. Mitcham's comments has already been prepared and I expect for it to receive "equal time".

WILLIAM M. KETCHUM, R-Calif.,
Member of Congress.

WASHINGTON, D.C.

Your efforts to put "In Focus" the issue of mining in six of our National Parks should strain a few optic nerves among Washington readers.

The alleged facts of your article aside, most local readers can't travel some 3,000 miles to see journalist Thomas Love's "huge earthscrapers raising billowing clouds of dust as they rip the surface of Death Valley . . ." in some wild race against the Congress to outwit inevitable constraints on their operations. One wonders how much dust can be kicked up on a mining operation contained to 4,000 acres of a 2½ million-acre park.

For those who were titillated by the paragraphs of emotional, if myopic, hysteria which followed—don't rush out to your local travel agency. There's a lot more excitement in that news report than there is boron activity in them thar hills. Even the mules disappeared around the turn of the century, along with jobs, people, and most of the rest of the Death Valley economy.

What few conservative mossbacks still remain in this Congress to fuss about employment, mineral shortages, etc., don't mind being skewered occasionally by a crusading journalist. But for heaven's sake, can't you do it with a little elegance and imagination? Writers like Thomas Love should be able to recognize a cliche and swerve when he's about to crash into it. If nothing else, your readers expect an occasional fine turn of the printed word for their 15 cents—and they won't even expect it of you to tell the truth in the bargain.

STEVE SYMMS, R-Idaho,
Member of Congress.

WASHINGTON, D.C.

ENERGY FOR AMERICA'S FUTURE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. LUNDINE. Mr. Speaker, I fully support passage of H.R. 13350, the Energy Research and Development Administration Authorization for fiscal year 1977. We need to reduce our reliance on uncertain foreign oil sources by making a vigorous effort to develop alternate sources of energy. The $5 billion authorization for energy research and development approved by the House should move us purposefully forward on the road to energy self-sufficiency.

The new authorization does so by continuing our commitment to nuclear power development and by increasing funding for development of our vast coal resources, for energy conservation technologies, and for solar and other clean and renewable energy sources. Most importantly the House-passed bill does this with an emphasis on helping the private sector commercialize the new technologies and on making those technologies environmentally acceptable.

NEED FOR THE PROGRAM

Although warning signs have been with us for some time, we have been reluctant to make the capital investment needed to provide us with energy sources to use when we start to run out of oil. The brownouts of the early 1970's and the spot fuel shortages in the winter of 1972 were not enough to get us moving on this essential program. It took the layoffs and long gas lines of the 1973 Arab embargo to shock us into a sense of urgency about energy supplies.

Ironically enough, the aftermath of that embargo, worldwide recession—induced in large part by the fourfold increase in world oil prices—has resulted in a drop in world energy demand, which in turn has lessened our sense of urgency about energy supply problems. Now that fuels and electricity are plentiful, though expensive, it is too easy to forget that conventional energy resources are finite, that oil and gas supplies are still running out, and that we must continue to plan for the future.

Tapping the heat inside the earth, harnessing the temperature differentials in the ocean, converting solar energy to electricity, and utilizing the energy in nuclear fusion—all may still sound like science fiction. But so at one time did getting a man on the Moon. We spent $25 billion on the Apollo project over an 11-year period, and we succeeded. With a similar commitment to energy research and development, we can succeed as well in developing ample, clean and renewable sources of energy for our long-range future.

ENERGY CONSERVATION

For the short term, however, I urge that a priority of the highest order be given to developing techniques to conserve energy—that is, to use the supplies we have more efficiently and wisely. A barrel of oil saved has as much value, or perhaps more, than a barrel of newly discovered oil.

Energy conservation to be effective and acceptable should mean more than turning down thermostats or driving less in smaller cars. It should mean the development and use of techniques within our reach to put the fuels we burn to more efficient use.

In West Germany, which has a standard of living as high as ours, per capita energy consumption is about half as much as it is in the United States. A new federally sponsored study by the Stanford Research Institute shows that U.S. industry uses 40 percent more energy than West German industry does for equal output.

Some of the things the West Germans do that we might successfully emulate are:

To use the steam needed in the manufacturing process first to generate electricity and then in the manufacturing process itself. If this were done in the United States, enough electricity would be produced to satisfy all our industrial needs and more.

To use the waste heat from electric powerplants to heat buildings and homes nearby. This is being done successfully in Denmark and Sweden, as well as in West Germany.

To encourage the use of zone thermostats—separate ones for individual rooms.

I am pleased to note that the Energy Research and Development Administration in the most recent update of its plan has responded to the criticism of the Office of Technology Assessment and has upgraded the priority for energy conservation efforts. Let us hope that spurred by the funds provided in this bill, ERDA's endorsement of energy conservation will not remain mere rhetoric as it has in the past, but will be translated as soon as possible into effective action. The bill approved by the House authorizes funds for energy conservation research and development which are 69 percent more than the President requested and 39 percent more than last year's authorization.

ENERGY FROM WASTES

The funds in this bill will also go to support research, development and demonstration projects in the conversion of waste materials to clean fuels. In Chemung County, N.Y., promising experiments are being conducted under the auspices of a county agency in the separation of burnable fuels from solid waste. The bill approved by the House will provide $6 million in budget authority in fiscal year 1977 for a fuels from biomass program, which will test many such systems of utilizing wastes and agricultural residues for energy.

SOLAR ENERGY

Solar energy development has been given a higher priority than ever before in the current bill. As passed by the House, the bill increases the administration budget request for solar energy research and development by 70 percent.

ERDA has estimated that solar energy will fill 7 percent of the Nation's total energy needs by the year 2000 if costs can be reduced. Other estimates are more optimistic. A FEA official told a Senate subcommittee last May that solar energy can fill 10 percent of total U.S. energy needs by 1990. We do not have to wait for the 21st century to have homes and buildings heated and cooled by energy from the sun if we can bring costs down—a goal that appears within reach under the vigorous Federal program cotemplated in this bill.

Twenty-five percent of current U.S. energy use goes to heat and cool buildings and to heat water in homes. Solar hot water is a practical possibility today in existing homes using electric hot water heating. Even in the northeast, in houses with fairly steep roofs facing south, most hot water needs could be met by installation of systems which would pay for themselves in 10 years.

In many areas of the country, it pays right now to install solar space-heating as auxiliary heat in buildings like

schools, which are occupied only in the daytime. As much as 25 percent a year can be saved in heating bills in buildings of this kind, and the original investment can be recouped in about 5 years.

Further along the road is the use of solar systems as the principal source of heat, and still further the conversion of solar energy to electricity. In most parts of the country, use of solar energy as the only source of heat is still too expensive to be practical, particularly in retrofitting existing buildings. But there are ways of bringing those costs down. Additional funds provided under the new authorization will accelerate research and development in technologies to reduce solar energy costs.

One research project to devise a more efficient collector system is underway in the Corning Glass Works in New York's southern tier. Working with $372,000 in grants from ERDA, Corning has been developing an "evacuated" tubular glass collector—a kind of attenuated thermos bottle as I understand it—which absorbs the energy of the sun and can maintain a heat level of about 200 degrees with high efficiency.

Solar energy offers promise as well for agricultural and industrial uses. Wherever fuel is used for direct heat, solar energy is a possibility. Energy from the sun could replace some of the vast quantity of liquid propane now used to dry crops. It could also be used to heat large shelters for poultry and dairy herds. The funds in this bill will help to accelerate commercial applications like these.

ENERGY EXTENSION SERVICE

One new program funded under the fiscal year 1977 ERDA authorization is an Energy Extension Service, modeled on the Agricultural Cooperative Extension Service and designed to give people assistance on the local level in increasing the efficiency of energy use; for example, by encouraging improvements in home insulation and providing information on the availability and feasibility of solar heating and cooling equipment and on methods of producing energy from waste materials. The House has authorized $10 million to start this important outreach program.

COAL AND NUCLEAR POWER

The legislation approved by the House authorizes appropriations for nuclear and coal development programs, as well as for the more exotic technologies. It provides significant increases in funding for development of our vast coal resources. We have enough coal to last several hundreds of years. But we need to develop techniques to mine that coal safely without ravaging the land, to burn it directly without poisoning the air, and to convert it to liquid and gaseous fuels in a commercially feasible manner. Coal programs under the House-approved bill are funded at roughly a $400 million level. When we consider that in fiscal year 1970, the United States spent only $12 million in research and development of all fossil fuels, we get an indication of the massiveness of the effort planned under the new program. Funds will be channeled to the private sector to encourage bringing needed coal technologies to the commercial stage.

The authorization approved by the House continues our national commitment to nuclear power development. Roughly half the funds authorized will go for this purpose. While I have reservations about the economic viability of the liquid metal fast breeder reactor program—for which the demonstration plant alone will cost $2 billion—I have confidence in the future of the existing type of nuclear power plants—light water reactors. Programs are included in the current authorization to identify and seek solutions to problems of the nuclear fuel cycle, including safe disposal of radioactive wastes, safeguarding nuclear materials from diversion to unauthorized weapons use, and reprocessing used reactor fuel.

The legislation approved by the House commits the Nation to a vigorous, aggressive energy research and development effort which will move us forward toward assuring dependable energy supplies for the future. Of equal importance, the new funding will provide needed encouragement to industry and individuals to conserve fuels and electricity—to make more efficient use of the energy supplies we now have.

Energy means jobs. Furthermore, dependable energy supplies are fundamental to our national security. The energy research and development program approved by the House should help us realize the all-important objective of a peaceful and prosperous future.

SUPPLEMENTAL FOOD SUCCESSES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FORD of Michigan. Mr. Speaker, since its inception as a pilot program in 1973, I have been an ardent advocate of the special supplemental food program for women, infants and children, known as the WIC program.

Because of this I would like to give my colleagues an opportunity to read about the results of one of the studies of the WIC program. Dr. William H. Durbrow III, a staff physician with the Family Health Center, in Fresno County, Calif., recently found a decline in childhood illnesses which coincided with participation in the WIC program. He wrote of his findings in the recent monthly issue of Earthbound, a publication of the migrant legal action program.

I include his article to be printed in the RECORD at this point:

Two years ago the WIC Program was instituted at our Orange Cove and Parlier Family Health Center facilities. This presented, it seemed to me, an opportunity to study the effects of improved nutrition on various illnesses seen at the clinics. Among my patients I had noticed that children with low blood iron (low hematocrits), which is indicative of poor nutrition, were frequently seen for upper respiratory illnesses, and I postulated that the federal WIC Program might have an effect on the frequency of acute illness in childhood.

In a select audit of the records of child patients, I found evidence that the WIC Program markedly affected the pattern of clinic utilization. In the group of WIC children whose records were studied, I found an average of 3.3 less visits to the clinic in an eleven-month period while on WIC supplemental food than we at the clinic might have predicted on the basis of their previous clinic utilization. This was a two-thirds reduction in visits by these children from their previous clinic participation.

The WIC Program provides coupons for dietary supplements for low-income pregnant and lactating women, infants, and children of up to four years, who come from families which have evidenced poor nutrition. Certification of eligibles for the program is made by our clinic nutritionist and clinic assistants. With the coupons, mothers and children are able to obtain milk (or milk and cheese), cereal, fruit juice and eggs and infants are able to obtain fruit juice and infant formula or cereal.

INTEREST IN WIC IS HIGH

The WIC Program at our clinics began in May 1974. In February of 1976, participants including 168 pregnant or lactating mothers, 253 infants, and 611 children between the ages of one and five. There are a significant number of eligibles not reached by the program.

Most of our clinic patients have Spanish surnames. They are Chicanos who speak no English. The clientele for our clinics are farmworkers and their families and welfare mothers, who also generally come from farm-laboring families. We never know who are migrants and who are permanently based here.

The farmwarkers pick oranges, lemons, grapes, peaches, plums and the like. Orange pickers have work about nine months of the year. In the winter, the summer fruit pickers either prune trees, are unemployed, or move elsewhere.

In order to get the WIC coupons for themselves and/or their children, the mothers attend a meeting once a month with our clinic nutritionist. When there is time, they receive information—in Spanish and English—about food selection, meal planning and basic nutrition. Otherwise, the meetings are just long enough to pass out the coupons and to certify or recertify those who need it.

The Family Health Center WIC Program neither encourages nor discourages the use of the clinics' medical services. Although WIC participants must be certified as at nutritional risk, there is no requirement of medical examinations before or during participation on WIC.

I had anticipated, however, that the WIC Program would stimulate an increase in clinic utilization for treatment of illnesses and of minor problems and that these visits would coincide with the mothers' meetings.

There were a number of reasons for this expectation. The mothers' meetings are in the daytime when the clinic is also open. The building where these meetings are held is adjacent to our Orange Cove clinic. Many of the women do not drive and have to make an effort to get to the clinic whenever they come. Yet, for the mothers' meetings, their attendance is good and their interest seems high. Also, their children are generally with them at the meetings.

Instead, however, I observed that when a child was on WIC the child's use of the medical clinic seemed less.

GROUP SELECTED FOR STUDY

What I decided to do last fall was to ask our nutritionist Sharon Scharf to identify children who had been on the WIC Program for a continuous period of several months.

I then asked her to pull their clinic charts and to identify those who had been coming to the clinic for at least as long a period before WIC as they had months on the WIC Program.

Ms. Scharf then selected for study charts of the children who had had at least two clinic visits for acute illness in their pre-WIC period. This was to identify patients that we had been seeing regularly and who, therefore, were likely to continue to use the clinic while they were on WIC.

The children whose charts were selected for study had, on the average, been observed at the clinic for 11 months prior to enrollment in the WIC Program and had been on the WIC Program for 11 months. Additionally, they had been regular users of the clinic in their pre-WIC period.

My study was essentially an audit of patients' charts. Because of the selection criteria, only 34 charts qualified for the audit. Equal periods of time, before and after being placed on WIC, were compared for the number and kind of clinic visits. Thus each patient served as his or her own control. Since intake into the WIC Program progressed throughout the year, seasonal variations were nullified in the audit. A given month might be part of the control period for one patient and part of the time on WIC for another.

CLINIC USE GOES DOWN

The results were beyond my expectations. Total clinic visits had decreased by two thirds. Visits for respiratory illnesses had decreased by two thirds. The number of accidental injuries treated was small, yet remained approximately the same in the pre and post WIC periods. This indicated to me that the children were using the clinic when they needed to at about the same rate both pre and post WIC.

Prior to their participation in WIC, the children totalled 169 visits for cause, i.e., illness, infection or injury. Of these visits, some 115 were for respiratory illnesses and five were for accidental injuries. In their period on WIC/, these same 34 children had 58 total visits, also for cause. Of these, 43 were for respiratory illnesses and four for accidental injuries. All other visits, before and after WIC, were either for acute illnesses or infection. There were no routine visits, i.e., for checkups or screenings.

There seems to me to be no other logical explanation for the decrease of these visits than WIC. Under ordinary circumstances, we would expect these 34 children to have the same clinic utilization in any 11 month or other protracted time period. Thus, we would have expected them to have 169 visits in the second time period instead of 58. That makes 111 less visits or, for each of the 34, an average of 3.3 less visits when they were on WIC than they had before WIC.

BENEFITS EXCEED COSTS

The decrease in clinic visits was so significant that I began to wonder what it would have cost the clinic if we had had to provide the normal load of medical services to these child patients, and what it cost to provide the WIC Program to each of these children. If we could figure the difference between the cost of providing normal medical services and the cost of providing WIC, we would have some indication of costs vs. benefits of the WIC Program.

It costs the Family Health Center an average of $28 for the each patient visit. The WIC food coupons are supplied by the federal government but is costs on the average about $2.40 per participant per month to administer the program.

Had each child visited the clinic the additional 3.3 times as would be expected, it would have cost the clinic $92 for each child. Instead, to keep a child on WIC for 11 months cost the clinic $26. The cost benefit ratio was thus $26 to $92. The net difference between these two figures is $66. This yields a net "savings" of about $6 per month per child.

The benefits of WIC to the family are even more when you consider that each coupon has a fact value of approximately $20. That's what it would have cost the family if it had provided the supplemental foods itself to the children. I was not able to determine how much each family saved because a child did not go to the clinic for the 3.3 visits because a family is charged for clinic services on a sliding scale based on its ability to pay. Since most pay something for a clinic visit, and since all saved on food costs, the WIC Program also means additional purchasing power to each family.

SOCIETY GAINS LONG-TERM BENEFITS

The WIC Program can be shown in fact to alter favorably long-standing habits of food selection. The spread between costs and benefits of the WIC Program increases when you consider the continuing effect it will have on behavior and health. Over a number of years, one might find the societal costs of remedial educational programs and even prison costs entering into the calculations of the benefits of the WIC Program. Vast numbers of societal benefits are probably calculable and indirectly attributable to better nutrition in the formative years.

It is in the nature of preventive medicine or any program designed to prevent a later occurrence, however, that the benefits may be difficult to measure and may be manifest at points distant in time and place from the point of initial investment. Ultimately, the societal benefits are incalculable as they extend imperceptibly into all areas of life activities.

Sophisticated cost-benefit analysis is far beyond my ability as a physician and exceeds the purposes of this presentation. Even so, with this simple economic model, the relationship between investment cost—the WIC administrative budget—and the benefit in the reduced need for clinic services (and consequently clinic costs) is quite direct.

WIC SUCCESS MAY BE CLINIC DETRIMENT

Ironically, in the long run a successful WIC Program is at cross purposes to our clinic. The Family Health Center is a U.S. Department of Health, Education, and Welfare funded rural health clinic. Our income from HEW is based on our productivity. The greater our volume of patients the greater the grant from HEW. Conversely, a reduction in patient flow leads to a loss of clinic income. As the successes of WIC become more demonstrable our HEW clinic subsidy might go down.

This happens, or could happen, because of the way the clinic is funded. We do not have fixed subsidy based on the population to be served. The fallacy of our health care system is that money is channeled into separate programs. One program is not considered in relation to another. When one program has the effect of providing savings in a second program, the ultimate result is that funding for the second program is cut the next time the money goes around. When there are savings there is less money the next time. We don't have the savings to invest elsewhere.

The supplemental Food Program for Women, Inmans and Children is not an integral part of the family clinic services. We administer the WIC Program but our money for that program comes from the U.S. Department of Agriculture. HEW looks at our clinic volume and if WIC decreases the volume of the clinic we stand to lose HEW funds. When a USDA program save HEW money we don't have the HEW savings to spend elsewhere, as, for example, to enlarge the WIC Program and thus to generate further savings in clinic costs.

COMPREHENSIVE HEALTH DELIVERY CALLED FOR

As long as we have a fragmented health delivery system we will have the paradox of one program obscuring another. As long as we have uneven funding reflecting uncertain commitment we will see kaleidoscopic lobbying by individual health program representatives out to catch the public and legislative eye on the basis of immediate appeal and other irrelevant factors.

There are three components of a comprehensive health delivery system: Preventive Care, Chronic Care, Urgent Medical Care. To succeed, the delivery of each must be balanced aspects of the total system. The balanced delivery of Preventive, Chronic and Urgent Medical Care is a complex task requiring the wholehearted attention of professionals who are not preoccupied with the caving-in of the economic roof. This cannot happen when each component is separate, when each component is an umbrella for separate programs, when benefits are never seen in the perspective of the entire health care system.

I submit that now is the time to establish a single rural health authority which would maintain regional health centers charged with providing comprehensive health care in a particular geographic area. Costs and benefits would derive from all services offered and no single aspect of a program would be looked at alone.

The "fine tuning" of the system would lie in the regional health centers. The internal balance of the various phases of health care would be made in terms of characteristics of the local population served, prevalent illnesses and the desires of the community. An ongoing feature would be the monitoring of various program facets of the comprehensive system in terms of cost-benefit ratios along the lines of study discussed above.

A healthy competition would spring up, in my opinion, between the regional centers—not for the supply of money, which would be available on a fixed dollar to population ratio, but rather for the services each could supply under the same budgetary constraints.

A system of regional health centers may be some time away, given what it takes for the federal government to initiate something. The Congress and the bureaucracy could act immediately, however, to consolidate a number of varying programs which are at odds with each other and should not be—such as the rural health centers and the WIC Program—into a comprehensive clinical services program.

A program like WIC is a positive intervention in patients' health-affecting behavior, but only when it is an integral part of a total clinic health delivery program.

AUTOMOBILE EMISSIONS STANDARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, the recent upsurge of letters in support of the Dingell amendment to the Clean Air Act has probably surprised some Members. As one who has attempted to effect controls on automobile

emissions since the 1950's, when the automobile companies were still denying that their products caused air pollution, I have been impressed with the lobbying apparatus of the American automobile industry.

The issue facing the Congress in the next few weeks is quite simple. The auto industry is attempting to win a battle that they lost in 1970 when the Congress decided to require the automobile industry to gradually and continually reduce the emissions from their products. The automobile industry fought that decision, and has succeeded in delaying its implementation by several years already. The Dingell amendment is, in light of past victories by the automobile industry, even more generous than the industry believed it could decently ask for, especially since the Commerce Committee bill already rolled back the standards needed to protect the public from automobile-caused air pollution.

It is perhaps necessary to remind my colleagues of the actual standards under discussion. The following chart describes the original 1970 Clean Air Act requirements, the current Federal law, the current California law, the proposed amendments by the Committee on Interstate and Foreign Commerce, and the so-called Dingell amendments:

TABLE OF AUTOMOBILE EMISSIONS STANDARDS—PAST, EXISTING AND PROPOSED

[Figures are in HC/CO/NOx in grams per mile]

Model year	Original 1970 law	Current Federal law	Current (California) law	Current Commerce Committee bill	"Dingell" proposal
1976	—.4/3.4/2.0	1.5/15/3.1	0.9/9/2.0	1.5/15/3.1	
1977	—.4/3.4/.4	1.5/15/2.0	.41/9/1.5	1.5/15/2.0	1.5/15/2.0
1978	—.4/3.4/.4	.41/3.4/.4	(1)	1.5/15/2.0	1.5/15/2.0
1979	—.4/3.4/.4	.41/3.4/.4		1.5/15/2.0	1.5/15/2.0
1980	—.4/3.4/.4	.41/3.4/.4		[2].41/3.4/.4(2.0)	.9/9/2.0
1981	—.4/3.4/.4	.41/3.4/.4		[2].41/3.4/.4(2.0)	.9/9/2.0
1982	—.4/3.4/.4	.41/3.4/.4		[2].41/3.4/.4(2.0)	[2].41/3.4/2.0
1983	—.4/3.4/.4	.41/3.4/.4		[2].41/3.4/.4(1.5)	[2]41/3.4/2.0
1984	—.4/3.4/.4	.41/3.4/.4		[2].41/3.4/.4(1.5)	[2].41/3.4/2.0
1985	—.4/3.4/.4	.41/3.4/.4		.41/3.4/.4	[2].41/3.4/4.0

[1] State discretion under California waiver.
[2] Indicates level to which 0.4 NOx standard may be waived by EPA administrator.
[2] Indicates NOx level to be set by administrator's discretion.

As can be seen from this chart, the existing Federal law is weaker than both the original 1970 law, and the existing California emissions standards. The American automobile companies are selling cars in California, and meeting the more stringent emissions standards there. According to numercus, nonindustry studies, this can be done throughout the United States without losses in fuel economy and economic dislocations.

I hardly need to repeat the reason for the automobile emissions standards, which is to protect the public health and welfare from harmful air pollutants. I certainly do not need to remind anyone who reads the newspapers, and breathes the air in our urban centers. Washington, D.C., this summer will be an excellent example of what adverse effects have resulted from our past yielding to the automobile industry.

At this time I wish to insert in the RECORD an article on the lobbying campaign now underway to force Congress to backdown again:

The article follows:

[From the Washington Post, May 22, 1976]

GM URGES PRESSURE ON AIR STANDARDS BILL

(By Edward S. Lechtzin)

DETROIT.—General Motors Corp. chairman Thomas A. Murphy called on the auto company's 1.3 million stockholders to urge their congressmen to support an easing of automobile clean air standards.

Murphy told shareholders that GM has been able to achieve the 1978 clean air standards on only an experimental basis and said either of the two systems "would be extremely costly in terms of dollars and fuel."

About 25 pickets, protesting GM's agreement with the Chilean military government to expand its automotive operations in South America, greeted shareholders as they arrived at the annual meeting. A proposal that would have forbidden such an agreement until worker rights were guaranteed was to *be voted on by the stockholders.*

The GM chairman said he plans to personally ask each congressman to support a relaxation of 1978 auto emission standards proposed by Rep. John D. Dingell (D-Mich.) which would delay the tougher standards at least until 1980. The Ford administration had wanted a five-year delay.

Murphy said the debate over clean air standards and the possibility of production interruptions during this year's labor talks are clouding his prediction that industry car and truck sales, including imports, would reach a near-record 14.5 million units in 1977. That would be just 100,000 units short of the 1973 record before the industry was plunged into a two-year slump with the start of the Arab oil embargo.

Should auto makers find themselves unable to meet the 1978 clean air standards on cars that will go on sale in the fall of 1977, Murphy said his predicted high might not be reached. He also said GM might have to shelve its plans to introduce a passenger-car diesel.

"The responsibility of the Congress to bring order and reason to this situation is immediate, direct and more far-reaching than many of our representatives may realize," Murphy said. "Our job as citizens is to remind them of our stake and their responsibility."

Under the Dingell amendment, the current emission ceilings of 1.5 grams a mile of hydrocarbons and 15 grams a mile of carbon monoxide would remain in effect through the 1979-model year. The tougher rules that are to become effective in the 1978-model year—0.41 grams for hydrocarbons and 3.4 grams of carbon monoxide—would be delayed until the 1980 model year.

FRIENDS AND ENEMIES

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HÉBERT. Mr. Speaker, I have always said that Claude Witze, senior editor of Air Force magazine, is one of the best reporters on the Washington scene, and one of the most accurate.

His column in the May 1976 issue is most revealing and one which every Member of Congress should read. It speaks for itself, and I am inserting it at this point in the RECORD:

FRIENDS AND ENEMIES

(By Claude Witze, Senior Editor)

WASHINGTON, D.C., April 5.—There is a good deal to be said this month for the concept that when the pinch is on, the Russians are the Pentagon's best friends. Despite earlier apprehensions, President Ford's $114.9 billion Fiscal 1977 defense budget is winning broader support on Capitol Hill than has any Pentagon money request of recent years. It is the Kremlin—what it has done, is doing, and threatens to do—that is responsible for the switch in many votes.

The Senate Armed Services Committee, chaired by John C. Stennis of Mississippi, voted 15 to 1 to authorize expenditures of $114.2 billion, a cut of only $700 million from the request. Mr. Stennis said his group was concerned about expanded Soviet military power and its continuing trend of expansion. He cited "severe readiness problems" in our own armed forces, and the requirement for no further reduction in our force levels.

Over in the House, Armed Services Chairman Melvin Price of Illinois announced the other day that his committee has voted to authorize $33.4 billion for procurement and research and development. This is $698.6 million more than the Pentagon requested. The vote in his committee was 34 to 1, the closest to unanimity, the chairman said, that the group has been in many years. Mr. Price declared the decision "is dictated by the actual military capability the Soviets have, regardless of how much it costs them. It is dictated by the size and kind of forces that we might have to defend against in a crisis. It is dictated by conditions in the world over which we do not often have control."

The chairman pointed out that not long ago some House members were declaring that if we cut defense spending the Russians would cut theirs, and that if we restrained new developments it would enhance the chances of a SALT agreement. All these things were taken into account and the committee was unable to avoid the conviction "that the world, by any measure, is a less safe place today than it was even a year ago."

Sen. John McClellan, who chairs the Appropriations Committee in the upper chamber, has favored sharp reductions in past years. The other day, he dug in his heels and asked the Senate to approve the President's Pentagon request. In a floor speech, he said our strength, relative to Russia, is declining. "We cannot—we must not—allow this relative decline in our military forces to continue. . . . If current trends continue—if they are not reversed—there will be a time at some point in the future—and rather soon, I think—when Soviet military capability will surely exceed that of the United States. The margin of superiority which we have in some fields and the equality which we have in others will have vanished—probably never to be regained."

The new House and Senate Budget Committees looked like major stumbling blocks only a few weeks ago. The threat dissolved in the face of the facts. In the House committee, headed by Rep. Brock Adams of Washington, there was a move to simply endorse the White House military request and give the Pentagon what it wanted. It lost, but the vote was 13 to 12. By the same vote, 13 to 12, the committee cut $1.3 billion from the request, rather than the $5.0 to $7.0 billion the chairman had talked about. Mr. Adams who accused the President of "unreasonable" defense requests and said military funds were being provided faster than they could be spent, was rebuffed.

President Ford, disturbed by the possibility that Mr. Adams could prevail, warned in a speech at the Pentagon that he would not accept a sizable reduction, and would veto a bill that imposed one.

The story was not dissimilar in the Senate Budget Committee, where the opposition was louder in its earlier attacks. That group voted unanimously to hold its recommended cuts to only $200 million in outlays and $300 million in budget authority.

Probably because the political primary campaigns were using up most of the headlines and newspaper space, details of this year's defense budget debate escaped the public attention they deserve.

One inescapable observation is that the defense critics, most of them political liberals are becoming discredited and commanding less attention. A few days ago, for example, Rep. Les Aspin of Wisconsin, the man with the busy mimeograph machine, called a press conference in the Rayburn House Office Building to issue a blast discounting what he called "allegations that the surge in the Soviet military is relegating the United States to No. 2 in the world." He continued: "The presidential race has become a one-sided affair. Both Republican candidates are shouting, 'The Russians are coming,' and screaming, 'I can protect the nation better.' None of the Democratic candidates are willing to jump into the fray."

Mr. Aspin then put on what sounded like a counter-briefing. He gave his own analysis of Soviet military spending, weapons production, manpower, and strategic weapons. "These show that the Russian bear is not so great as he is portrayed by some," he said. He said he was sending his analysis to all members of Congress and to editorial writers across the nation.

Earlier, on March 23, Representative Aspin turned out one of his press releases, attacking the Air Force's B–1 bomber project. He said the facts in it were taken from General Accounting Office report. They were, but many were taken out of context and others simply misinterpreted. The result of this was that on the day some news stories appeared, GAO asked for Pentagon approval for release of a "sterilized" version of the report—one with the classified data removed—so that the press and the public could judge some of the issues raised by the congressman, USAF, for its part, turned out a detailed refutation of ten points raised by Mr. Aspin. The press, with some exceptions, ignored the whole affair. The principal achievement was that the GAO study broke loose on March 23, 1976, after the agency had stamped it for release not later than December 31, 1987 (sic).

Skepticism about Mr. Aspin's credibility as a defense expert—he once worked for Robert S. McNamara in the Pentagon—probably goes back to December 13, 1974. That was the day he issued a press release charging "that the Air Force is trying to keep the first flight test of the B–1 bomber a secret because 'they're afraid it won't fly.'" He continued with a statement that USAF had postponed one test flight and failed to schedule another. On top of this, he declared USAF was trying to keep the press and the public from witnessing the tests.

Well, the B–1 made its first test flight on December 23, 1974, ten days after Mr. Aspin's highly inaccurate prognostication was made. As of this writing, it has made twenty-seven flights, has been in the air nearly 135 hours, more than five of these hours at supersonic speed. The press has been welcome to witness any and all of the flights. The Defense Department says the program is proceeding well.

It also could be that Representative Aspin is wearing out his welcome at the newspaper and television offices. Late last year, one newspaper counted his press releases over a six-week period. There were ninety-seven of them, the majority on Pentagon affairs. And, there is evidence the press knows it has been used as a tool by Mr. Aspin, who shares each reporter's joy in a headline. The New York Times says he has "elevated the practice to new heights."

The congressman's response is that he is engaging in guerrilla warfare. "What you've got to have is more mobility," he told the Times. "You can move faster. They've got to clear everything through fifteen layers. While they are still trying to clear a response to one release you can hit them with two or three others."

Observed a reporter for the Milwaukee Journal: "Ask the Pentagon for a response to an Aspin charge and it is likely to be several days—or weeks—before the response arrives, if at all. These ponderous processes, coupled with the daily deadline pressure facing reporters, frequently enable Aspin to get his charges into print unchallenged." At the Defense Department this fact is accepted. The only regret is that nobody has kept a record on how many man-hours of labor and taxpayer dollars have gone into competing with the Aspin literary output.

Until recently, it was more difficult to evaluate the standing of Mr. Aspin with his congressional colleagues. He is a member of the Armed Services Committee, where he cast the lone negative vote in that 34 to 1 test on the procurement authorization bill. His record of attendance at committee hearings is not good. On the day that Marion Anderson, a Michigan antidefense zealot, was invited to testify, Mr. Aspin was absent. The witness boasted that he was her sponsor on Capitol Hill and that he approved of her activity. When she came under fire from committee members who accused her of sloppy economic reasoning, and blew holes through her presentation, she sorely missed his presence.

Three days ago, on April 2, the Wisconsin congressman called a press conference to give out his own judgment on the Soviet surge. Much of what he said about arithmetic was true, but he overestimates the Russian effort on the Chinese front and seems to ignore what is going on in the Middle East, the Persian Gulf area, Angola, and Cuba—all takeoff points that are remote from Peking. While he was talking and handing out charts of the Aspin intelligence analysis, there were growls in the corridor of the Rayburn Building. The Armed Services Committee had more than one opportunity to witness a highy classified briefing—complete with charts and secret photos of Russian installations—presented by John T. Hughes, the expert on collecting facts for the Defense Intelligence Agency. An authoritative source told AIR FORCE Magazine that Mr. Aspin did not accept a single one of several invitations to expose himself to this account. On inquiry, an Aspin aide said it was not considered necessary in the Aspin camp, which has its own contacts with the Central Intelligence Agency.

Well, today (April 5), after Mr. Aspin had held his press conference and obtained some publicity for his own account, he finally heard the DIA briefing. He heard it at the White House, on invitation of the President. That's the kind of offer that not even Mr. Aspin could refuse.

Most press releases from the Aspin office invite reporters to make further inquiry, if required, from his press aide, Bill Broydrick. On March 14, Mr. Broydrick played a starring role at the "National Conference to Stop the B–1 Bomber, Cut Military Spending, Meet Human Needs." This was a two-day conclave of counterculture dissidents who were preparing to assault Congress. Both the participants and the methodology were reminiscent of the antiwar demonstrations of a few years ago.

At this show, Bill Broydrick took a lead part in a seminar on "The Mood of Congress on the Issues and How to Work With Congress." At least 300 delegates heard him explain how to carry the case down the street to the Capitol. He did not appear brimming with confidence for his chosen cause. He told the crowd in a nearby high school audience that they had no reason to be optimistic—a highly accurate evaluation. "The Pentagon line," Broydrick said, "has finally sold" because "people are really getting worried about the level of Soviet spending."

On the other hand, the Aspin aide told his young audience, it should not give up the fight to get a priority for human needs over defense requirements, a petition that seemed to ignore the reversal in priorities that has been in effect for the past several years. He said the figures current on Soviet spending are "phony" and added "if they [USSR] spend $200 billion and we [US] spend $10 billion, that may be right, depending on our policy."

There was no member of Congress present at the Broydrick presentation. Had there been, his feelings would have been jolted, at the least, by the contempt with which Broydrick viewed the Lower House. He told the meeting, with a tone of firm assurance, that after this session they could go to Capitol Hill to lobby, confident that they, as individuals, knew vastly more about defense issues than the congressmen they were approaching. The young people accepted that. There was no one in the congregation to challenge it.

Other speakers at the conference, sharing the spotlight with Broydrick, included the aforementioned Marion Anderson, Don Luce, the activist boss of Clergy and Laity Concerned, Eqbal Ahmad, the Pakistani radical, and Rep. John Seiberling of Ohio, who gave the climactic speech.

Probably the main reason these efforts lack resourcefulness is that they are pressed in an atmosphere approaching that of a religious ecstasy. There is a fervor that instills blindness. After attending hours of congressional hearings, the Aspin press conference, and the National Conference to Stop the Bomber, there is something missing in our notes. At no time has any zealous foe of the Fiscal '77 defense program explored the significance of the Soviet-Cuban adventure in Angola, the messages from Solzhenitsyn, the firing of James Schlesinger, or the obvious popularity of Daniel Moynihan. The political picture, in this presidential year, might as well involve an election in the principality of East Overshoe. There has been no lesson learned from the experience of Great Britain with an advanced welfare state. The people who knew Hitler get their only publicity on the obituary pages.

Zealots cannot hear any messages from the other side, be they from our own intelligence sources or the near-mystic lips of a distin-

guished Russian expatriate. The majority, for which we can be thankful, can watch what the Kremlin does and listen to what it says, and act accordingly.

INSPECTOR GENERAL NEEDED AT HEW

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ROSENTHAL. Mr. Speaker, billions of dollars are lost each year because of fraud, waste, inefficiency, and abuse in programs administered by the Department of HEW. Yet HEW has no effective investigatory mechanism to monitor its disbursements; its principal oversight office has 24 investigators to police over $118 billion in expenditures. Not surprisingly, the office has a 10-year case backlog.

To prevent the needless loss of taxpayers' dollars and to rid these programs of the waste and fraud which deprive the needy and deserving of vital benefits, I have introduced H.R. 5302, legislation which would establish an independent Office of Inspector General at HEW.

The Inspector General would have tools essential to combat fraud, mismanagement and abuse, subpena power, independence from those responsible for operating programs, and wide authority inside and outside HEW.

The House Government Operations Subcommittee on Intergovernmental Relations and Human Resources is holding hearings this week on this legislation. I insert in the RECORD at this point my testimony in support of my bill:

TESTIMONY OF CONGRESSMAN BENJAMIN S. ROSENTHAL

Mr. Chairman, I appreciate this opportunity to testify in support of my bill, H.R. 5302, legislation which would establish an independent Office of Inspector General at the Department of Health, Education, and Welfare.

While HEW program expenditures will total $118.4 billion for this fiscal year, the department has no effective centralized investigatory office with authority to monitor its disbursements. The Federal government has abdicated to the states its investigatory responsibilities for many programs and has failed to insure that HEW has the resources or authority necessary properly to oversee whether the states actively investigate charges of improper expenditures. The absence of a centralized investigatory office has prevented any effective control over waste, fraud or inefficiency.

RECORD OF WASTE AND ABUSE

Examples abound of HEW mismanagement and abuse. Losses in Medicare and Medicaid programs due to waste or fraud reportedly total as much as $3 billion a year, or 10% of these programs' overall outlays.

Department officials estimate that as much as $750 million a year or 5% of total Medicaid outlays is lost through fraud. Other estimates range up to 8% or $1.2 billion.

Moreover, enormous amounts of money have been lost because of program mismanagement and abuse. The Senate Aging Subcommittee on Long-Term Care recently reported that HEW wasted more than $1 billion in reimbursements for unnecessary surgery. HEW auditors sampled beneficiaries in Illinois, New York, Maryland, California and discovered that up to 20% of the Medicaid recipients may not be eligible for publicly-supported medical assistance.

The Social Security Administration admits that Medicare was overcharged $27 million by doctors, hospitals, and nursing homes over the last five years. One-half of this money has been recovered. Such estimates of overcharge should be considered conservative since they represent only those cases investigated by the agency.

The federal student loan program is another HEW activity reportedly crippled by fraud, mismanagement and abuse. The Office of Guaranteed Student Loans, with a total of $3.3 billion in federally insured loans, experienced an 18% default rate in fiscal year 75, a figure which is expected to grow to 20% in fiscal year 76. These federal statistics contrast sharply with the 5–8% default rate under state guaranteed student loan programs, the 3% delinquency rate for consumer loans generally, and the 1% rate for mortgage loan delinquencies.

While HEW should not be held wholly accountable for the failure of students to pay their debts, a GAO report recently revealed that HEW had not pressed lending institutions to try aggressively to collect on federally guaranteed loans to students. The GAO also said there was bureaucratic mismanagement of the program by the department. The department has no supporting data on 15% of the loans on which it has paid off. In a sample of 245 claims paid off by HEW, the GAO said only 10% should have been paid. Another GAO evaluation of HEW's master file on the program found 205,000 errors in 50,000 records.

INADEQUACY OF PRESENT STRUCTURE

It is not surprising that HEW cannot monitor effectively its multi-billion dollar programs. The Office of Investigations and Security (OIS), HEW's principal oversight agency, has 24 investigators and a 10-year backlog of cases to monitor HEW's $118 billion budget, including some of the most complex programs of the federal government. These 24 investigators must police the performance of 129,000 HEW employees in their management of over 300 separate government programs that directly or indirectly affect the daily lives of tens of millions of Americans. It is reported that the department plans to hire 30 additional investigators.

HEW has sought to cope with the huge potential for abuse by enlisting the aid of the states. This cooperation must continue but the evidence is overwhelming that it is no substitute for a vigorous federal effort to combat fraud and abuse.

Many states do not have the resources or the experience to cope with the multitude of sophisticated schemes and devices used to evade the law. Moreover, there are many investigatory techniques, such as wider use of computer audits, which can only be undertaken economically at the federal level. Many fraudulent operations cross state lines or duplicate themselves in many areas of the country. A nationwide approach and perspective in meeting these challenges is essential.

There is a direct correlation between increased federal enforcement efforts and the detection of fraud. The three cases involving Medicare abuse thoroughly examined by the HEW investigation office resulted in a potential savings or recovery of $2.6 million. The 100 cases pending before the OIS offer a potential savings or recovery of $20 million. In addition, 70% of the state prosecutions for Medicaid fraud have been conducted by California, which has a staff of 74, the largest Medicaid investigatory staff in the country. California's achievements in this area are in sharp contrast with those of the twenty-one states which have no investigations staff, and consequently, are totally inactive in fraud and abuse detection.

I am an ardent supporter of our nation's social service programs. For this reason I feel even more strongly that every effort must be made to rid these programs of the waste and fraud which deprives the needy and deserving of billions of dollars a year in intended support. I would hope that the evidence developed in these hearings would be carefully weighed by the proper committees of this Congress when the HEW budget is reviewed.

But, as a member of the Government Operations Committee, I am a firm believer in the premise that governmental structure plays a critical role in the formulation of policy. I am afraid that the investigatory framework at HEW is timeworn, rusty and inadequate and is inappropriate to the function it is even now asked to perform.

PROPOSED LEGISLATION

The legislation I have introduced, H.R. 5302, would establish an independent Office of Inspector General in HEW, and provide it with the tools necessary to combat fraud, mismanagement and abuse. Under H.R. 5302, which has been sponsored by 45 of our colleagues, the Inspector General would be appointed for a 10-year term by the President with the advice and consent of the Senate. He or she would be removable for cause only and would not be eligible for reappointment beyond the original term.

The bill would invest the Inspector General with the power to subpoena persons, records and documents. This authority, which is indispensible for an adequate investigatory agency, is not presently enjoyed by HEW investigators. The legislation would require the Inspector General to be answerable equally to the Congress and the President both of which would receive major investigative reports at the same time as the HEW Secretary.

NEED FOR THIS LEGISLATION

Consider HEW, if you will, as a mammoth service-oriented corporation. With a budget of $118.4 billion, HEW has larger revenues than Exxon, General Motors, Ford, Texaco, Mobil Oil and Standard Oil of California combined. Now imagine that each of these 6 largest industrial corporations in the U.S. was audited by an accounting firm whose head was hired by the chief executive of the corporation, whose members were all employees of the corporation and whose financial report had to be reviewed and approved by the chief executive before being submitted, if ever, to the Board of Directors. It not only doesn't make sense but, incidentally, would violate numerous federal securities laws. Yet the auditing and investigatory force of HEW is subject to these crippling constraints. The OIS director is hired by the Secretary of HEW; OIS investigators are all employees of HEW, and all OIS reports have to be reviewed and approved by the Secretary before being submitted to other government agencies or the Congress. The soundness of the investigatory findings is suspect because integrity and objectively are undermined by the structural deficiencies at the Department.

The usefulness of inspector generals has been confirmed by the GAO. A recent GAO report found that in every instance where an office of inspector general was established, it was considered integral to the economic efficiency of the agency in which is served.

An investigatory office must be provided certain tools if it is to be effective. There include an adequate and capable staff, access to information including the ability to subpena, complete independence from those responsible for operating programs and high organizational placement.

The need for an independent investigatory and auditing inspector general's office which has complete access to information was

recognized by the Rockefeller Commission on CIA Activities. The Commission criticized the CIA Inspector General for having so small a staff that it was necessary for the Inspector General to rely on each program administrator and his staff to insure proper program management.

The Commission also was highly critical of the restriction on obtaining information faced by the Inspector General's office. The office could conduct its reviews only within the confines of material with which the CIA director chose to provide it.

Moreover, the Commission acknowledged that many of the CIA's illegal activities could have been avoided if the Inspector General had had the authority to alert sources other than the CIA Director of the improprieties festering within the agency. The Commission recommended the CIA Inspector General be given a larger and better qualified staff, complete access to all information relevant to his review and the authority to provide reports directly to outside bodies, including the National Security Council. An Office of Inspector General for HEW requires no less than this in personnel, authority and access.

Some question has been raised about having an HEW Inspector General vested with subpoena power. This is the only way to insure complete access to information. Many federal regulatory agencies, including the SEC, FTC, and FCC, have subpoena power and the House Government Operations Subcommittee on Legislation and National Security is considering legislation which would give the Comptroller General subpoena power as well. Without this tool, an inspector general's office is forced to rely on that information which those who are being investigated want him to have. This precludes any effective evidence-gathering and emasculates the office at the outset.

The organizational placement of the Inspector General's Office is also important. As recognized by a GAO review of the activities of the Office of Inspector General at the Department of Agriculture, the placement of the Inspector General's Office should be such that he is independent of the officials who are directly responsible for the operation he reviews. This provides the Office of Inspector General with maximum independence and permits objectivity and impartiality in the reporting on all departmental activities. The Office of Inspector General must be unlimited in its authority to review any and all functions of the Department.

The Inspector General's Office should have the opportunity to obtain an over-view of the highly diversified and decentralized organizations and functions of the department. Program activities common to several bureaus or offices cannot be reviewed effectively on a department-wide basis unless the investigatory organization can cross agency lines to obtain needed information.

In order to insure the maximum independence of the Inspector General from HEW management, I have suggested that the office be made fully independent and equally responsible to the Congress and the Secretary and that the Inspector General report simultaneously to these bodies. I believe that this encourages management's thorough and prompt consideration of the Inspector General's findings and recommendations.

I urge the subcommittee to act favorably on H.R. 5302, with certain modifications. First, I consider it essential the Office of Inspector General also house the HEW auditing operations. This would permit an integration of the policies and perspectives of the investigatory and auditing functions and guarantee the independence of the HEW audits.

Second, I feel that the Inspector General's access to information must not curtail the legitimate privacy rights of individuals as expressed in the privacy act and similar laws and court pronouncements.

FIORELLO LaGUARDIA, FRIEND OF THE PUERTO RICAN COMMUNITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BIAGGI. Mr. Speaker, I am inserting in the RECORD at the end of my remarks an editorial from the Italian Tribune News of May 14, 1976, commenting on the renaming of a public school in New York. I do not object to the local school board's desire to name a school after an individual of Puerto Rican ancestry so that children of such ancestry may have a fit model to emulate. In fact, it is an excellent idea. However, I do share the newspaper's objection to removing the name of an individual, Fiorello LaGuardia, who was one of the best friends the Puerto Rican community in New York ever had.

He championed their cause, as well as the cause of all poor and oppressed people, when such was not fashionable. He was responsible for enacting laws that were beneficial to members of the Puerto Rican community.

It is a disservice not so much to the Italian community or the family of LaGuardia to make the change as it is a disservice to the Puerto Rican community which was so admirably served by Mayor LaGuardia.

The editorial follows:

EDITORIAL

An intolerable insult has been dealt to the American people as well as those of Italian heritage by the removal of the name of Fiorello H. LaGuardia from a New York City school by a community school board.

There is no more demeaning incident in American history than this action against an Italian who is acknowledged to have been the greatest mayor in the history of New York City, and a great American patriot.

Mayor Fiorello H. LaGuardia earned the admiration and affection of his fellow Americans as an Army flier in World War I who served overseas as a major.

He also served with distinction in the House of Representatives before becoming mayor of New York City. He was a tireless crusader for the rights of minorities, a foe of corruption and crime, and a warm-hearted human being.

Now let us look at whose name has replaced the name of the beloved "Little Flower" on a New York school.

The name of a great man has been replaced by the name of a Puerto Rican terrorist whose followers tried to assassinate Harry S. Truman on Nov. 1, 1950 in conjunction with a bloody uprising in Puerto Rico against the United States. These same followers on March 1, 1954 invaded the House of Representatives, turning it into a shooting gallery. Five Congressmen were seriously wounded in the action.

If this school name change has been made to excuse the murderous violence associated with the terrorist whom the New York community board has honored it will fail. His terrorism is not excusable; it was vicious and criminal.

What this New York Board in effect has done is to give its approval to the efforts to murder President Truman and members of the House of Representatives and to exalt the individual responsible for both crimes.

When children enter that school in New York which once bore the illustrious name of Fiorello H. LaGuardia they will instead enter a school with the name of Pedro Albizu Campos, born in Puerto Rico, and president of the Nationalist Party which started a reign of terror with black-shirted troops. After a series of bombings in 1936, Campos was convicted of conspiracy to overthrow the government and imprisoned for seven years.

When Campos was released his black-shirted army burned down a town and he was returned to prison. The assassination attempts followed his release from jail for the town burning.

Albizu Campos hated New York City and the United States. He is being rewarded for that hatred while the man who loved New York City and the United States is suffering this posthumous affront.

This tolerance which we have extended so freely to those who would tear down our institutions has reached such despicable depths in this action as to be totally unacceptable and repugnant to all Americans, particularly those of Italian heritage.

Tolerance and understanding is one thing, but when tolerance and understanding is so promiscuously extended as to become a national disgrace there is time we call a halt. There is no place in our society when accreditation can be given terrorists, and certainly not when such accreditation is accomplished at the expense of a great American patriot.

CLINCH RIVER BREEDER REACTOR PROJECT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. MOSS. Mr. Speaker, I wish to express my grave reservations about the conduct of the Clinch River Breeder Reactor project, which the bill now before us would continue to authorize and for which it would enable funding for the coming fiscal year.

The presently proposed revision of section 106 of Public Law 91-273—which first authorized a cooperative arrangement for this important demonstration project—is yet another barrier that Congress could set in the court it embarked on 6 long years ago. It has been 6 years since a breeder demonstration project was first authorized, and 4 years since an agreed basis of arrangement for the project was originally submitted to the Joint Committee on Atomic Energy.

In the intervening years, the oil embargo came, and left. The administration solemnly made high-blown declarations of Project Independence and then revised them several times. Steadfastly, the nuclear breeder was spotlighted as a national top priority project.

Many millions of dollars have been spent—on the base breeder program as well as the demostration project.

But sadly—incredibly—not a single shovelful of earth has as yet signaled the start of construction of this key facility. This year, today, one can only say in truth, exactly what was too optimistically said last year and the preceding year when the ERDA authorization bills were then before this Chamber; namely, construction may start next year.

A modern wit has said that "Delay is the most cruel form of denial." In the case of the Clinch River project, delay

continues to be a very cruel, as well as a very expensive, form of denial. At tremendous cost, this country is being denied the opportunity to bring the nuclear breeder to the stage of practical utility. We are years behind the French, and the gap is ever-widening.

But delay I have learned, to my chagrin, is not the most cruel form of denial. I have learned that gross incompetence and mismanagement—to an extent that makes failure inevitable—is really the most cruel form of denial.

By any reasonable standards, the Clinch River project has been poorly handled. But now, ERDA is embarking on an even more reckless, wasteful, and unjustifiable course. It will cost the taxpayers dearly, while removing any basis for a reasonable expectation that the project might succeed.

For me, a staunch supporter of the nuclear option, this dismal prospect is more than doubly painful. We will need the breeder, perhaps desperately so. I cannot bear the thought of misdirected expenditures of the taxpayer's dollars that ought to be prudently applied only to well-managed energy ventures.

Besides, ERDA's obviously false and illogical explanations about the clearly unjustifiable new course it is taking can scarcely contribute to the diminishing credibility in the governmental process in general, or the soundness of our reliance of the nuclear option. Friends and believers cannot be gained by falsehoods and pretense.

I will tell you plainly what ERDA is now doing. It's not complicated, though I had to learn it the hard way because of the miasma of deceit and evasion that ERDA used to try to persuade the General Accounting Office, the Joint Committee on Atomic Energy, and myself that the changes were in the Government's best interest.

I will describe the changes, their background, and significance:

First, project funding. In the 6 years that a cooperative arrangement for a breeder demonstration project has been authorized, the Government's share of project costs has steadily risen from the initially authorized sum of $50 million—plus very limited assistance from the base program—to the open-ended financial responsibility that the authorization bill last year, and the bill now before us, enables. The utility's contributions remained fixed—until now. ERDA has now revised the project contract to lessen the utility's financial responsibility in two important respects.

In order to minimize the need for ERDA to provide additional funds that the project would require from time to time, the original contract provided that the utility's commitments to pay $25 million a year for 10 years would be used as collateral to secure bank loans to meet the project cash-flow needs. This feature has now been deleted, thereby increasing the need for more Government funding.

The original contract provided that in the event the project was terminated prior to its completion, the utility's share of the project costs would be 50 percent—up to the total of the $250 million pledged. In other words, the costs would be shared 50–50 to the fullest extent of the utility's $250 million ceiling. This has now been changed so that only the yearly amounts actually paid in by the utilities up to the time of termination—but not the pledges required to be funded in subsequent years—could be applied to the sharing of project costs. Of course, this means that the Government will have to pick up the portion of costs that the utilities no longer will have to bear.

In addition to these two changes clearly adverse to the Government, the newly revised contract contains the inexplicable provision that only 50 percent of the yearly payments by the utilities are to be used to defray ERDA's day-by-day project costs.

Despite the statutory requirement that ERDA is to keep the committee "fully and currently informed"—Section 202 of the Atomic Energy Act—and the letter and spirit of the authorizing statute requiring a description of the nature and basis of proposed amendments to the arrangement, ERDA has furnished no intelligent reason for any of these changes.

Second, project management. Thanks to unrelenting prodding by the Joint Committee—and particularly by my good friend and our former colleague Chet Holifield—the original contract made it clear that ERDA would have the lead role and attendant authority for the design and construction of the nuclear steam supply system portion of the facility—that is for the entire plant, except the conventional equipment. Also, the contract explicitly indicated that the provision of all assistance to the project from ERDA's base program would be under ERDA's control. The total cost of the base program may run to about $10 billion.

Under the recently revised contract, all this has been changed. In the words of the new agreement, ERDA "will assume responsibility for managing and carrying out the project in an efficient, effective, and timely manner consistent with principal project objectives." But the agreement goes on to require that ERDA carry out this responsibility through an "integrated project management organization" consisting of a majority of individuals filling slots termed "key positions", who are not employees of ERDA, but employees of the project contractors or of the utilities. In other words, ERDA is committed to manage the project through an integrated organization composed of about 130 employees of the utilities and 70 of its own people. By going through a certain procedure described in the contract, ERDA can have persons in said "key positions" replaced if it considers them unsuitable, but it cannot select the individuals whom its contractors have the right to assign to the "key positions" constituting part of ERDA's management structure.

This whole thing is legally vulnerable both from the standpoint of the authority of the Joint Committee on Atomic Energy under the authorizing statute to approve such criteria that would permit a management union of Government and contractor personnel, and of the authority of ERDA to commit itself to carry out key Government functions through non-Government personnel. I must suppose that this may well be raised in the courts. If it is, I would expect that extensive delays in the project will be inevitable.

I am also deeply troubled by the ethical aspects of this entangling management union. Because non-Government employees would be performing functions that ERDA's employees should be discharging, the protective reach of a number of criminal statutes would be avoided.

These would include the conflict of interest statutes in title 18, United States Code, sections 205 and 207 as well as bribery and statutory and other prohibitions that apply to Government officers and employees. The Comptroller General suggested in one of his project reports that the situation could be helped by including in the contract "effective provisions penalizing involvement in conflict of interest, bribery, and/or graft situations." The new contract contains no such provisions. Furthermore, one of the conflict-of-interest situations cannot be avoided by any contractual prescriptions. The Biblical admonition that "no man can serve two masters" can be observed only by strict compliance—by prevention through avoidance, not by remedial procedures. There is no way that the contractor employees engaged in fulfilling ERDA's management responsibility can be insulated from the conflicting interest situation through any contract procedures aimed at assuring that they do nothing that could significantly relate to questions concerning their employer's claims for reimbursements or indemnification, or other rights, under the contract.

Third, a serious legal problem arises from ERDA's substitution of a partial commitment for the project for the original fully scoped project contract.

It is clear from the authorizing statute and from ERDA's statutorily required submittal to the joint committee that—as in the case of all the other project arrangements in the 20-year history of the cooperative power reactor demonstration program—the definitive agreements must cover the entire project. The original contract did.

The newly revised contract covers only the design and construction of the plant, but not the demonstration-operation of the facility. This 5-year period after the plant is built is the most important phase of the demonstration project.

The definitive terms of the operating agreement with TVA have yet to be agreed upon, and there will be no operating contract unless and until the parties agree to all the terms and conditions and sign such a commitment, and the project management corporation concurs in that contract. The liquid metal fast breeder reactor thus becomes not a breeder of energy, but a breeder of endless litigation.

These new cancerous elements are embedded in a contract distinguished by a variety of ambiguous provisions dealing with possible ERDA rights, and clear-cut provisions describing the utility's rights, including their easy right of

termination in the event of delays such as those which have already occurred.

The new contract is extraordinary testimony to ERDA's ineptness, poor judgment, and sheer recklessness. It is a mortal threat to the project.

TRIBUTE TO GORDON BROWNING: GOVERNOR, CONGRESSMAN, JUDGE, AND SOLDIER, AN OUTSTANDING AMERICAN, A GREAT TENNESSEAN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the memory of a great public servant, Gordon Browning of Tennessee, who died recently in his home town of Huntington, Tenn.

Gordon Browning had a distinguished career of public service as Governor, Congressman, judge, and soldier. He was a distinguished leader and administrator in military and civilian life and a man of great courage. He never flinched from a fight and he fought the good fight, whether in the trenches of the Argonne in World War I or in the State Capital of Tennessee battling for the public interest.

Gordon Browning served as Governor of Tennessee for three terms—from 1937–39 and from 1949–53. He served as Congressman from the Seventh District of Tennessee for six terms. He served as chancellor of the Eighth Chancery Division of Tennessee for 7 years.

Gordon Browning was a strong, aggressive Governor who led the State of Tennessee to new dimensions of growth, progress, and development. He had specific programs and specific goals and he worked for their fulfillment.

For example, he initiated the first major rural roads program in Tennessee and as a result of his planning and work, a major network of farm-to-market roads was built in all sections of Tennessee.

He was a former school teacher and he worked to assist teachers in achieving higher salaries and higher standards—and he succeeded in earmarking special funds for educational purposes.

He also developed a debt reorganization plan for Tennessee that set the State's fiscal house in order.

Gordon Browning was a patriot, and as a volunteer, fought for his country in two wars, World War I and World War II. In World War I he enlisted in the National Guard in 1917 and soon thereafter was commissioned a second lieutenant. He was quickly promoted to first lieutenant and to captain. He went to France as commander of an artillery unit and participated in three major battles, that broke the German Hindenburg line.

When World War II began, he again volunteered and rose from the rank of captain to colonel. He was in the European Theater of Operations and was an adviser to General Eisenhower on military government. After D–Day, he went into Belgium as the American Military Government Commissioner in that country. Later he served as civilian government administrator in the U.S. occuation zone in Germany.

Serving in Europe during World War II, I recall on one occasion when Colonel Browning came in from the field to the Allied Headquarters in France—he said to me that he wanted to secure a decoration and citation for every member of his command. He was always a man of loyalty and courage.

As a Member of Congress, he fought for the rights of veterans and resisted efforts to reduce veterans benefits as an economy measure.

He was an able administrator, an eloquent orator, an incisive thinker and a fighter for his position. He also possessed a tremendous sense of humor and a deep love for his home State of Tennessee. As a Democratic campaigner on the stump he was unsurpassed—he had a great memory and a wealth of anecdotes and his speeches were models of elocution.

Tragically, some 20 years before his death he developed an infirmity. And yet he continued to participate in life in an active way. He refused to be deterred by physical problems that would have defeated a man with less determination and a weaker will to live.

I recall several years ago that Governor Browning attended a meeting held in my honor in Cookeville. He at that time was suffering from physical problems and when introduced made his way to the podium with great difficulty.

Once there, however, he came to life and his great voice boomed out across that vast auditorium. He captured the hearts and minds of his audience and held them spellbound with his humor, his sincerity, and his eloquence. His appearance was one of the major highlights of that day.

He was a statesman and patriot. Certainly I want to extend to the Governor's beloved wife—"Miss Ida"—and other members of his esteemed family this expression of my deepest and most sincere sympathy in their great loss and bereavement. My wife Anne joins me in these sentiments.

THE DISPLACED HOMEMAKERS ACT

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. BURKE of California. Mr. Speaker, today I am reintroducing the Equal Opportunity for Displaced Homemakers Act—H.R. 10272—with more cosponsors. Since my original introduction of this bill in May 1975, awareness of and interest in the myriad of problems faced by the displaced homemaker has grown tremendously. Public and congressional response to this legislation has been very gratifying and I am pleased to note that today's reintroduction brings the number of cosponsors of the bill up to 54.

The middle-aged woman who has spent most of her adult life as a homemaker often finds it difficult to take on the role of supporting herself following a divorce or the death of her spouse. She is confronted by a host of unexpected problems; aside from the psychological adjustments, she may not be prepared to overcome the barriers of the job market, such as her lack of marketable job skills and recent paid work experience.

The purpose of my bill is to help displaced homemakers make it through a readjustment period so that they may have the opportunity to become productive, self-sufficient members of society. Specifically, the Displaced Homemakers Act provides for the establishment of multipurpose service centers to offer job training and placement services, counseling and referral in health care, education, legal problems, and financial management as well as outreach and information services relating to already existing programs.

The bill also calls for a study into the feasibility of including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off."

The Displaced Homemaker Act is currently pending before the Equal Opportunities Subcommittee of the Committee on Education and Labor. I am hopeful that the subcommittee will hold hearings on this important legislation some time this summer or early fall.

I have received many inquiries about this legislation, so I would like to take this opportunity to include in the RECORD a comprehensive fact sheet on H.R. 10272 which further explains the content of the bill, the extent of the problem, and the need for the multipurpose service programs:

FACT SHEET ON H.R. 10272—EQUAL OPPORTUNITY FOR DISPLACED HOMEMAKERS ACT

1. What is the purpose of this bill?

The purpose of H.R. 10272 is to provide for establishment of multipurpose service programs for displaced homemakers to help them through a readjustment period and become self-sufficient. The contribution of homemakers to society and the economy goes virtually unrecognized. Homemakers are among the few groups of workers who lack the protections of Social Security, unemployment insurance, or workmen's compensation. When their job responsibilities are terminated by divorce, separation, or widowhood in their middle years, they are often left without any source of financial security and little or no marketable work experience.

This legislation seeks to deal with the predicament of displaced homemakers by providing counseling and services so that they may enjoy the independence and security vital to a productive life.

2. Who are the "displaced homemakers"?

A displaced homemaker is an individual who has been doing unpaid labor in the home, who is not gainfully employed, who has had, or would have, difficulty in securing employment; and who has been dependent on the income of another family member but is no longer supported by that income.

These individuals, most often women in their middle years, have contributed years of maintaining a home and family and suddenly find themselves "displaced" through divorce, separation, widowhood, or other loss of family income.

A "displaced homemaker" could be a woman who has been dependent on her husband's income throughout their marriage and loses that financial support because of divorce or the death of her husband. Or it could be a man who has stayed at home to take care of his parents and loses his income because of their death. Or it could be a mother who is no longer eligible for federal welfare assistance because her children are past a certain age.

3. What are the problems facing the "displaced homemaker"?

This is a group that "falls between the crack" in terms of federal income security programs. They are frequently ineligible for social security benefits because they are too young, and for many, they will never qualify for Social Security because they have been divorced from the family wage earner. They are ineligible for Federal welfare assistance if they are not physically disabled and their children are over 18.

They are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home, while at the same time they are often subject to discrimination in seeking employment because of age, sex, and lack of any recent paid work experience. They are subject to the highest unemployment rate of any sector of the workforce.

Often they have lost their rights as beneficaries under employers' pension and health plans through divorce or widowhood and they are generally unacceptable to private health insurance plans because of their sex and age.

4. How extensive is the problem?

It is difficult to pinpoint exactly how many people would qualify as displaced homemakers because homemakers don't often appear in government statistics and their contribution to the economy is not recognized. However, the Alliance for Displaced Homemakers of Oakland, California has estimated, through careful research, that over 2.2 million women fell into the displaced homemaker category as of March, 1973.

They also point out that a large number of people are potential displaced homemakers: Married women between the ages of 34 and 64 who are not in the labor force and have no children under 18 totalled 7.5 million in March, 1973. Moreover, 15 million women out of the labor force who currently have minor children will be without benefits when their children reach 18 years of age.

5. Why does this problem exist?

The changing status of the family has caught older women unprotected. The divorce rate has nearly doubled over the last decade and a half. In 1960, there were 35 divorces per 1000 and by 1974 this figure increased to 63 per 1000. One fourth of the divorces filed are after more than 15 years of marriage. The trend is toward no-fault dissolution of marriage and spousal support for limited periods, if at all.

An increasing number of older women live without men. There has been an increase of 46% in the number of households headed by women in the last decade. In 1973, 1 in every 8 families was headed by a woman; forty per cent of poor families have a woman as its head. Furthermore, there are more than four times as many widows as widowers. The older women become, the more likely they are to be on their own.

6. What does HR 10272 provide?

The bill provides for the establishment of multi-purpose service programs to offer training, counseling and services for displaced homemakers. The programs would be administered by the Department of Health, Education and Welfare.

These programs include: job counseling, job training and placement services, health education and counseling, financial management services, legal referral and counseling services, educational referral and counseling services, and outreach and information services relating to already existing Federal programs.

The bill also calls for a one-year study and report to Congress on the feasibility of and appropriate procedures for including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off".

BUTLER GROVE FARMER PRAISED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. FINDLEY. Mr. Speaker, the American farmer produces enough food each year to feed himself and 48 other people. To accomplish this, he works hard and makes a substantial investment in land, labor, and equipment. This week, U.S. News & World Report carried the following article on such a farmer, Jack Rundquist, whom I am proud to claim as a constituent:

IN THE CORN BELT—A SPREAD VALUED IN THE MILLIONS

BUTLER GROVE TOWNSHIP, Ill.—Typical of highly capitalized and efficient farm operations in mid-America is the 1,300-acre Evergreen Farms, Inc., run by Jack Rundquist and family.

Located about 35 miles south of Springfield, the farm is on the southern edge of the belt of fertile land that last year made Illinois the top corn-growing State in the nation.

THE INVESTMENT

With land prices in this area now around $2,000 an acre, Evergreen Farms is worth at least 2.5 million dollars. Mr. Rundquist probably has another quarter of a million tied up in equipment—six tractors, a combine, plows, planters, trucks and automated feed-storage, mixing and delivery systems.

Gross sales are in the range of "several hundred thousand dollars" a year, Mr. Rundquist acknowledges. But that is not the whole story, he says:

"When you sell a load of cattle it looks like an awful lot of money. Then you figure how much you paid for the steers and what it cost to feed them up to size."

He also cites estimates that it costs $200 to plant an acre of corn when spending is totaled for seed, fertilizer, herbicides and fuel. At that rate, he will have $160,000 invested in this year's 800-acre corn crop alone.

Mr. Rundquist marketed about 2,700 hogs last year and 900 beef cattle. Pork production should be about the same this year, he says, but the volume of cattle should be higher under the current market conditions.

Two huge buildings house the separate pork and beef-production "factories." The pig shed accommodates about 1,200 at a time, ranging in size from tiny piglets to 200-pounders ready for the trip to market. Up to 800 cattle can be housed in the other building.

Diets, including the proper vitamins and minerals, are calculated by computer. Feed for the pigs is blown through buried pipes from a mixing building to automatic feeders in the pens. Content is varied according to size of the pigs.

Wagons equipped with electronic scales help Mr. Rundquist and his three full-time employes measure out proper rations for the steers.

Both buildings have slatted floors over large tanks where waste materials are collected. This is pumped out periodically through long hoses to help fertilize surrounding fields.

To meet his feed requirements, Mr. Rundquist will plant 800 acres of corn this year and will buy some. For cash crops, he has 200 acres in soybeans, 200 in wheat—and hopes to plant a second crop of soybeans in the wheat stubble after harvest if the weather co-operates.

COST-PRICE SQUEEZE

The last few years have been good for most farmers in Illinois. But there have been some dark spots. Mr. Rundquist says he "took a beating" on cattle in 1974, when he and other feeders got caught in the squeeze between soaring grain costs and price controls on beef. He cut back his cattle feeding by 75 per cent for a while, but began filling up the feeding barn again last September. He looks for rising beef prices through the summer, which should mean a profit for him.

Mr. Rundquist is sold on farming as a way of life. He is waiting for his son John—who graduates from the University of Illinois this year but plans another year of graduate study—to join him full time. The Rundquists also have four daughters—one married, two in college, one still in high school.

Mr. Rundquist has just finished a six-year term on the advisory board of the University of Illinois College of Agriculture. He also is vice president of the Illinois Pork Producers—a post that rates him a special PORK license plate on his car.

SMALL POST OFFICE CLOSINGS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBEY. Mr. Speaker, I recently had the opportunity to present testimony on the very serious matter of small post office closings to the Postal Service Subcommittee of the House Post Office and Civil Service Committee. I know that a great many of my colleagues share my concern over this issue, and I would like to submit my testimony to the RECORD at this time:

TESTIMONY BY REPRESENTATIVE OBEY

Mr. Chairman, I welcome this opportunity to discuss a matter which is of great concern to me and to many residents of the 7th Congressional District. The prospect of small post office closings is not just an economic issue; it is at heart a social issue which directly affects the lives of many individuals and communities. Aside from providing postal services, post offices serve as a focal point of social and business life in many small communities, and lend an irreplaceable sense of identity to towns and villages throughout Wisconsin and across the nation.

Congress recognized that fact in 1970 when it passed the Postal Reorganization Act which transformed the old Post Office Department into a quasi-independent corporation. That Act stipulated that the Postal Service could not close a small post office, "solely for operating at a deficit." Last November, however, the Postal Service issued a new set of criteria for judging whether to close small post offices, and with those criteria in hand, proceeded to announce closings.

Members of Congress have responded to this development in a number of ways. Several Members are party to a law suit which

contends that the new criteria for closing small post offices violates the Postal Reorganization Act by eliminating post offices, "solely for financial reasons." I have joined 68 of my colleagues in co-sponsoring a resolution which would place a six-month moratorium on further post office closings, and other legislation has been introduced which attempts to deal with this problem.

I am encouraged that the Chairman considers this problem important enough to merit the attention provided by these hearings. the information and viewpoints expressed here will assist Congress and the American people in making some important and difficult decisions about the future of the U.S. Postal Service. And in light of Postmaster General Ballar's recent testimony that the Postal Service faces a deficit of nearly $3 billion, one of the most crucial decisions may well be whether we are willing to accept continued increases in postal rates accompanied by decreases in service, or whether we are willing to spend more tax dollars on the Postal Service.

That decisionmaking process will no doubt be a long and arduous one, but in the meantime the Postal Service is proceeding with small post office closings, and it has come to my attention that one aspect of that process is extremely unfair to the affected postal customers. The Postal Service's own regulations require a survey of customer reaction before a small post office can be closed, and the standard survey letter describes four plans for alternative postal service and asks residents to choose the plan which would best serve their community's needs.

However, the alternatives do not include keeping the existing post office open, and so by choosing one of the four plans described in the letter, a postal customer is automatically endorsing the closing of his local post office when in fact he may prefer that it be kept open. Post offices are such an integral part of the social and business life of small communities that I believe the Postal Service has an obligation to fairly assess the opinions of citizens who would be affected by a post office closing, and the built-in bias of the current survey does not allow that.

Robert Kyle of the *Marshfield News-Herald* in Marshfield, Wisconsin recently wrote an article which explains this problem very well, and I would like to have it included in the hearing record:

TOWNS GET SINGLE PICK IN MAIL POLLS

(By Robert Kyle)

The U.S. Postal Service, already under attack from Congressman David Obey for using biased survey techniques, is conducting studies of its Hewitt and Fenwood post offices that offer customers only one choice.

Postal patrons in both towns have received letters describing the Wausau office's plan to substitute rural carrier delivery for the local post offices. The attached "survey" is a simple statement: "The postal needs of our community will, in my opinion, be best served by Plan No. 2" with space for the customer's comments.

But the survey does not mention any other plans. For other towns, though, the Postal Service lists four options and asks the customers to select one.

Jim Oster, the customer service representative in Milwaukee, said the surveys should have listed all of the available options. "We're not trying to fool anybody," he said. "I'm sorry something like this happened."

Harvey Mathwick, the customer service agent in Wausau, said he sent out the single-option survey to Hewitt and Fenwood because he assumed that rural delivery would be acceptable to postal customers. He now plans to seek bids in Hewitt for a community post office—operated by a local business rather than the postal service—to supplement the rural carrier service.

"In the future," he added, "we're going to offer three options: A community post office, rural delivery or a combination of both."

The survey that drew criticism from Obey, D-Wausau, offers an additional option—a lockbox delivery office staffed by a rural carrier for at least 15 minutes each day. But none of the surveys lists maintaining the existing post office.

"By choosing one of the four plans, a postal customer is automatically endorsing the closing of his local post office when, in fact, he may prefer that that office be kept open," Obey said. "The Postal Service is not giving its customers an adequate opportunity to express their true opinions on the matter."

The surveys, he added, "are heavily weighted in favor of closing small post offices."

Postal officials say it's up to the customers to use the "comments" section of the form to indicate if they would prefer to maintain their existing office, but the cover letters for Hewitt and Fenwood ask only for comments on the rural delivery proposal.

Customers who simply sign the form and return it are voting in favor of rural delivery, and those who do not return the survey are presumed to be indifferent, Mathwick said.

If more than half of the customers who return the forms are in favor of the proposed change, he added, the local office can be closed after 90 days.

Oster, the Postal Services' customer service administrator in Milwaukee, said Obey's criticism of the survey techniques is "a matter of semantics."

"We're saying: If an alternative is provided, which do you prefer?" he said. "We don't have a program for a wholesale eradication of small post offices, and we'll never close or convert a post office if we can't provide equal or better service."

Mathwick said he is conducting the surveys only for third- and fourth-class post offices that do not offer home delivery. Many customers prefer rural delivery, he said, because they would no longer have to pick up their mail and could still purchase stamps and money orders from their carrier.

Customers in towns like Elderon and Galloway, where the Postal Service proposes to award contracts to local businesses, would not notice any change in postal service, he added, but the Postal Service would save money because it would no longer be required to contribute to the pension fund for a local postmaster.

It now costs between $6,000 and $10,000 per year to operate each of the 27 third- and fourth-class post offices in Central Wisconsin, Mathwick said, and conversion to rural delivery could reduce the cost to $500 to $1,000.

"If Congress would subsidize the Postal Service, we wouldn't have to go this route," he said. "Actually, rural delivery is equal to or better than the small post office. The only hang-up is the loss of identity and zip code. That's pretty painful."

As the man said, "that's pretty painful" and I sincerely hope that this Committee will bear that in mind as it attempts to deal with the problem of small post office closings.

LEGISLATION ON REGULATION OF THE ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. TSONGAS. Mr. Speaker, I would like to include this memorandum prepared for Dr. Hans A. Wuttke in the Extensions of Remarks of the RECORD:

MEMORANDUM—LEGISLATION ON REGULATION OF THE ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

Besides the legislative proposal of the Federal Reserve Board (The Foreign Bank Act of 1975) Congressmen Reuss, Rees and St Germain introduced recently The International Banking Act of 1976 providing for regulation of the activities of foreign banks in the United States.

The most important provisions of the *Federal Reserve Board* proposal are:

Foreign banks shall be limited in their U.S. domestic banking operations to a single state;

All foreign banks shall be bank holding companies under the Bank Holding Company Act;

Ownership of securities affiliates is precluded to foreign banks having banking offices in the U.S.;

Obligatory membership in the Federal Reserve System;

Obligatory FDIC insurance on deposits.

Although multi-state branching and nonbanking activities as of December 3, 1974 shall be permanently grandfathered under the Foreign Bank Act of 1975, German banks are concerned about such restrictions to be imposed on their U.S. activities.

Restrictions on multi-state operations would result in a concentration of foreign banks in New York.

The application of the Bank Holding Company Act on all foreign entities conducting banking operations in the U.S. irrespectively whether separately incorporated or not, could preclude important foreign banks from banking business in the U.S. at all, if they own more than 5% of the voting shares of a U.S. or foreign company which is not a bank and which has—in case of a foreign company—an U.S. subsidiary or branch or is otherwise operating in the U.S. markets, unless there is a clear interpretation of the Act that such ownership is irrelevant.

Membership in the Federal Reserve System should be optional for foreign banks.

The International Banking Act of 1976 as introduced on April 12, 1976 differs in some areas from the Federal Reserve Board legislative proposal. However, only the deletion of mandatory membership in the Federal Reserve System and, to a certain extent, the obligation to post a surety deposit or bond with the FDIC in order to protect depositors and creditors instead of mandatory membership in the FDIC seem to be more favorable to foreign banks. The restrictions on the expansion of existing multi-state banking operations and particularly the limited grandfather clause with respect to securities activities do cause serious problems for foreign banks.

A grandfather clause which forces a bank after December 31, 1985 to divest of its securities affiliate, unless such securities affiliate limits its operations substantially and, with certain exceptions, does not sell or distribute securities in the United States, seems to be not a solution of the problem, but only a postponement. The authority conferred to a securities affiliate by the International Banking Act of 1976 to continue to underwrite securities in the United States, but not to sell or distribute such securities in the United States except to the extent permissible for national banks, would result in a competitive disadvantage of such securities affiliate since its U.S. competitors would not be limited to selling securities solely upon the order and for the account of customers. Such restriction might endanger the financial basis of a brokerage firm and the efficiency of its research and back office work.

The grandfather clause of the International Banking Act of 1976 has still a more serious impact on existing securities activities of foreign banks through affiliates in the United States than the grandfather clause of the Federal Reserve Board proposal. Since

U.S. brokers would have substantial competitive advantages over its foreign owned competitors, one has to fear that the enactment of the International Banking Act of 1976 in its present form might result in a re-examination of policies in other countries governing the development of international banking and give rise to retaliatory measures in countries presently open to foreign competition in the banking and brokerage industry. Such retaliatory measures would certainly not be in the interest of U.S. banks and brokers nor would they be in the interest of anybody who supports the free capital flow and open competition.

LABOR LETTER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OBEY. Mr. Speaker, I was most interested to see the following item in the Wall Street Journal last week and I would like to share it with my colleagues:

[From the Wall Street Journal, May 18, 1976]

Second thoughts: Ralston Purina Co. says it isn't sure now that it was right in declaring last year that inhaling grain dust doesn't hurt grain elevator workers. Last year's theory, espoused by a company official, was that the dust actually may be beneficial because it causes a worker to cough and "clear" his lungs. But the company says it can't substantiate the theory.

Mr. Speaker, St. Paul saw the light after being struck by lightning on the road to Damascus; I wonder what it did for Ralston Purina. The company's previous contention that inhalation of grain dust may be beneficial to workers would be laughable if this were not such a serious matter.

The effects of grain dust, pesticides, and fumigants upon grain handlers' health is a problem with which I am quite familiar. A year ago my office released the results of a study of members of Local 118 of the American Federation of Grain Millers in Superior, Wis., and Duluth, Minn., conducted by Dr. John Rankin of the University of Wisconsin Medical School.

Dr. Rankin found that nearly 60 percent of the workers he examined suffered from some type of airways disease and that well over one-third had either chronic bronchitis, the number one disabler of American males, or emphysema. These results were especially disturbing in light of the fact that the average age of the workers examined was less than 40.

These findings have serious implications not only for the 400 grainworkers in the Superior-Duluth areas, but for the estimated 100,000 people who work in grain elevators throughout the country. As an indication of how far we have to go in protecting the health of these workers, the Federal standard for grain dust exposure stands at 15 parts per million, while the American Conference of Industrial Hygienists—the industry oriented group from which the Federal Government originally adopted that level—has since lowered its own standard to 10 parts per million.

In order for the Federal Government to develop standards which adequately safeguard the health of grainworkers, it is essential that research such as that pioneered by Dr. Rankin be continued. I was therefore most gratified that the Labor-Health, Education, and Welfare Appropriations Subcommittee, of which I am a member, agreed to allocate an additional $1.5 million and 17 positions to the National Institute for Occupational Safety and Health for respiratory disease research in its fiscal year 1977 appropriations bill.

As important as it is for research to be expanded and Federal standards to be improved, that is not enough. If the health of grainworkers is to be protected, the grain industry itself must recognize that it has an obligation to provide a safe and healthy working environment for its employees. That end is certainly not served by the kind of ludicrous and irresponsible statement attributed to representatives of Ralston Purina—before the lightning struck. Let us rejoice and be glad in this most recent "conversion."

HON. LEONOR K. SULLIVAN DENOUNCES STATE DEPARTMENT'S PIECEMEAL EROSION OF U.S. POSITION IN CANAL ZONE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. SNYDER. Mr. Speaker, on April 6 of this year, the Merchant Marine and Fisheries Committee's Subcommittee on Panama Canal began 3 days of hearings on current operational problems of the Panama Canal Company.

The chairman of the committee and former chairman of the subcommittee, our highly respected and distinguished colleague from Missouri, Mrs. LEONOR K. SULLIVAN, made a cogent and courageous opening statement with which I completely associated myself, setting aside my own prepared remarks.

Mr. Speaker, I wish to bring to the attention of all my colleagues the following portion of Mrs. SULLIVAN's remarks aimed at what I consider to be the chief cause of all the problems presently besetting our vital Panama Canal operations, the State Department's piecemeal erosion of the U.S. position in the Canal Zone:

REMARKS OF LEONOR K. SULLIVAN

As Chairman of the Committee on Merchant Marine and Fisheries, charged with legislative responsibility over interoceanic canals, I wish to make some observations.

The history of the Panama Canal from 1879 to the present time consists, in large measure, of a series of crises, some of them major ones.

Today, it faces what in some ways may prove to be one of the gravest in its history.

The current Isthmian situation is the culmination of a sustained campaign by the State Department since 1964 to erode United States sovereign rights, power and authority over the Canal Zone and the Canal through the salami process of piecemeal erosion and all of this without the authorization of the Congress.

Under the Constitution, only the Congress, which includes the House of Representatives, is vested with the power to dispose of territory and other property of the United States, and as regards the Canal Zone it has not authorized the making of any treaty to dispose of that territory, or any property in it.

The ultimate end of the process now in progress can only be the surrender of U.S. Sovereignty over the Canal Zone to Panama, a small, weak country, allied with the Cuban-Moscow axis, and in no way qualified to assume the heavy burdens involved in the maintenance, operation, sanitation, and defense of the Canal.

Under the Panama Canal Reorganization Act of 1950, (Public Law 841, 81st Congress), the Panama Canal Enterprise, consisting of the Panama Canal and its indispensable protective frame of the Canal Zone is an independent agency of the United States under the President.

Under the statute, he has designated only the Secretary of the Army as the officer of the United States responsible for its supervision.

This law also placed the Canal on a self-sustaining basis, and specifically povides that the levy of tolls is subject to provisions of the 1901 Hay-Pauncefote Treaty with Great Britain, the 1903 Hay-Bunau-Varilla Treaty with the Republic of Panama and the 1914-22 Thomson-Urrutia Treaty with the Republic of Colombia.

A combination of the ending of the Vietnam War, the opening of the Suez Canal, and the current economic depression has resulted in a substantial decrease in traffic from total transits in fiscal year 1974 of 15,269 to 14,735 ships in 1975, with a correlated decrease in toll revenue.

To meet the resulting financial situation, the Secretary of the Army has approved measures to reduce costs which have reduced or frozen the pay of employees who have no responsibility in the premises.

Coinciding with those, the State Department's policy for eroding U.S. rights, power and authority over the Canal Zone has further added to the concern of Canal employees and adversely affected the efficiency of the Canal Enterprise.

The Panama Canal is located in an area of hostile, unstable conditions, requiring a constant struggle with the forces of nature and others. These forces are climatic, and environmental geologic, engineering and geopolitical.

The Canal is rapidly approaching the time for major modernization, and in this connection I would stress that the people of the United States and the Congress would never permit the large expenditures involved in major modernization except in an area under the sovereign control of the United States.

As shown by experience during the construction of the Canal the first essential for success is the morale of employees.

Important factors in maintaining a high morale include not only commissaries, but also recreational facilities and financial security.

The employees of the Panama Canal form one of the finest industrial groups in the world. The restoration of their morale requires the reversal of certain recent actions of the Secretary of the Army and the termination of negotiations for surrendering our sovereign control.

The Canal problem is not a local matter, but part of a global situation.

Upon the continued undiluted United States sovereign control over the Canal Zone depends not only the fate of the Canal itself, but that of the vast Caribbean Basin, which

is already well on its way toward becoming a Red Lake.

Upon the fate of the Caribbean depends the survival of the United States as a free and independent nation.

MANAGEMENT PROBLEMS OF THE SOCIAL SECURITY ADMINISTRATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRIS. Mr. Speaker, the need to reform the way the Social Security System is administered is clearly demonstrated in the case of a constituent of mine, Mr. Melvin K. Killian.

Mr. Killian contacted me after his claim for disability benefits was denied. Supported with medical facts, Mr. Killian believed that the decision by the SSA was in error and appealed. On March 20, 1976, I wrote to Mr. James B. Cardwell, Commissioner—Baltimore—and advised Ms. Rose Lepore, Regional Commissioner—Philadelphia—of my interest in the case.

On April 1, 1976, Ms. Lepore advised me that Mr. Killian's claim had been allowed and that he would soon be notified regarding the benefit amount. A few days later, however, April 6, 1976, I received a computer statement from Mr. Cardwell acknowledging receipt of my letter and assuring me that the Social Security Administration would give its "attention to the Social Security matter inquired about."

Almost a month after I had heard from Regional Commissioner Lepore, Mr. Rivers, writing for Commissioner Cardwell, wrote to advise me that Mr. Killian's claim was still being reviewed by the headquarters disability staff. Even though almost a month earlier I was informed by the supervisory office that the case was resolved, the Baltimore office seemed unaware that a decision has been reached to grant Mr. Killian disability benefits. It was not until May 19 that the Baltimore office finally notified me that Mr. Killian's disability claim was approved upon reconsideration.

Perhaps if this was the only instance of poor communication and agency mistakes, Mr. Killian's unfortunate experience with the Social Security Administration could be excused. But every Member of Congress must be aware that Mr. Killian's is a typical, not the unusual case. For this reason I think it is about time that the SSA get its house in order and corrected such problems.

The correspondence which follows graphically demonstrates the need for improved management of the Social Security Administration:

MARCH 20, 1976.

MS. ROSE LEPORE,
Regional Commissioner,
Social Security Administration,
Philadelphia, Pa.

DEAR MS. LEPORE: Attached please find a copy of a letter I have today forwarded to Mr. James B. Cardwell, Commissioner, with regard to Claim # [redacted] by Mr. Melvin K. Killian. I believe that this letter is self-explanatory.

I would appreciate any assistance you may be able to afford in assuring expeditious handling of this matter.

Very truly yours,

HERBERT E. HARRIS II,
Member of Congress.

MARCH 20, 1976.

Mr. JAMES B. CARDWELL,
Commissioner, Social Security Administration, Baltimore, Md.

DEAR MR. CARDWELL: I have been contacted by Mr. Melvin K. Killian of 6640 South Kings Highway, Alexandria, Virginia with regard to the recent disapproval of his claim [redacted] for disability insurance benefits.

It is Mr. Killian's belief, seemingly supported by the facts, medical and otherwise of his situation, that this decision is in error He intends to appeal this decision, therefore, through appropriate channels. It is imperative that such an appeal be resolved at the earliest possible date as there is simultaneously pending several questions involving his union benefits. These benefits might be jeopardized by any delay.

May I request that a review of Mr. Killian's case be initiated as soon as possible and all appropriate actions be taken to expedite resolution.

Very truly yours,

HERBERT E. HARRIS II,
Member of Congress.

SOCIAL SECURITY ADMINISTRATION,
Philadelphia, Pa., April 1, 1976.

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: This is in response to your inquiry regarding the social security disability claim of Mr. Melvin K. Killian, 6640 South Kings Highway, Alexandria, Virginia.

I have been informed that Mr. Killian's claim has been allowed.

Mr. Killian will be notified shortly regarding the benefit amount and when he may expect to receive the first check.

If Mr. Killian has any further questions, the representatives in his social security office will be glad to help him.

Sincerely yours,

ROSE M. LEPORE,
Regional Commissioner.

BALTIMORE, MD., *April 6, 1976.*

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.:

Your inquiry of recent date concerning Melvin K. Killian, 6640 South Kings Hwy., Alexandria, Va., [redacted]

We are giving our attention to the social security matter inquired about. As soon as we have the information, we will be in touch with you.

JAMES B. CALDWELL,
Commissioner of Social Security.

BUREAU OF DISABILITY INSURANCE,
Baltimore, Md., April 28, 1976.

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: The Commissioner has asked me to reply further to your inquiry about the disability claim of Mr. Melvin K. Killian, 6640 South Kings Highway, Alexandria, Virginia.

Mr. Killian's claim is being reviewed by our headquarters disability staff. We are aware of your interest to be of all practicable assistance in this matter and you may be assured that every effort is being made to expedite final action.

I will send you a further report as soon as possible.

Sincerely yours,

WILLIAM J. RIVERS,
Director.

BUREAU OF DISABILITY INSURANCE,
Baltimore, Md., May 19, 1976.

Re Mr. Melvin K. Killian, 6640 S. Kings Hwy, Alexandria, Va. 22306. Claim number: [redacted]

Hon. HERBERT E. HARRIS II,
House of Representatives,
Washington, D.C.:

This is to give you notice that Mr. Killian's disability claim has been approved upon reconsideration. He is entitled to $323.40 monthly effective 7/75. Benefit due sent.

WILLIAM J. RIVERS,
Director.

B'NAI B'RITH HONORS BILL RUTHERFORD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. MICHEL. Mr. Speaker, in Illinois, Peoria's Bill Rutherford is known as an effective and uncompromising leader in the fight for a cleaner environment.

In Peoria, he is also known for a host of other good works in the community, and so it is fitting that he receive recognition for these many contributions.

By naming him "Man of the Year," B'nai B'rith of Peoria is thus recognizing his undeniable accomplishments. Sunday's Peoria Journal-Star contained an editorial commenting on the award and on Rutherford. I would like to have that editorial printed here in the RECORD:

CITIZEN BILL RUTHERFORD

(By C. L. Dancey)

Bill Rutherford is about to be honored as the B'nai B'rith "man of the year" as it has come to be called. (Actually, it is their annual citizenship award.)

He has been intensely active year in and year out for a very long time in matters as far ranging as the airport operation, public aid, geriatrics and park development.

The unique thing about his activities, it seems to me, still lies in the giant push he has given to the development of "green areas" and "nature parks" throughout Central Illinois.

It is quite possible that his safety work or work in geriatrics may have more direct human benefits to more people over the years, but Bill Rutherford's work will leave a completely unique legacy.

What most of us do today is gone tomorrow. Some build great structures which may remain as "memorials" of a sort for 50 or 100 years.

But Bill Rutherford has worked in the "green areas" field whereby his accomplishments may well live as long as the pyramids!

Those places set aside to be preserved as natural parks will never "go out of style" or "wear out."

They will be cherished and preserved and the more time passes, the more valuable they will become to the people of Central Illinois.

We use the word "permanent" loosely these days, but that portion of Bill Rutherford's contributions to this area may well be the most permanent "good works" anybody has ever made here.

That alone has been an amazing achievement, totally unique in its long range effects.

Bill also pioneered efforts to bring mutual understanding and cooperation between governmental units, by bringing those *people* together to make sure they were acquainted and by discussing long term problems in mutual terms

He did that many years ago.

Today, Mayor Carver and Caterpillar President William Nauman are both citing "fragmentation" as the biggest municipal problem in this area (and in all Illinois).

Indeed, since Rutherford addressed himself to that problem, a new Constitution has been written in this state with some virtues and some faults, but one reason for its existence has been Illinois' unique situation as having 6,500 local overlapping entities, more than any other state (or nation).

That Constitution does not mandate change—but it opens the door to cooperation and re-organization locally.

In this, too, Bill Rutherford has been a pioneer.

Rutherford's actions have not always been free of controversy or confrontation—but as a real force in this community and a force for many good things, recognition by the "citizenship award" is certainly earned—and probably overdue.

OIL RECYCLING

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WIRTH. Mr. Speaker, as you know, I have from time to time called attention to projects in the field of product recycling that seem noteworthy. I would like to do so again today. Coors Transportation Co., a subsidiary of the Adolph Coors Co. of Golden, Colo., has developed a method of recycling crankcase oil. According to a recent Denver Post article, the result has been the reduction of carbon monoxide emissions, some oil conservation, and a fuel economy for Coors' diesel trucks. I would like to insert in the RECORD the Denver Post article describing the program.

EMISSIONS, SMOKE REDUCED: OIL RECYCLING SHAVES COORS' FUEL COSTS

(By Bill Strabala)

A recycling experiment with used crankcase oil has brought Coors Transportation Co. a means of cutting fuel costs for its diesel trucks, while reducing carbon monoxide emissions and exhaust smoke.

The Denver-based trucking subsidiary of Adolph Coors Co., of Golden, started the program in July of 1973 at a time when oil drained from engines presented increasing disposal problems.

Oil from the diesel engines was mixed with diesel fuel at a ratio of three parts per hundred, and the mixture was burned in the engines of 45 trucks.

ENGINE INSPECTIONS

After 100,000 miles the engines were inspected at Chevron Oil laboratories and by Cummins Engine Co.

The Cummins report showed that the blend reduced exhaust smoke by 30 to 40 per cent, lowered carbon monoxide emissions and showed no effect on nitrogen oxide outputs, all without increasing engine wear or carbon buildup. The report noted there was no noticeable difference in engine performance or fuel consumption.

Cummins subsequently published a service bulletin on approved filtering and mixing techniques and the idea has spread to other companies, including the diesel fleet of Associated Grocers in Denver.

Coors now is burning 460 gallons of waste oil per month, and Associated Grocers is using about 250 gallons per month in its 80-truck fleet.

Although the savings in dollars is relatively small—about 30 cents for each gallon of diesel fuel replaced by the oil—Coors officials point out that it also solves the problem of disposing of the waste oil. Previously the company had to pay refiners to collect the used oil. Some of the oil is re-refined, and some of it is burned as fuel in refinery operations.

Coors designed and built its own mobile recycling unit for the program. It consists of a 500-gallon tank, three large filters operated in series, and an electric motor and pump.

In operation, the tank is filled halfway with diesel fuel. Then drain oil, collected in underground tanks, is pumped through the filters and into the mixing tank. When full, the 500-gallon mixture is added to the firm's 24,000-gallon fuel storage tank for use by the truck fleet.

Coors Transportation is based at 5101 York St. in Denver, where the trucks are serviced.

Wayne Harris, manager, warns that crankcase oil from gasoline engines cannot be used in diesel fuel because of the lead deposits picked up by the oil from leaded gasoline.

"We're pleased with the results of this recycling program and especially happy that it has also helped reduce emissions," said James Wildman, chairman of the transportation firm.

TRIBUTE TO RABBI PRESSMAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. WAXMAN. Mr. Speaker, I welcome the opportunity to share with my congressional colleagues and the American people the news of a most significant event in my home community. On Sunday, June 13, 1976, Temple Beth Am in Los Angeles will mark the silver anniversary of Rabbi Jacob Pressman with a gala dinner at the Century Plaza Hotel. Principal organizers of the dinner are Temple President Maxwell Hillary Salter, honorary chairman, Monty Hall and dinner cochairmen Messrs. Erwin Glincher and Heiman Walter. The banquet will be attended by not only hundreds of members of Temple Beth Am, but also prominent individuals from every sector of both the Jewish and general community.

During his quarter century tenure as rabbi of Temble Beth Am, Rabbi Pressman has guided the temple to its current position as the largest and one of the most respected conservative synagogues in the West. Rabbi Pressman has inspired not only an enormous range of religious activities but also one of the widest and most varied temple educational programs in America.

Rabbi Pressman, a native of Philadelphia and a graduate of the University of Pennsylvania was ordained by the Jewish Theological Seminary of America and earned a master of Hebrew letters degree from that institution. The rabbi also holds a doctorate in divinity from the University of Judaism.

Despite the enormous burdens of leading a large temple, Rabbi Pressman has always made time for participation in civic activities and rabbinical organizations. The rabbi is a past president of both the board of rabbis of southern California and the west coast branch of the rabbinical assembly. He is currently a member of the national executive council of the rabbinical assembly.

The Los Angeles Jewish community is rightfully proud not only of Rabbi Pressman but of his entire family. His dynamic wife, Marjorie, has been an enthusiastic and tremendously effective partner in all of the rabbi's temple and community activities. His son, Rabbi Daniel Pressman, following in the path of his father, entered the rabbinate. He is now spiritual leader of Temple Ner Tamied of South Bay. Another son, Joel Pressman, teaches music at Beverly Hills High School. The Pressman daughter, Judith, is now studying in Jerusalem.

Rabbi Pressman has earned his reputation as an outstanding rabbi by virtue of his great skill in many diverse aspects of rabbinical responsibility. Rabbi Pressman is a soul-stirring orator, a brilliant organizer and administrator, and a warm and communicative educator and counselor. Despite his commitment to the Jewish community and the Land of Israel, Rabbi Pressman has devoted much of his energy to achieving worthwhile goals for the community and our Nation as a whole.

When thousands of Vietnamese refugees entered the United States in flight from their war-torn homeland, Rabbi Pressman's voice was one of the first and most eloquent to be heard. He set forth a program for maximum compassion and hospitality to the newcomers, toward whom so many were hostile and suspicious. This single example is illustrative of the unity of Jewish values and universal humanitarian concerns found embedded in Rabbi Pressman's character.

I join with Rabbi Pressman's countless members, friends, and admirers in congratulating him on his 26 years of service to Temple Beth Am and expressing my hope that God will grant Rabbi and Mrs. Pressman many, many years of good health and full strength to continue their lives of service to the community.

GETTING DOWN TO DOING IT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. TEAGUE. Mr. Speaker, one of the energy industry leaders, Carl Bagge, recently wrote an article which encapsulates the compelling need to demonstrate synthetic fuels industry in this country.

In his article, "Getting Down To Doing It," he writes that he attended a meeting of the International Committee

for Coal Research in South Africa and was able to observe firsthand what that nation has done to relieve itself from dependence on oil and gas.

On May 15, the Committee on Science and Technology reported out the loan guarantee bill for synthetic fuels, H.R. 12112, which will enable our Nation to demonstrate the coal technology already available at a scale much larger than has been built anywhere in the world. The progress that we make in this country demonstrating these technologies is closely linked to the incentive program that we have developed.

Mr. Speaker, I urge all Members to review this important and timely article:

GETTING DOWN TO DOING IT!

(By Carl Bagge)

Once after witnessing a unique social experiment, Chicago journalist Lincoln Steffens delivered what was perhaps his most memorable line: "I have been over into the future, and it works."

Recently, together with 11 American coal executives attending a meeting of the International Committee for Coal Research in South Africa, I witnessed the kind of reality-as-a-vision that must have prompted Steffens to make that remark. For as we walked past the coal hoppers and reactors at the South African Coal, Oil and Gas Corporation's coal conversion complex in Sasolburg, we realized—some way, some-how, this is the way things are going to have to be in the U.S. And we in the U.S. coal industry are going to have to play a most critical role in making it work.

The Sasol plant we toured represents a most remarkable example of what can be done, given incentive, technical virtuosity and most importantly, the national determination to attain a difficult goal.

Without getting into the ins and outs of the complex situation in South Africa today, I would like to point out that the people of South Africa decided more than 25 years ago that they must develop a capacity for energy self-sufficiency. They then proceeded to develop a strategy in a step-by-step fashion to attain that goal.

Because coal is their chief energy resource, they decided that coal was the most reasonable material basis for their energy self-sufficiency. And since the Fischer Tropsch process developed in Germany was perhaps the most proven technology for producing liquids from coal, it is the technology they are using today to produce 25 percent of the gasoline consumed in their nation.

There are, of course, those in the United States who point out the primitive nature of the Fischer Tropsch process and claim it is highly uneconomic.

The South Africans know all of this, but they also know that energy independence is more important than quibbling over dollars or the level of technological accomplishment. That's why they went ahead and did what they had to do, which is far more than we can say about our national effort in this direction.

Let's face facts. The U.S. economy is dependent on oil and gas and we're running out of them. Coal, on the other hand, is our most plentiful fuel, and few would disagree that ultimately we must gasify it, liquefy it, and use it as material basis for our economy. This is precisely why we must begin today to build full-scale demonstration plants to show once and for all what can and cannot be done and how much it will cost to do it. And if this means building several plants that are uneconomic or difficult to operate, so be it. You can't have meaningful progress without taking some chances.

The task is so large, and the risks are so great, however, that industry cannot be expected to do it alone. And this is why the House of Representatives' failure to pass the $6 billion synthetic fuels loan guarantee program last year was particularly tragic.

Clearly, some federally supported synthetic fuels incentive program is necessary if we are to accelerate the schedule for synthetic fuels development. It is equally clear that federal loan guarantees will not be enough to commercialize the many coal conversion technologies that are needed. If the nation is serious about accelerating synthetic fuels production, it must establish a broad-gauged incentives program. Of course, loan guarantees will be needed, particularly if we are to have enough gas to go around 5 or 10 years hence, but so will price supports, market guarantees, and whatever incentives creative minds can devise to contribute to the outsized task at hand.

What we need is energy independence. And as the South Africans have capably shown, the answer is to be found in doing, not talking about it.

GEORGE BUSH

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BOB WILSON. Mr. Speaker, having recently returned from a visit to the People's Republic of China, I am aware of the great pioneering job that our former colleague, George Bush, performed until recently as head of the U.S. Liaison Office in Peking. Both George and his wife, Barbara, have warm and friendly personalities which is important in a job that requires much tact and understanding. This was important in his job of representing the United States in a country where we have not been welcome for decades.

Mr. Speaker, I insert a recent item which appeared in the Alumni Bulletin of the Phillips Academy of Andover, Mass., a school which George Bush attended. The article appeared in the form of a letter from Ernest Obermeyer, one of his former classmates at Phillips, who recently visited George and Barbara and saw them in action:

News has been scarce, but for once I'm not complaining because I'd like to take a few paragraphs to write about our most newsworthy class member. At this writing George and Barbara Bush are on their way home to Washington. By the time you read these notes, he will, no doubt, have been confirmed as the Director of the CIA.

Thanks to his efforts and their unbounding hospitality and aided by Bunny's TWA passes and air fare privileges, we were able to spend 18 days in the People's Republic of China. Our trip took us from New York via Athens to Peking. There we were met on the runway on a chilly November evening by the Bushes. (Just getting from the runway thru the airport and out calls for the sort of expertise that George has. It is an indescribably different world.)

The United States Liaison Office is a large, comfortable stone compound in one of the two embassy areas in Peking. George and Barbara are the greatest hosts either of us have met. They made sure that we saw and did everything there was to do in this both exciting and historic city. Later we encountered official China Tour Guides in each of the cities we visited and looking back, Barbara Bush was far superior to any of them. She has studied the territory from the Forbidden City to the Ming Tombs to the Great Wall and she has done her homework extremely well. George has a sound working knowledge of the language, the result of a daily lesson, and communicated well enough to get us through restaurants, check points, railroad stations and the country side. What he cannot say with words he does with a smile, a wave and great enthusiasm. It is exciting to see him in action.

Both George and Barbara liked China, the challenge, the chance to improve our relations with this vast country that holds one fifth of the world's people, and the opportunity for personal and friendly diplomacy. Eighteen days does not make one a "new China hand" let alone an old one, and I do not know what the official opinions are about the United States, but on first hand observation, they do like George Bush. In fact, after leaving Peking all of the tour guides we spoke with had the highest regard for him. One can't help but feel that in George and Barbara the United States has put its best diplomatic foot forward.

Wherever we went in our big black Chevrolet with the U.S. flag flying from the right front fender, people smiled and when we got out at a restaurant or a store or Chinese landmark, the people crowded around and George or Barbara were the first to break the ice with a smile, a wave, a handshake or a friendly Ni Hao. There are nineteen Americans in the U.S. Liaison Office and all that we met—and we met most of them—expressed great sorrow at his leaving.

Both George and Barbara have that unique ability whether they are talking to the office guard, the Australian Ambassador or the Chinese who take care of the tennis courts at the International Club to make each feel welcome and important. They truly appreciate the kindnesses and courtesies that are shown them, and they communicate that feeling effectively. Incidentally, while on his assignment George established himself as the best doubles player (tennis) in the country. We saw him, teamed with the Ghana Ambassador, win easily against two younger Australians in the international semi-finals. Socially there is little contact with the Chinese officials. During our stay we had the opportunity to spend some time with Ambassadors from New Zealand, Australia and enjoyed a family dinner at the Sri Lanka Embassy. I suspect that George has done an equally fine job in representing us and giving these other ambassadors a better understanding of our country.

Both George and Barbara were looking forward to spending two years in Peking before that fateful Sunday call summoning him back to Washington. In fact, he confided that he had requested the assignment in preference to some other more prestigious posts that were offered to him. He has a sincere belief that China is where the future is and that he could use his personal and personable efforts to the greater benefit of the country in China than elsewhere. The C.I.A. summons was a disappointment to him if for no other reason than he did not feel he had the opportunity to finish his work in Peking. But in his own words this too was "a challenge he felt it was his duty to accept." In this cynical world in which we live I'm sure it is difficult for some people to understand George. Unfortunately, some of our newspapers keep referring to him as a "Texas oil millionaire." Literally this may be true but the connotation couldn't be more erroneous. He was in the oil business. He worked hard. He was successful. He is comfortable. He won't go hungry but John Paul Getty he is not, nor does merely making money excite him. His life style is simple. His interests are multi-dimensional. He possesses those character traits that many have

forgotten still exists—true patriotism, a sense of duty to people and country, a desire to serve and all coupled with a boundless enthusiasm and a studied optimism. He has a controlled ambition that sublimates personal advancement to character, honesty and a knowledge of what's right. George is an endangered species of political animal and that's unfortunate for us all. Thanks to his efforts Bunny and I were able to travel in China by train to Nanking to Wusih to Soochow to Shanghai and then by plane to Canton and on to the border by train and finally the walk out of China and on to Hong Kong. It was an unforgettable odyssey but that's another story.

THE FEA: DIRECTING AND ADMINISTERING WHAT?

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. SCHROEDER. Mr. Speaker, H.R. 12169, the House Interstate and Foreign Commerce Committee's bill to give the Federal Energy Administration 39 more months of life also authorizes $39 million for the continuation of the FEA's Office of Executive Direction and Administration. On the other hand, the Schroeder-Fithian substitute to H.R. 12169, which was printed in the May 18, RECORD at page 14329, proposes to abolish all of this Office—except for its office dealing with private grievances and redress. There are sound reasons for eliminating this office, its $39 million budget, and its 1,000 employees.

The Office of Executive Direction and Administration is the head of the body we know as the FEA. It consists of an Office of Administrator, Office of Management and Administration, Office of General Counsel, Office of Communications and Public Affairs, Office of Congressional Affairs, Office of Intergovernmental, Regional, and Special Programs, and the Office of Private Grievances and Redress. The problems with these offices are noted below:

OFFICE OF ADMINISTRATOR

The Office of Administrator contains the job which Mr. Zarb presently occupies. H.R. 12169 proposes to give this appendage $2.1 million over the next 15 months. The prime function of the Office apears to be keeping the FEA's other functions in line while Mr. Zarb is off making speeches, many times traveling by charter aircraft. If I may quote from the FEA budget submission for this year, the main occupation of this office for last year was:

> The "energy-wise" education of the American people concerning energy problems through an increased volume of speeches by the Administrator, two Deputy Administrators, and Assistant Administrators, who transmitted the Presidential direction for increased efforts in reaching consumer groups on conservation.

OFFICE OF MANAGEMENT AND ADMINISTRATION

The Office of Management and Administration supposedly oversees the organizational matters of the Federal Energy Administration. Unfortunately, it never seems to have gotten this act together, other than for promoting the mean salaries of FEA employees to the highest in the Federal bureaucracy. In fact, in its unfounded zeal to manage and administer the FEA bureaucracy, it has had to contract out—at $92 per hour, slightly more than the President makes—for services on how to set up its bureaucracy. The following correspondence I have had with the Civil Service Commission does, I believe, lay out the essence of this Office's bungling:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 21, 1976.

JOSEPH DAMICO,
Director, Bureau of Executive Manpower, U.S. Civil Service Commission, Washington, D.C.

DEAR MR. DAMICO: In 1974 the Federal Energy Office/Federal Energy Administration, at the direction of then FEO Administrator and Deputy Secretary of the Treasury William Simon let a $215,725 contract to Korn/Ferry International entitled "Design Within FEO an Executive Development Program."

According to FEA documents reviewed by my staff, the purpose of the contract was to define FEO positions, write job sheets, identify qualified candidates, and set up a Human Resources Department at FEO for organizational development, manpower planning, and recruiting.

Fees under this contract ranged from $14 an hour for secretarial staff up to $92 an hour for Korn/Ferry executive staff.

I would appreciate it if your Bureau would review this contract to ascertain if the services purchased were duplicative of services already available from the Civil Service Commission (or the White House Personnel Office) or whether the contract or any activities carried out under the contract were in violation of applicable federal law.

Second, it is my understanding that last year the Civil Service Commission inspected the FEA and found that they had no executive development program at all.

I would appreciate being provided with a copy of your inspection report.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

U.S. CIVIL SERVICE COMMISSION,
BUREAU OF EXECUTIVE MANPOWER,
Washington, D.C., May 6, 1976.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, D.C.

DEAR MS. SCHROEDER: This is in reply to your letter of April 21, 1976, concerning a 1974 contract let by the Federal Energy Office (now, Federal Energy Administration) and captioned "Design Within FEO an Executive Development Program." In connection with this matter, you ask whether "the services purchased were duplicative of services already available from the Civil Service Commission (or the White House Personnel Office) or whether the contract or any activities carried out under the contract were in violation of applicable law."

As an initial matter, it should be stressed that under policies laid down by the Office of Management and Budget in the Executive Office of the President, each Executive agency is responsible for determining whether a particular mission or function required of it shall be performed in-house by Federal employees or by a private contractor. These policies, which are set out in Circular No. A-76 of the Office of Management and Budget, require that an agency take into consideration a number of factors before deciding to perform a function by in-house services or by contracting out. Some of these factors are the costs involved (i.e., is it less expensive to contract out or to do the job in-house), the degree of disruption or delay involved by contracting out, and the availability of a readily usable private contractor. In every instance the ultimate determination is required to be based on a finding as to which method will be most beneficial to the national interest.

The Civil Service Commission is not authorized to review an Executive agency's determination to perform a particular mission or function by contracting out rather than in-house hire. Our interest in this area is limited to determining whether agency contracting practices are consistent with Federal personnel policy required by pertinent laws, rules, and regulations. More specifically, it is our obligation to protect the integrity of the appointive process contemplated by chapters 31 and 33 of title 5, United States Code. The Commission sees to it that the term "employee," as defined in 5 U.S.C. section 2105 and used elsewhere in that title, is properly applied in the manner intended by Congress since so many important employee benefits depend on whether an individual is or is not an employee as so defined.

The Commission's critical concern is, thus, whether by contract an Executive agency has made an arrangement between Government personnel and contractor personnel which is tantamount to an employer-employee relationship. If such a relationship is found, e.g., contractor employees are supervised directly by Government employees, we require appropriate corrective action. Of course, since the contract here apparently deals with a personnel management subject, we would also have an interest in making certain that the substantive results of the contract comport fully with applicable personnel practices and policies. At all events, typically, in order to determine whether a contract arrangement is proper, we must go beyond its stated terms and evaluate the manner in which it was actually administered. Thus, while we shall thoroughly review the terms of the contract here and any related documents, the Commission's Bureau of Personnel Management Evaluation (with the assistance of the Bureau of Executive Manpower) will, if necessary, also jointly go on-site at the Federal Energy Administration in order to make such inquiries as are necessary fully to understand the way in which the contract was administered. Of course, in view of our general personnel management oversight responsibility, we shall also carefully evaluate whatever "product" may have resulted from the contract.

As you can see, the question from our standpoint is not one of duplicative services. Nonetheless, the Civil Service Commission does have a keen interest in assuring that executive branch agencies manage their total personnel resources in a prudent and cost-effective manner. And, in this connection, you may be assured that we shall make the necessary review and promptly report our findings to you when our consideration of the matter is completed. If we find that the administration of the contract by FEA violated any provisions of Federal personnel statutes, we shall direct appropriate action.

You have also asked for a copy of a recent Civil Service Commission evaluation report on the Federal Energy Administration which, among other things, dealt with the question of executive development. We have enclosed a copy of the pertinent report. With reference to it, however, we wish to point out that the Court of Appeals has affirmed in *Vaughn* v. *Rosen*, a Freedom of Information Act case which dealt with the release of Commission evaluation reports, that those portions of our reports which contain reference to individual employees or particular agency officials are exempt from disclosure to the public under 5 U.S.C. 552(b)(6). We feel strongly that the personal privacy considerations which underlay the Court's decision are especially important. Therefore, the pages which contain references to individual

employees or particular agency officials have been stamped accordingly. We trust that you view the matter similarly and will consider this in your use of the report.

Sincerely yours,

JOSEPH U. DAMICO,
Director.

JULY 31, 1975.

Mr. THOMAS E. NOEL,
Acting Assistant Administrator, Office of Management and Administration, Federal Energy Administration, Washington, D.C.

DEAR MR. NOEL: As you know the Civil Service Commission with the cooperation of Federal Energy Administration personnel and management staffs has been working on a plan of action to define and propose solutions to personnel management problems at FEA. As part of this effort, two members of my staff recently completed an onsite review of executive manpower management in FEA.

Our overriding concern is to insure that FEA, a newly created agency, is supplied with capable people to perform duties and responsibilities in an organizational environment which makes maximum use of their individual abilities and potential to contribute to the most effective accomplishment of FEA's vital mission.

The purpose of this letter is to transmit (1) executive and management development program findings and required actions and (2) a discussion and case listing of misassignments. In summary, little attention has been paid to the need to develop your executives and the responsibility for the program has not been firmly fixed in the organization.

Further, while we are aware that a good deal of progress has been made in correcting illegal personnel actions which have been subject of previous correspondence and discussion, we found instances of indiscriminate details and misuse of expert and consultant appointment authorities which we also discuss in Attachment I. Specifically, we learned of supergrade employees performing duties substantively different from those of official record; unrecorded details in excess of thirty days to supergrade positions; supergrades performing duties that have not been allocated by the CSC at the supergrade level; lower grade employees acting in supergrade positions without proper documentation; and experts and consultants acting in continuing line positions at the supergrade level.

Accordingly, we require that you initiate action to correct the irregularities cited in the cast listing in Attachment II. Please respond to this Bureau within the next thirty days as shown under "Required Action".

Sincerely yours,

JOSEPH U. DAMICO,
Director.

Attachments.

ATTACHMENT I

1. Executive and Management Development Program Findings—

a. The office of primary responsibility for executive and management development has not clearly been identified. No functional statements have been published, although draft statements for the Office of Executive Management and for the Program Manager, Training and Development, both claim responsibility for an executive development program.

b. A deliberate management decision was made by the former Assistant Administrator for Administrative Management not to expend substantial funds on long-range development and training. This decision has been somewhat modified with the recent purchase of six three-week courses at the Federal Executive Institute. However, other than for the purchase of these three-week training courses no manpower or funds have been expended to implement the executive and management development programs required by the Civil Service Commission in FPM Letter No. 412-2. Moreover, the reporting requirement, levied by the Civil Service Commission in BTN. No. 412-1, dated December 18, 1974, has been completely ignored.

c. We understand the sense of urgency which FEA administrators felt as they addressed the problem of organizing and staffing a new agency on a crash basis. However, this period is over and every effort must be made to assure that the government's long-term needs for executives in the energy program area are met. FEA functions, albeit located now in a temporary agency, will most likely continue beyond the statutory life of the agency. Executives engaged in these energy functions should be developed to enhance and sharpen their management skills. Their managerial development is important to FEA because many of them have come to their jobs without prior government service. Their development is important, too, to the government as a whole for many will be placed in other positions in the Federal Government when FEA expires as an agency.

Required Actions—

a. The decision to give little attention to executive development should be reconsidered. A program for executive and management development should be established in consonance with FPM Letter No. 412-2.

b. FEA functional statements should be published to clearly show that there is only one office of primary responsibility for executive development matters. Where necessary, position descriptions should be revised to reflect this assignment of responsibility.

2. Supergrade Position Control—

FEA has been ineffective in administering the control of details. There is no formal process for detail control. Details have not as a practice been recorded in Official Personnel Folders; and lengthy details to supergrade positions have been common. In addition, experts and consultants have been used to temporarily fill some supergrade positions.

Required Actions—

a. The Office of Executive Management must begin to exercise supergrade detail control.

b. The practice of misusing expert and consultant appointments must cease forthwith. FEA top management must make clear the necessity for all responsible FEA officials to obey the law regarding experts and consultants.

OFFICE OF GENERAL COUNSEL

This office contains 235 employees and would cost $7 million over the next 15 months according to the proposals in H.R. 12169. The FEA states in its budget submission that this office provides "legal support on a wide and complex range of energy matters." Apparently, this means that the office advises other FEA offices on how not to enforce regulations against the major oil companies and how to threaten FEA audits of everyone else.

OFFICE OF COMMUNICATIONS AND PUBLIC AFFAIRS

This office would contain 48 employees and cost $2.6 million over the next 15 months if H.R. 12169 were enacted. These are the people who have brought us the Energy Act and 60 press releases a month. They also handle the computerized file of speeches emanating from the Office of Administrator.

OFFICE OF INTERGOVERNMENTAL, REGIONAL, AND SPECIAL PROGRAMS

This Office would have 66 employees and cost $3.2 million if H.R. 12169 were enacted. The Office has a nice ring to its title and touts itself as the Federal Government's energy liaison to the rest of the Nation. Unfortunately, things are so out of hand in the Office that it has granted numerous contracts in the $100,000 range to Washington-based lobbying organizations which represent counties, cities, and States in Congress. Ostensibly, these contracts are so that these organizations will have the funds to study congressional and administration energy proposals. Yet, in many instances, the work product of the contracts consists of the preparation of testimony and lobbying campaigns for use in Congress. State input into the hearings on H.R. 7014, the omnibus bill, was, for example, prepared in part by funds paid under one of these FEA contracts.

Mr. Speaker, it is difficult to find anything in these offices which justifies their continued existence. The Schroeder-Fithian substitute is the only sound alternative to their continuation.

I am happy to announce today that Representative FITHIAN and I have been joined in cosponsorship of the substitute by Representatives KREBS, D'AMOURS, BAUCUS, KEYS, JENRETTE, HUGHES, JACOBS, LEHMAN, and EDGAR, who share our views.

THE REMAKING OF A CITY: THE PONTIAC PLAN

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROOMFIELD. Mr. Speaker, when one thinks of cities, usually a dismal picture of urban slums, middle-class flight to the suburbs, high crime rates, a decreasing tax base and future bankruptcy, and depersonalization comes quickly to mind. Overshadowed, now, is the picture we once had of vibrancy, excitement, culture, an active business world, and sheer life and personality that was once synonymous with the word "city."

However, there are efforts to turn this trend around and bring our Nation's cities back to life. One such effort is taking place in the city of Pontiac in my own 19th District. I wish to share their work with my colleagues for Pontiac's plans have importance to the entire national effort of reconstructing the American city.

Therefore, I hereby submit an article by Joe Szczesny from the Pontiac-Waterford Times, which presents an overview of this important effort in the remaking of a city.

ON THE HORIZON, THE REMAKING OF A CITY

(By Joe Szczesny)

The word "city" is a four letter word to many Americans since it brings with it visions of chaos, dirt and decay.

But the imagery also blurs and distorts the fact that without the city, life just wouldn't be much fun.

People have been running away to the active, colorful life of the big city for thousands of years. After all, how can you keep people minding sheep up in the Peleponesus once they've seen Athens?

But ever since World War II, Americans have been fighting the historical evidence which places so much value on the enrich-

ment which city life brings to an individual; they have been running away from the city.

The end result, however, is a landscape in which everything appears scattered because there is no central vision or unifying conception to hold it together.

The same imagination, or more aptly lack of imagination, that has shaped the nation's landscape of the 1970's has contributed to the ghettoization of American life since it is the poor, the elderly and the minorities that have inherited the empty shell of what used to be the American city.

More and more people are beginning to realize, however, that the nation's urban centers can reverse the seemingly endless decline, revitalize an area and make cities places where people once again enjoy living. Pontiac is no exception.

In the last few months, there has been a significant understanding on the part of people throughout the community, that if given half a chance, the city's urban renewal plan, The Pontiac Plan, can succeed.

Since he undertook the task of assembling investors for the project last February, C. Don Davidson, the designer of The Pontiac Plan and the publisher of THE TIMES, has been able to interest the top officials at the Department of Housing and Urban Development in the project, something which had never been done before.

In addition, one investor—Charlie Langs—has already expressed an interest in building the long-talked-about downtown hotel and the Southeastern Michigan Transportation Authority has agreed to build its new commuter station in conjunction with The Pontiac Plan. The North Oakland YMCA has committed itself to raising the money to build an $8 million sports arena which is part of the urban renewal proposal.

As a whole, The Pontiac Plan calls for building a complete urban complex accommodating shopping areas, apartment living, office space and public facilities such as theatres and museums on the 27 acres of urban renewal land that have been vacant since the early 1960s.

A crucial component of The Pontiac Plan, however, is adequate parking for the people that will ultimately use the center.

The entire complex is designed with an understanding that the automobile is going to be the chief means of transportation for years to come. Thus, The Pontiac Plan provides ample covered parking while at the same time creating a pleasant environment for pedestrians through the use of parking ramps, plazas and walkways.

But besides its intention to create the urban environment that the surrounding suburban communities lack, The Pontiac Plan is also premised on the idea that the creative partnership between the local, state and federal government can make urban renewal work.

Through the incentives offered by the combined governments in the form of relatively inexpensive land, air-rights, covered parking, and tax abatement, the plan revives the original concept of urban renewal, which was to promote urban growth.

But through the years, the over-regulation of urban renewal by the federal government and inadequate planning by local government have defeated the program's original purpose. Private suburban developers can never hope to match the combination of incentives offered through a well-coordinated urban renewal program because it ultimately benefits the consumers in the form of more amenities, lower rents and ample parking.

In addition to enhancing the city's overall image and building a quality environment in the central city, the success of The Pontiac Plan will benefit the entire community.

It will broaden the tax base by shifting the burden away from heavy industry, furnish more employment opportunities, and create an atmosphere in which banks and savings and loan institutions can feel comfortable with the idea of lending mortgage money to restore or replace the city's depleted and dilapidated housing stock.

Although much has been written and said about the social factors which people think lead to urban decay, much of this criticism ignores a central point, people create or destroy urban environments through their own action or inaction.

A case in point is the wrenching battle the city's been through over the future of Pontiac General.

Although hospital officials were furnished four years ago with the information about the eventual need to replace the outdated existing hospital building, no one on the city's planing staff had ever bothered to investigate where the best possible location for a new hospital might be, until some three months ago.

This was a full-year after the hospital's board of trustees had announced that their own planning for such a new facility had advanced far enough for serious public discussion.

The lack of thought on the part of others besides the hospital administration on where a new hospital should be built is an excellent example of what Ada Louise Huxtable, a member of the New York Times' editorial board and an architectural critic of some renown, has described as the gnomish mentality of those that control and alter the urban environment.

"Gnomes," Ms. Hustable wrote last year, "in the modern definition, are creatures specializing in acts of perverse illogic or malevolent nonsense that result in situations of consummate absurdity in which the rest of us are trapped. They are particularly active in official circles."

But the gnomes that buried the Clinton River, placed key governmental building outside of the downtown area, constructed Wide Track Drive and built the Michigan Bell Tower don't have to win forever. People can. And they can build the sort of environment in which city urban life is exciting and interesting and fun again.

If the urban renewal plan succeeds, Pontiac may well have a significant part in showing people just how much fun it can be.

SOLAR ENERGY COMMUNITY UTILITY PROGRAMS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mrs. CHISHOLM. Mr. Speaker, last week Congressman JOHN JOSEPH MOAKLEY and I introduced legislation which calls for the establishment of a program with ERDA to assist local governments in carrying out solar energy community utility programs—SECUP. Our purpose in proposing this legislation is to bring solar energy to moderate- and low-income Americans who we feel must have input into this exciting energy development. Only through a community utility program which leases solar equipment for use in private homes, apartments, small businesses, can those who cannot afford the $6,000 to $12,000 first costs of solar equipment become acquainted with solar energy.

Andrew Tobias has written an article for New York Magazine which tells of various solar energy projects currently in use. Mr. Tobias also addresses the most popular misconceptions which many people have about solar energy. I would like to share this article with my colleagues:

SOLAR ENERGY NOW: WHY AREN'T WE USING IT MORE?

(By Andrew Tobias)

I don't know if it's true about the woman who spread aluminum foil all around her sun chaise and baked herself to death, like a potato, but the general principle is compelling. The sun is a furnace of almost unimaginable proportions. Enough energy in the form of sunlight falls on New York State in one day—if we could collect it all—to power the entire country for a week. (Enough falls on California to power the whole world!) And when I was in Huntsville, Alabama, attending the First Annual Alabama Solar Energy Products Show—an eleven-exhibit affair all too indicative of the fledgling state of the solar-energy industry—I actually did see a man hold a board up in front of a twelve-foot concave reflector he had built in his garage, and watched as the board almost instantly burst into flames. (Then he held up a Coke can, which melted.) The temperature at the focal point of his $200 Mylar-and-bicycle-chain contraption was around 2,000 degree Fahrenheit. Focus it on a tank of water and you would soon have steam to run a turbine to generate electricity to power your home.

Now, the natural organization for a story like this would be first to demonstrate the overwhelming reasons why solar—not nuclear—energy must become the energy of the future, and then to catalog the ways you and I can use solar energy *right now* to save money and, at the same time, conserve fossil fuels and cut down on pollution. But it is only natural to be more interested in saving money than in saving the world, so I've reversed the order.

For now, suffice it to say that when Dr. Edward Teller, "father of the hydrogen bomb and longtime advocate of nuclear-power expansion," as the Los Angeles *Times* characterized him, visited Huntsville a couple of weeks after I did last month, he said that the *long*-term answer to our energy needs lies in solar, not nuclear, energy development, and that this is where our first priority ought to be.

The sun's rays are free, clean, and virtually inexhaustible. The stuff of nuclear energy—both fuels and wastes—which we are now gearing up to produce on a truly grand scale could hardly be more hazardous.

Along with the technological and economic problems standing between 1976 and the "solar age" are four popular misconceptions.

Misconception 1: Solar energy is in its infancy, highly technological, unproven . . . wait twenty years.

In fact, some solar-energy applications are simple, reliable, and economically compelling right now.

Anyone who heats a swimming pool—and more than half a million Americans do—ought to consider installing a solar water heater. Today. A different kind of solar installation makes sense for hot-water heating. Today. Home space heating is trickier, but anyone who pays his own heating bills—and certainly anyone planning to build a new house—should read on. Solar-powered air conditioning is trickier still, but not far off.

Upwards of 250 companies nationwide are involved in solar-energy development, ranging from one-man backyard operations to major corporations like PPG Industries, Revere Copper & Brass, Owens-Illinois, and subsidiaries of Mobil and Exxon. Happily, this is an industry ideally suited to the small-businessman, with lots of room for ingenuity and competition. Fafco, Inc., a Menlo Park, California, firm with a growing dealership around the country, is installing its solar

pool-heating systems at the rate of 6,000 a year—profitably. In Japan, 160,000 solar water heaters were sold in 1974; Hitachi is now offering much the same rudimentary heater, in kit form, for $359 here. Champion Home Builders, of Dryden, Michigan, is beginning to manufacture solar furnaces in nine of its plants, and plans to market them through its 4,000-odd mobile-home dealers. Several hundred such "furnaces"—insulated rock piles that sit beneath solar collectors—have already been manufactured and sold by licensees. Arthur D. Little, the consulting firm, estimates sales of water- and space-heating gear may reach $1.3 billion yearly by 1985.

"This is the number-one thing architects want to know about," says Lola Redford, a prime mover in promoting conservation and solar energy.

There are barely 300 solar houses in the U.S. today, but already Fire Island's first is under construction (designed for environmental lawyer George Davison-Ackley by architect Steven Robinson and solar engineer Fred Dubin), with a second in the planning stage. Can the rest of the nation be far behind?

It is only in the field of solar electric generation—turning the sun's rays into electricity, not just heat—that major technological advances are needed (and being achieved). Even now, photovoltaic cells are becoming economical for low-power applications in outlying areas, such as to power buoy lights at sea. Someday orbiting power stations may collect the sun's energy in space (where it is perpetually sunny) and beam it via harmless microwaves to receiving stations on earth. There it would be converted to electricity and fed into the national power grid. Electric "city cars," like the ones already available from Sebring-Vanguard, could then plug in, charge up, and drive off on what would be, indirectly, batteries full of sunshine. This scheme, the brainchild of Arthur D. Little vice-president Peter Glaser, is seen by some as a possible means by which the nation's space program could eventually become economically self-sustaining.

The problem is that people tend to lump all solar-energy applications together as "space-age" when some have actually been around for centuries. Twenty-four hundred years ago, Xenophon noted that "in houses with a south aspect, the sun's rays penetrate into the porticoes in winter, but in summer the path of the sun is right over our heads and above the roof, so that there is shade." He suggested building houses with tall south walls, to capture the winter sun. Think what he could have done with modern insulation and plate-glass windows!

Windows allow the sun's heat into a room, but impede its escape. Anyone who has entered a car parked facing the sun in the wintertime has probably noticed this "greenhouse" effect. In 1942, in Chicago, there was a brief sensation over a "solar house" that had been designed with huge south-facing windows, much as Xenophon described. In the midst of a severe cold spell, on a day when the temperature ranged from 17 to 5 degrees below zero, this house was able to maintain a 72-degree temperature from 8:30 in the morning to 8:30 at night without burning a drop of fuel. It was a great curiosity, but as the weather warmed up, and with fuel cheap, people quickly lost interest.

Similarly, there were 60,000 solar water heaters operating in Miami in the fifties. But with the advent of cheap natural gas, their use diminished.

Dramatic technological advances in solar-heating equipment are unlikely. There will be important design and engineering improvements, certainly; and it's true that investigating the field and investing in solar heating at this stage require a certain pioneering spirit. But it will not be like buying a $300 electronic calculator only to see the price fall to $19.95 five years later. Rather, what will make solar heaters *seem* cheaper and cheaper will be the inexorable price increases of conventional fuels.

The *reason* there's not much room for miraculous breakthroughs in solar heaters is that they're so simple to begin with. Picture a hot black roof under a scorching sun. Now picture a hose that runs water up from your pool (or water tank) to the top of the roof, lets it trickle down, and then runs it back into the pool. That's a solar pool heater. Put a piece of glass or plastic over it, to let the sun in but keep the cold air out, and it will work in January—and attain temperatures hot enough to scald you. Put that hot water in a Thermos bottle, and it will last overnight. Blow air past it and it will heat your living room.

The practical mechanics of all this can be troublesome (corrosion, disintegration, freezing, condensation, leaks, etc.); but the basic concept is just that simple: collector panels on the roof connected to a storage tank downstairs.

Misconception 2: Solar energy is fine for Arizona, where it's hot and sunny, but not here.

The idea is not to replace conventional heating with solar energy but to supplement it. To design a system that relied 100 percent on the sun would be uneconomical in most areas, because the extra collector and storage capacity needed to see you through the very worst weather would be wasted most of the time. Systems are designed instead to shoulder anywhere from 30 to 90 percent of the load. Simple thermostats tell the conventional heater when to kick in and do the rest.

Naturally, solar panels will collect more sun in Phoenix than in New York. But they will make sense in New York. Water in an insulated storage tank will stay warm longer down south than up north. But up north it can still retain its heat overnight, and sometimes over two or three days.

Misconception 3: The question is: If I install one of these things, how quickly will it pay for itself? Five years? Seven? I'm patient, but I'm not crazy.

With any solar system, it's the "first cost" that's high. Once installed, fuel is free and maintenance practically nil. *But payback is the wrong concept to use.* When you install some kind of solar heater, you are actually buying your own small utility company. Not just ten shares—the whole thing. You are the chairman of the board and sole stockholder, and you receive monthly dividend checks in the form of savings on your *other* utility bill. These "dividends" are recession-proof, inflation-proof, strike-proof, pollution-proof, terrorism-proof, computer-error-proof . . . and, most important, *tax free.* (The government doesn't tax us on money we save, only on money we earn. "A penny saved is two pennies earned.")

If you put $1,000 in a 7½ percent savings account, after taxes you would earn maybe 5 percent—a $50 "dividend" every year. But if you put it into a solar water heater that cut your gas or electric bill by just $10 a month, you would in effect be getting a $120 annual dividend. One way to look at that is as an eight-year payback, which sounds awful. Another way to look at it is as a 12 percent tax-free return—hard to beat. After ten years you would have received $1,200 in "dividends," compared with $500 from the bank; and, if it had been well made, your original investment would be safe and sound on your roof.

In areas with high utility rates (nowhere higher than New York), the payback can be much shorter than eight years, the tax-free dividends much higher than 12 percent. Even in the Hollywood hills, where low-priced natural gas is still available, one pool owner saw his gas bill drop from $100 a month to $30 after he put in a $1,500 solar heater. He expects to save $600 a year—a 40 percent tax-free return.[1]

It's true you can't withdraw money from your solar heater when you need cash for a vacation; it's true it won't beautify your roof; and it's true only time will tell whether the thing will really hold up for ten or twenty years like other plumbing/roofing-type installations. But consider the pluses:

The interest on your savings account is not likely to rise much above 7½ percent; it could even decline. But the dividends from your solar utility company—the money you save on fuel or electricity—are almost sure to rise. Substantially. If fuel bills climbed only 5 percent a year over the next decade, a conservative estimate, then the solar utility that was saving $120 in the first year would be saving $186 by the tenth—or $1,509 in all. Better than three times what you'd have gotten, after tax, from the savings bank.

Yet look at all the people who put money into banks or stocks or bonds without thinking twice, but who wouldn't dream of investing in a fuel-saving installation that didn't pay for itself in three or four years.

(This applies as much to investing in refrigerators or air conditioners, automobiles or extra insulation, as it does to investing in solar heaters. Very often, the appliance or installation that costs a little more up front is *by far* the better investment—both for the buyer himself and for society as a whole. A Harvard researcher compared two refrigerators and found that *even at the pre-embargo cheap-energy rates then prevailing,* the unit costing $67 less up front would cost $354 more more to operate over its twenty-year life. He also calculated that if all color-TV purchasers in 1970 had chosen the most efficient unit on the market, roughly a billion pounds of coal would have been saved—along with the attendant costs of strip-mining it and spewing it out into the atmosphere as pollution.[2]

As for the fact that you can't very well take your solar heater with you when you move, you should nonetheless be able to recoup your investment. This is one home improvement that will really save the new owner money. The pool that once cost $200 or $400 a season to heat (go ahead, show him the bills) is now heated free. That's worth something.

Furthermore, it's bankable. Banks will make home-improvement loans for solar heaters. And the interest they charge is tax deductible. Your tax-free dividends could easily exceed your tax-deductible interest cost—in which case you could even make a profit without putting up any cash of your own.

Two things more:

First, it is always possible that we will experience interruptions in the availability of fuel or power. Natural gas is already being denied some industrial users. It may be little comfort if the lights are out and the world is falling apart, but with your own solar heater your water is likely to be at least lukewarm.

Second, $1,000 invested in solar panels is really different from $1,000 spent over the years on oil or gas. In the first case, it goes for materials like copper and glass, and for labor; in the second, for irreplaceable fossil fuels. Copper can be recycled; once oil is burned, all that remains is pollution. If we survive, there will always be an abundance of

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[1] The price of natural gas is federally controlled. If it were not, it would about triple. In the meantime, its use has been banned for heating new swimming pools in New York, and California and Illinois are on the verge of taking similar action.

[2] John Neely, thesis in energy utilization; Harvard University, 1972. As cited in Energy for Survival.

labor (it's jobs that are scarce); but someday the fossil fuels will for all practical purposes, run out. To say this won't happen for 50 or even 150 years is not only optimistic—it's a crime against future generations.

An investment in solar energy is obviously not without risk. As in any young industry there are bugs to be worked out, shysters to be avoided, ten-year warranties backed by companies that may not be around more than ten months, false claims, honest mistakes, inexperienced installers—and so on. But no 12 or 20 or 40 percent tax-free return is without risk.

Misconception 4: The energy shortage is a hoax. There's plenty of oil, huge amounts of coal, and limitless nuclear energy.

Well, the country used to be overrun with buffalo, too, and look what happened. The difference is that buffalo can reproduce themselves.

Despite the quadrupled price of oil, production in this country is actually falling. Huge discoveries are being made, and will continue to be made, it's true—but more and more of them will be in places like the North Sea, where the cost of exploration, extractions, and transportation is staggering. Not to mention the cost of pollution, which is not reflected in the price.

It's not a question of whether we will run out of fossil fuels, only when. The earth is a finite planet. By one estimate, there is enough oil in the ground to last another 31 years. But even if there is really five times as much oil down there as we've found for sure, it will still run out in just 50 years if consumption grows at 4 percent a year. Under the same assumptions—five times the known reserves but a 4 percent consumption growth—coal would last 150 years. At which point, even if we had been able to find alternative sources of energy, we would have permanently exhausted the raw materials we need to make plastic, synthetic fiber, and a great range of "petrochemicals."

It is becoming a cliché that with less than 6 percent of the world's population, the United States accounts for better than 40 percent of its fossil-fuel consumption. For the rest of the world eventually to achieve our standard of living—which in many areas, and underlying our foreign-aid program, seems to be the implicit long-term goal—per capita world energy consumption would have to sextuple. And with millions of little capitas being added to the energy rolls every week, *aggregate* world consumption would have to more than sextuple. So what looks like a 50- or a 100-year energy supply might actually last a more developed world just ten or fifteen years. What then?

"It might be said that energy is for the mechanical world what consciousness is for the human world," writes E. F. Schumacher in *Small Is Beautiful: Economics as if People Mattered*. "If energy fails, everything fails." Either we envision a world in which we live one way and no one else is allowed to, or else we change the way we live.

Enter the deus ex machina, a flotilla of 500 nuclear-power plants bobbing peacefully off our shores and, assuming the rest of the world follows our wise lead, eventually 2,500 more bobbing throughout the rest of the world. Beyond their truly monumental cost; beyond the fanciful notion that one of them might someday, accidentally or through sabotage, blow up; and ignoring for a moment that even uranium might someday run out—there remains the problem that these plants would be generating vast quantities of deadly and indestructible wastes. Schumacher quotes Dr. Edward David, once President Nixon's science adviser, as saying: "One has a queasy feeling about something that has to stay underground and be pretty well sealed off for 25,000 years before it is harmless." And there is the problem of nuclear terrorism. It is well known that small atomic bombs are relatively easy to make; the expansion of the nuclear-power industry virtually assures that they will be made. But how can you argue with progress?

Unfortunately, solar energy is by no means a complete answer. But it is part of the answer. Swimming pools aside, water-heating in the U.S. accounts for a full 4 percent of our energy consumption. Two thirds or more of that load could be switched to the sun—a savings in energy that would light every light in the country twice over.

The potential savings in space-heating are substantially greater. About a fifth of all our energy goes to this end. Buildings designed to exploit, not fight, the sun (at no appreciable increase in construction cost), coupled with better insulation of both new and old structures (at very modest cost), could cut the national heating bill by 25 percent or more—a savings in energy sufficient to power every truck, bus, and motorcycle on the road. Solar collector panels and storage systems require more of an initial investment, but would increase the energy savings still further.

TRANSNATIONAL TERRORISM: PLO SUPPORTERS RALLY IN NEW YORK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. McDONALD of Georgia. Mr. Speaker, in a campaign to make terrorism a legitimate form of political activity, the Palestine Liberation Organization—PLO—with guidance and full assistance from the Soviet Union and its satellites, has begun a major multilevel propaganda drive in the United States. At the top, influential Marxist-Leninists, some of them of Jewish origins, are asked to approach Members of Congress asking that all aid to Israel be cut off; others approach businessmen dependent on Arab oil exports or who wish to trade with Arab bloc countries with the message that things might go better for them if they encouraged U.S. abandonment of Israel; and at the bottom, the Russians use their Cuban and Vietnamese proxies to develop solidarity agitation among the U.S. revolutionary groups who are already supporting other political terrorist organizations here and abroad.

On May 4—CONGRESSIONAL RECORD, May 4, 1976, pages 12526–12528—I delivered a report on some aspects of the Palestine Liberation Organization's contacts with U.S. supporters of terrorism, such as the National Lawyers Guild—NLG—which is sending a delegation to visit PLO bases in Syria and Lebanon, and the Palestine Solidarity Committee—PSC—which is being run by old Weatherman SDS members now involved with the Prairie Fire Organizing Committee, the Weather Underground's avowed support group.

In response to a direct request by the PLO, the Palestine Solidarity Committee, operating from a mailing address at P.O. Box 1757, Manhattanville Station, New York, N.Y. 10027, but actually from the apartment of Sheila Ryan and George Cavalletto, 200 Claremont Avenue, New York, N.Y.—212/850-5296—organized a coalition of New York area revolutionary groups to participate in a PLO support march and rally in Brooklyn.

The march and rally were to mark May 15, the anniversary of the founding of Israel, as the "International Day of Solidarity with the Palestine People." The PSC described May 15 as the anniversary "of the seizure of Palestinian territory for the creation of the settler State of Israel in 1948" and said the Brooklyn march was called to coincide with "worldwide activities in support of the struggle of the Palestinian people, including a general strike by Palestinians within areas occupied by Israeli forces."

To coordinate non-Arab participation in the Brooklyn march, the PSC created a May 15 coalition—M15C—which operated from 2 West 31st Street, room 200, New York, N.Y. 10010—212/560-9189. The M15C was composed of a number of organizations participating in the July 4 coalition which is organizing mass demonstrations in Philadelphia to disrupt the Bicentennial celebrations. M15C endorsers included:

LIST OF M15C ENDORSERS

Rosa Borenstein, executive secretary, Puerto Rican Solidarity Committee.

Charles Isaacs, People Against Racism in Education (PARE), which acts as a special focus group within the Weather Underground's Prairie Fire Organizing Committee (PFOC).

Marty Rothenberg, Mass Party Organizing Committee (MPOC).

Prairie Fire Organizing Committee (PFOC).

Venceremos Brigade.

El Comite—MINIP—a Puerto Rican revolutionary group.

The Guardian—a national Marxist-Leninist newspaper which recently broke with the Maoist groups it had been allied with to support the Cuban-backed groups in Puerto Rico and the U.S. It is noted that while the *Guardian* is having major distribution problems due to the withdrawal of October League, Revolutionary Communist Party and U.S.-China People's Friendship Association affiliated bookstores from its distribution list, the *Guardian* has somehow obtained the financing to expand its pages, move to an expensive two-color format, and greatly increase its coverage of July 4th Coalition group activities.

International Indian Treaty Council, a subsidiary of the American Indian Movement (AIM).

Irish Republican Clubs of the USA and Canada, the North American branch of the pro-Soviet, Marxist-Leninist wing of the terrorist Irish Republican Army known as the Officials.

Partido Communista Dominicana—Communist Party of the Dominican Republic.

Puerto Rican Socialist Party (PSP)—the Cuban controlled, violence-prone Marxist-Leninist Revolutionary group associated with the FALN terrorist group.

Third World Newsreel, a revolutionary film making and distribution collective.

Liberation Support Movement (LSM), an organization headquartered in Vancouver, Canada, with several U.S. branches, which has raised money and collected uniforms, medical supplies and other items shipped to Marxist African terrorist movements, particularly the MPLA and FRELIMO which now rule Angola and Mozambique.

Friends of Haiti, the New York chapter of the Liberation Support Movement.

War Tax Resistance, an offshoot of the War Resisters League, a revolutionary pacifist organization with some anarchist elements

which consistently finds the ideal society in the systems run by the Cambodian, Vietnamese, Chinese and Cuban Communists.

Socialist Workers Party (SWP), the Trotskyist Communist U.S. section of the Fourth International which is actively supporting terrorist groups in the Middle East, Northern Ireland, Latin America and other areas.

Young Socialist Alliance (YSA), youth division of the Socialist Workers Party.

The May 16 PLO march organized by the Palestine Solidarity Committee's May 15 Coalition in cooperation with the Palestine Day Mobilizing Committee—PDMC—a front for the PLO's Palestine Information Office, brought a large crowd estimated by my own experienced observers at 900 persons—400 ethnic Arabs and 500 supporters supplied by the M15C. In addition to the groups mentioned above, participating organizations included the Organization of Arab Students, Iranian Students Association/World Confederation, Turkish Students Association, Eritreans for Liberation in North America, Youth Against War and Fascism—youth group of the independent Trotskyist Workers World Party—Palestinian Red Crescent Society, Arab and Palestinian Women's Union, and two groups of anti-Israeli Marxist-Leninist Jews—the Communist Party, U.S.A.'s Committee for a Just Peace in the Middle East, and the Jews for a Democratic Palestine contingent chanting "Dare to struggle, dare to fight; Jews and Arabs must unite."

Observers present noted with some irony that the pro-PLO rank and file Arabs reacted to the progressive Jewish contingent with marked hostility and desired to oust the "Jewish invaders" from the march. Palestine Day Mobilizing Committee organizers, speaking in rapid Arabic, cooled off the crowd of angry, then astonished, Arabs.

Leadoff speaker was Faraj See'am—phonetic—representing Palestine Information Committee and Palestine Red Crescent Society who said:

We are changing this day to one of defeat of the enemy * * * as we deal blow after blow.

Commenting on the Lebanese civil war between Marxist, PLO-supported Moslems and Christian Arabs in Lebanon, See'am said that—

The Palestine Movement is one with the democratic and progressive forces in Lebanon.

After the highly emotional crowd broke into chants of "Thawra, thawra hattum nasir"—translated by radical Arabic speakers as "Revolution, revolution till victory." See'am was able to conclude:

Despite Sadat's (Egyptian President Anwar Sadat) treachery, we have defeated U.S. imperialism's plot against Lebanon, and are moving to new insurrectionary struggles. Death to imperialism! Palestine lives!

Other speakers at the rally included Sheila Ryan, representing the Palestine Solidarity Committee and Palestine Action Coalition; Jimmy Durham, American Indian Movement; Sami Albanna, Palestine Day Mobilizing Committee; Zuhdi Labib Tarazi, the PLO's permanent observer to the United Nations in New York; Aisha Ibrahim of the Arab Women's Union; and Umm Muhammad representing the Palestine Information Committee, the Union of Palestinian Women and the Palestine Red Crescent Society, who spoke only in Arabic.

Jimmy Durham of AIM's International Indian Council identified the PLO with AIM, saying that the American Indian Movement feels "closer to the Palestinian people than to anyone else on earth." Said the spokesman for AIM, an organization whose members have been involved in hundreds of violent crimes ranging from bank robbery and assault through riot and the murder of two FBI agents:

We know what it is to be called savage people and terrorists because we fight for the rights of our people. * * * That is why we American Indians give you our complete support in your just struggle.

The principal speech was given by Zuhdi Tarazi, of the PLO United Nations delegation. Tarazi said that the PLO is "engaged in a battle against racism, against the Zionist occupation, and against imperialism and Arab reaction." This is current propaganda rhetoric referring to the United Nations resolution rammed through by the Soviet-supported Third World bloc which equated Zionism with racism, and thereby requiring U.N. member nations to report yearly on what they are doing to eradicate it. Imperialism is the standard Leninist term for capitalism, the free enterprise system, and "Arab reaction" refers to the Arab countries who do not wish to become Soviet puppets and subject to the PLO gangsters. These governments are prime targets for PLO and Soviet subversion.

Tarazi called for unity of all "anti-imperialist" and anti-Zionist forces in the struggle for the total victory of the PLO.

Sami Albanna of the PDMC gave a history of the PLO, dating its current phase of an internationally active terrorist organization to after the October, 1973 war with Israel. He said:

After the October 1973 war, the Palestinian revolution continued the offensive against the Zionist enemy on the one hand, against the settlement schemes sponsored by U.S. imperialism on the other hand, as well as the * * * attempts of the Hashemites [Jordan] to assume representation of the Palestinian people. * * * A great military and political offensive was launched [reference to Black September terror]. * * * Today, an overwhelming majority of nations recognize the PLO * * * [as] the sole legitimate representative of the Palestinian people.

* * * Under the leadership of the Palestine National Front, the arm of the PLO in the occupied territories, our people are waging concerted struggle against the Zionists' policies and atrocities. The recent eight-week long uprising and the general strike of March 30 are only the beginning of total insurrectionary struggle.

Albanna also said that the PLO guerrillas in Lebanon would remain the allies of the Marxist Moslems in the civil strife there until they had achieved a total victory over the Christian Arab minority.

Sheila Ryan, Palestine Solidarity Committee leader, excoriated the American Government's aid to Israel, blaming America for the death of every Palestinian Arab on the grounds that "it is the United States and its supplying of weapons to Israel" which must be held "ultimately responsible" for the deaths of any Arabs.

Ryan called for a mass counter-demonstration on June 13, 1976, to disrupt the "salute to Israel" parade in New York City which she denounced as a "salute to racism, colonialism and repression." Such an emotionally charged counter-demonstration could certainly provoke public disorder and should be taken into account by those responsible for keeping the peace. It is also possible that Ryan's comrades in the Weather Underground or Prairie Fire Organizing Committee might decide to perform "solidarity" bombings to protest the June parade. The Weather Underground has taken responsibility for such bombings in the past, and there is no known bar to open WUO sympathizers assisting with or participating in bombings by fugitive members of the underground apparatus.

As a followup action to the rally, the May 15 coalition announced it would hold a solidarity conference at New York University's Loeb Student Center at West Fourth Street and LaGuardia Place on May 22, 1976, to consolidate work for the Palestine Liberation Organization by U.S. supporters of revolutionary terrorism.

The Palestine Liberation Organization and its backers in Moscow are now developing a pressure apparatus designed, to eventually force the ending of all U.S. assistance not only to Israel, but to all the responsible, non-Marxist Arab governments who oppose Soviet expansion plans in the Middle East. In the words of the PSC:

It is crucial at this time—when US weapons are being wielded by Israeli soldiers against Palestinian uprisings in the West Bank and Galilee—that we show our solidarity with the Palestinian struggle. It is also a time when we need to show clearly that not all the people of New York City are behind the US government in sending billions of dollars in military and other aid to the racist and repressive state of Israel.

Civilization cannot afford to tolerate terrorism as just another form of political activity. The PLO's power is dependent on the flood of money and weapons poured into it by the Russians and their satellites. It is the responsibility of informed Americans to shine the light of truth on the murky schemes of this dangerous group and its allies.

PORPOISE SURVIVAL, TUNA INDUSTRY CONCERN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. ANDERSON of California. Mr. Speaker, our American tuna fishing industry is in trouble.

From time immemorial fishermen have sought the highly migratory tuna. Because of their migratory patterns, U.S. fishermen must pursue these tuna in the

warm, tropical waters off the coasts of Latin America and Africa. Today, among the fishing fleets of 40 nations that pursue tuna, the most modern and efficient is the U.S. fleet, despite the encroachment of Federal regulations and harassment on the high seas by foreign nations.

While the laws of nature govern the course of these elusive tuna, the laws of man govern those who seek them. Yet this evolvement of the latter threatens the future of the entire industry.

Recently, the U.S. Congress adopted and the President signed into law, a unilateral 200-mile economic zone for the protection of coastal fisheries. Although the legislation exempts highly migratory species, such as tuna, from the 200-mile zone, tuna fishermen feared that other nations will overlook this exception and move to extend their jurisdiction to all fish located within 200 miles of their coasts. This fear has become a reality, with a Government decree from Mexico, and recent seizures of tuna boats by the Panamanian Government.

At times like these, the last thing our Government needs to do is penalize the tuna fishermen further by threatening to end their ability to pursue their livelihood. Instead, we should work with them, not against them, to insure that the industry is strengthened, and that problems like the porpoise mortality rate are solved effectively and efficiently—but solved through cooperation, not by retribution.

Therefore, I was pleased to read in the evening edition of the Washington Star, an excellent editorial outlining the problem that the Subcommittee on Fisheries, Wildlife Conservation and the Environment is considering.

In 1972, Congress adopted the Marine Mammal Protection Act. I was pleased to author this important legislation, and I still feel that its basic provisions are needed if we are to insure the survival of many species of marine mammals—including the highly intelligent, playful porpoise, which has captured the imaginations of men for centuries.

However—and I would like to stress this point—the original act was never intended as a cudgel with which to beat our tuna industry to death. That is why I was surprised and disappointed by Judge Richey's court ruling. In one simple act, an important domestic industry has been threatened—and the porpoise, the center of the entire controversy is now in more trouble than ever.

I urge my colleagues to read the Star's editorial, and carefully consider what I have said:

PORPOISES AND TUNA FISH

It's obvious there's a hot congressional hearing in progress when the Glitteries appear in town to be witnesses—Robert Redford steaming against power plants, Mary Tyler Moore passionate over ground squirrels or baby seals or some species. The other day it was Dick Cavett, who from time to time introduces talented people on television. His cause was porpoises.

We bow to no one in our admiration for porpoises—indeed think that ground squirrels and baby seals are deserving of protection from human excesses. The problem, however, is that when the celebrities mount their chargers, a quotient of simplistic thinking is usually inserted into complex matters.

So it is, in our view, with Mr. Cavett's porpoises and the tuna-fishing industry.

Since the early 1960s, the U.S. tuna boats have used a seining technique known as "on porpoise." Because porpoises and Pacific yellowfin tuna have a similar diet, they swim together. Once the porpoises are spotted, the massive seine nets are dropped for the tuna. But porpoises are hauled in, too. They are air-breathing mammals and often become trapped in the nets and are drowned.

The 1972, the Marine Mammal Protection Act was amended, ordering that the mammal mortality rate in commercial fishing operations be reduced to "insignificant levels approaching zero." The tuna fishermen were exempted for two years, and that was extended through this year by the National Marine Fisheries Service. Earlier this month, U.S. District Court Judge Charles Richey here ruled in a suit brought by conservationist groups that the tuna industry could no longer use the porpoises as "pilot fish" and said that protection of the porpoises must "come first."

The tuna fishermen now are planning to seek a stay of that order. They claim that the Pacific tuna industry would be severely constrained, forcing the price of tuna perhaps to double on grocery shelves or—more debilitating to the U.S. tuna industry *and* to the porpoises—leaving the marvelous mammals to the untender sentiments of foreign fishing fleets.

Conservationists—on whose side of the barricades Mr. Cavett appeared—the other day attacked a House bill that would nullify Judge Richey's ruling. Their arguments are admirable but, we think, myopic. Representative Glenn Anderson, a sponsor of the legislation, put it well. U.S. tuna boat owners, he said, would either "join the unemployment lines" or "will be forced to sell their boats to foreign buyers or sail under foreign flags, registering under nations that have no consideration for the killing of porpoise."

The directer of the National Marine Fisheries Service testified on Thursday that new techniques and changes in fishing gear—jointly developed by the industry and the federal government—have reduced porpoise mortality; but he said the "zero" goal cannot be attained. He estimated that tuna fishermen kill about 1.8 per cent of one porpoise species and 2.1 percent of a second each year—while about 8 per cent of the population die of natural causes. The reproduction rate is about 14 per cent a year. A new seine net on which testing is being completed has reduced the killing of porpoises in tuna operations by 60 per cent, though other variables may also be involved.

In other words, friends, it is not a grandly simple matter of callous fishermen wantonly decimating a species of mammals. It seems to us that the tuna industry and the federal fisheries people have made gains in complying with legislation that, in the fervor of marine mammal protection, may have been overdrawn.

One need only look at the disastrous decline of the U.S. fishing industry in the Northeast in recent years—and the brutal decline of many species of fish under the voracious harvest by foreign fleets—to think that the law as written, and as interpreted by Judge Richey, is too stringent for the West Coast tuna industry. We trust the House Merchant Marine subcommittee will move ahead on modifying the law before the May 31 deadline imposed by the judge.

TESTIMONY IN OPPOSITION TO SYNTHETIC FUELS LOAN GUARANTEE BILL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. OTTINGER. Mr. Speaker, this morning I testified in opposition to H.R. 12112, the synthetic fuels loan guarantee bill, before the Economic Stabilization Subcommittee of the Committee on Banking, Currency and Housing. Because of the real problems this bill would create if it were enacted, I would like to bring my testimony to the attention of my colleagues, and I include it at this point in the RECORD:

H.R. 12112: SYNTHETIC FUEL LOAN GUARANTEE LEGISLATION

(Testimony of the Honorable RICHARD L. OTTINGER)

Mr. Chairman, H.R. 12112, is a re-run of the multi-billion dollar Federal subsidy, through loan guarantees and subsequently price supports, of the energy supply industry that Congress overwhelmingly rejected on December 11, 1975. Nothing has really changed, except that the bill starts off as a $4 billion measure which can be stretched annually to even more than the $6 billion level of last year. ERDA has said that ultimately the price tag will be over $11 billion.

ERDA also released an April 13, 1976 letter from Vice President Rockefeller urging support for H.R. 12112 which, he describes, as providing "loan guarantees to advance commercialization of synthetic fuels". He concludes that the bill is the forerunner of his $100 billion Energy Independence Authority proposal.

Many of my colleagues on both sides of the aisle believe, as I do, that this is a very dangerous piece of legislation for many reasons. I am submitting the Dear Colleague signed by 32 Members of Congress which addresses these reasons.

First, it seeks to give birth to a U.S. synthetic fuels industry that is not capable of developing through the normal and time-tested rigors of the marketplace. As the senior vice President of Exxon testified:

"It is difficult to see how government guaranteed loans at commercial interest rates can change a non-commercial undertaking to a successful commercial venture. If the loan is structured such that the operator can elect to default at any time, then such loans do provide a limit on potential loss to the operator—but his approach also may leave government with an incomplete or inoperable project. Price floors would also be difficult to phase out as they would tend to be viewed as an operating subsidy and thus would eliminate the economic driving force for effective cost control."

Second, the bill does not create any new investment funds, but will take capital away from other sectors of the economy and tend to raise the interest rates for those other sectors and thus increase business costs. Moreover, the Government is being asked to guarantee up to 90 percent of a loan during the entire construction period and start time. ERDA itself projects that the Government—i.e., the taxpayer—have to bail out the lenders for up to 25 percent of the $4 billion in guarantees.

Dr. Murray L. Weidenbaum, who is the Director of the Center for the Study of American Business at Washington University in St. Louis, Missouri, and formerly Assistant

Secretary of the Treasury for Economic Policy, is particularly critical of the use of Federal guarantees to stimulate energy production. In a March 31, 1976, statement provided to the Committee, Dr. Weidenbaum said:

"Boiled down to its basics, federal guarantees of bonds issued by business and other institutions really involve putting "the monkey" on someone else's back. They do not increase the amount of investment funds available to the economy. Rather, to the extent they succeed, they mainly take capital funds away from other sectors of the economy and lead to similar requests for aid by those sectors. These government guarantees also tend to raise the level of interest rates in the economy, both for private as well as government borrowers. They thus increase an important element of business costs."

The proposed program of credit subsidies to promote domestic energy development is undesirable for many reasons:

1. It avoids dealing with the fundamental need to provide basic market incentives to increase domestic energy production. Although it is intended to aid a new private industry, it would weaken further the basic risk-bearing and entrepreneurial character of the American business system.

2. There is no indication that the federal credit program will result in any specific increase in domestic energy production.

3. It would be an extremely cumbersome program to operate, involving many federal, state, and local agencies.

4. It ignores the sad lessons of history, notably the RFC experience.

5. It would be a major extension of federal responsibility for local affairs. Under the proposal for loan guarantees for synthetic fuel projects, the federal government could guarantee up to 100 percent of a locality's bonds for "essential" public activities or it could guarantee the amounts of anticipated tax revenue from the energy demonstration facility.

6. The federal government could wind up operating commercial plants and selling the products or energy that are produced. It would be authorized to do so in case of default.

Despite the high hopes of its supporters, there is no assurance that the many billions of dollars contemplated to be used by the synthetic fuels program and subsequently by the Energy Independence Authority actually will result in the attainment of the objective of energy independence. Perhaps the fundamental shortcoming is the failure to demonstrate the superiority of this approach—subsidies to the private sector—to other alternatives.

In addition to Dr. Weidenbaum's analysis of the faulty economics for the private sector, we heard testimony from Mr. Philip Hughes, Assistant Comptroller General of the United States, about the faulty off-budget aspects of this program in our federal accounting system. I quote Mr. Hughes testimony before our Science and Technology Committee:

"The loan guarantees traditionally have not been on the budget. But traditional loan guarantees have been a different kind of loan guarantee. They have been the Veteran's loan guarantee or insurance on housing where the guarantee it seems to me is a somewhat more normal and traditional type.

"These arrangements we are talking about here and the arrangements contemplated in the Lockheed situation and in the Administration's uranium enrichment proposal, for example, those are in effect, take-outs. There is no broad base to spread the guarantee over. This is a device for assuring financing on a particular project. The assumption is that the financing would only be available at unreasonable and impossible and impractical interest rates were it not for the guarantee. . . .

"I think my feeling—we would like to consider it further—my feeling would be that the total loan guarantee should be in the budget because of the fact that is, in effect, a contract authority to take out the particular financial institution if the project goes sour."

Third, the bill seeks to demonstrate first generation technology which, the Congressional Budget Office observes, may be obsolete in the early 1980's. Yesterday Chairman Moorhead wisely raised the questions of our subsidizing first generation technology or improving our R, D & D synfuels program in ERDA. Although Chairman Moorhead seemed to feel we should be doing both, I would like to stress my view that a strong R, D & D program will indeed pay off to a greater extent. The Congressional Budget Office study of January 16 substantiates this by stating:

ERDA has several second-generation synfuel processes ready for demonstration which, if successful, could make obsolete a synfuel plant based on current technology. Thus delay in synfuel commercialization until second-generation process can be included could improve the economics of the program.

A Congressional Research Service study of March 29 by Martha Krebs-Leidecker concluded that an intensive R. D. & D. program would be less costly than the proposed Administration program, and also that:

"An R. D. & D. program coupled with a delayed or smaller scale commercialization program might well be as effective as the 350,000 barrel per day program." (p. 16)

I think it is important for the members of this Committee as well as my colleagues in the House to be aware of the R. D. & D. programs now planned within ERDA for second generation. I often feel these are left "unadvertised" in the rush to put forward this program of loan guarantees for companies which are more interested in getting their particular technology into large scale operation.

ERDA's program for 5 pilot plants in conjunction with the American Gas Association, funded two-thirds by ERDA and one-third by AGA and for 3 demonstration plants is clearly outlined in Dr. Philip White's testimony at the fiscal 1977 appropriation hearings. Dr. White, the Assistant Administrator for Fossil Energy, stated in this testimony that:

"The objective of the Demonstration Plants Subprogram is to translate research and development results into technology that can be transferred to the private sector for use in commercial operations. This objective will be achieved by designing, building, and operating demonstration-scale plants in cooperative efforts with the private sector. Demonstration plants are defined as those plants that utilize either commercial-scale equipment or somewhat smaller units that can be scaled up to full commercial size with normal risk.

"Competitive proposal procedures are used to solicit interest from private industry concerning proposed demonstration plants. The plants are all intended to be jointly funded. The present standard for cooperative government/industry joint funding is 50/50 sharing of construction and operating costs. The commitment of private funds indicates the industry's confidence in the process potential, assures the availability of top industrial personnel and continued management attention, and fosters technology transfer."

I would also like to briefly describe some of these programs. The pilot plants in conjunction with AGA are a Hygas process in Chicago which now produces 1.5 million cubic feet of gas per day, a CO_2 Acceptor process in Rapid City, S.D., a Bi-gas process in Homer City, Pa., a steam iron process in Chicago, and an agglomerating ash process in West Jefferson, Ohio. The last three are to be completed in 1976. The demonstration programs scheduled for operation by 1981 are for a clean boiler fuel plant for the Coalcon process in New Athens, Ill., a high BTU synthetic pipeline gas plant (at an estimated cost of $500 million), and a low BTU fuel gas plant (at an estimated cost of $380 million.)

Those cost sharing ventures for R, D & D could indeed be expanded and accelerated, and this is the action I would urge for the development of synthetic fuels.

The principal beneficiaries of this bill will be a handful of oil and gas corporations such as Union Oil. Atlantic Richfield, Sun Oil, Continental Oil, TOSCO, Texas Eastern Transmission Co., El Paso, and others. These are not small businesses. They are powerful energy companies. This program will extend their influence and further exacerbate concentration in this industry. I asked the Congressional Research Service to give me the assets of some of the synthetic fuel companies which are potential candidates for this loan guarantee program, and I submit them to you now.

PROJECT NAME AND ASSETS OF COMPANY

Shale oil

Occidental Petroleum, $3.3 billion.

Rio Blanco, subsidiary of Superior Oil, whose assets are $822 million.

TOSCO Sand Wash, subsidiary of Oil Shale Corp., whose assets are $202 million.

Union Oil, $3.5 billion.

High Btu gas

ANG Coal Gasification Co., $2.3 billion.

Dunn Center (Natural Gas Pipeline), $1.3 billion.

El Paso (Burnham), $2.1 billion.

Panhandle Eastern, $957 million.

WESCO, joint venture of Transwestern Coal (subsidiary of Texas Eastern, whose assets are $2.7 billion) and Pacific Coal Gasification Co. (a subsidiary of Pacific Lighting, whose assets are $1.7 billion).

Utility industrial fuels

Columbia Coal Gasification Co., $2.8 billion.

Consolidated Natural Gas (3 projects), $1.6 billion.

Consumer Power, $3.2 billion.

UGI, $227 million.

Wheelabrator-Frye, $237 million.

This program is being touted on the thesis that Congress "must do something about energy." We agree. But that does not mean that we should approve any program just to give the appearance of action, particularly when that is unsound fiscally, technically, and environmentally.

I urge all of you to read with care the dissenting views in the report on H.R. 12112 submitted by Congressman Hechler, Blouin, Hayes and myself. I would like to submit a copy of the table of contents of those views in my testimony just to "whet your appetite."

The defeated $6–11 billion synfuels loan guarantee program should not be imposed on the House for a second consideration.

This is an uneconomic program, evading the budget, involving ballooning Federal expenditures, creating a new division within ERDA and all leading to the Rockefeller $100 billion energy independence authority.

No new energy funds will be provided, but there will be a horrendous capital market disruption.

This is not an R. & D. bill. It is a program for Government financing of the commercial production of synfuels and the development of new fuels. It belongs in other committees and other agencies.

H.R. 12112 is anticompetitive—extending the power concentration of the energy giants over synfuels at Federal risk and expense.

The program distorts energy priorities, favoring high caiptal, high risk, high pollution options over clean conservation and renewable resources.

H.R. 12112 is premature, since critical ERDA feasibility studies and the environmental impact statement are not completed.

Genuine R.D. & D. on synthetic fuels is adequately provided under the existing ERDA synfuels R.D. & D. program which includes coal gasification plants.

Oil shale development is given extravagantly favored treatment by heaping subsidy upon subsidy for this questionable and environmentally hazardous technology.

H.R. 12112 contains several amendments that serve to weaken the safeguards adopted by the House-Senate conferees last December in the old section 103:

A. Right of local community, Indian tribes, and citizen input and judicial review.

B. Congressional oversight.

H.R. 12112 will undoubtedly result in boomtowns. We are concerned about the adequacy of the provisions in the bill to help communities to cope with the problems of providing adequate public facilities and services in connection with these projects.

The bill permits 100 percent owned foreign corporations, firms, partnerships, and associations to receive loan guarantees and grants.

Synthetic fuels have the potential for health and environmental hazards.

Additional important amendments rejected by the committee.

We must move ahead with many programs, and we must move forward with a strong conservation program. Indeed, energy conservation is probably the most promising alternative to massive subsidies for synthetic fuels. FEA has found that money invested in energy conservation "would save twice as much energy as a comparable investment in new supplies would produce," ("Energy: The Case for Conservation," Worldwatch Institute, January 1976). In addition, an MIT research team found that the installation of heat pumps on existing furnaces is a favorable alternative to high BTU coal gasification for space heating—the primary purpose which synthetic gas would serve (*Technology Review*, July/August 1975). Also, Dr. Seamans, the ERDA Administrator, testified that "ordinarily it costs less to save a barrel of oil than to buy it."

In summary, the bill will result in misplaced energy priorities, distortion of capital markets, increased concentration in the already over-powerful energy industry, promotion of obsolete technology, devastation of local communities and great environmental damage.

In my opinion, this program should not be brought up for reconsideration by the House and, if it is, it should again be soundly defeated.

THE SECOND WAR BETWEEN THE STATES—PART VI

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. HARRINGTON. Mr. Speaker, today I am inserting the sixth of an eight-part series concerning regional economic development which appeared in the May 17, 1976, edition of Business Week. This particular segment deals with the consequences of the vastly growing business markets in the Southeast and Southwest and compares this growth rate to the declining level of per capita income in the six States of New England.

This segment of the series, like the ones which preceeded it, focuses on regional trends which, if allowed to continue unchecked, spell disaster not only for the industrialized Northeast, but for the economy of the entire country.

The text of the sixth installment follows:

SPENDING MORE AND BUYING BETTER THINGS

With the staggering growth of Southern markets, Northern and Western companies alike are casting covetous eyes southward. Many are expanding their distribution in the Southeast and Southwest. Others are looking for acquisitions. Several leading merchants—including Carter Hawley Hale Stores Inc., of Los Angeles, and Dayton-Hudson Corp., of Detroit—have held preliminary talks with Rich's Inc., the big Atlanta retailer.

"This is a market still in its infancy," marvels Gregory R. Dillon, senior vice-president of corporate properties for Hilton Hotels Corp. "We're looking at a population that has grown from 50 million to 80 million in the last 30 years." During the 1960s, the Southeast and Southwest represented no more than 10% of Hilton's property growth. Since 1970 as much as half of the company's growth has originated in those regions. Of the 11 new franchised hotels that Hilton will open this year, seven will be located in the South.

Unquestionably, the 16 states of the Southeast and Southwest have become the hottest and fastest-growing markets in the country. As Alfred Hong, managing director of Marketing Economics Institute, notes: "For an indication of the South's strength and resilience, just look at the way its markets bounced back from the recession."

In many ways, in fact, the South is leading the way. Last January during the early stages of the recovery, the country's average personal income rose 11% above the same month a year earlier. By comparison, personal incomes jumped nearly 20% in the Carolinas, 15% in Texas, 16% in Arkansas and New Mexico, and 14% in Kentucky, Mississippi, and Tennessee. During the same month, retail sales spurted 14% in the South Atlantic states from Maryland to Florida; 17% in Kentucky, Tennessee, Mississippi, and Alabama, and 18% in Texas, Louisiana, Arkansas, and Oklahoma. That compared with an average national increase of 12% and below-average increases of 11% for New England, 8% for the Mideast or Middle Atlantic states, and 10% for the Great Lakes region.

Along the way, adds Vincent P. Barabba, director of the U.S. Bureau of the Census, "we are starting to see a very significant leveling and homogenizing of markets." Back in 1950 per capita income in 78 out of 173 "economic areas" charted by the Bureau of Economic Analysis ran 15% or more below average, while income in 19 areas ran 15% or more above average. By 1973 only 63 areas had income levels 15% or more above average. The biggest loser was the six-state region of New England. During the five years from 1970 through 1974, per capita income in New England dropped from 7% above average to only 4%—"a rather formidable loss of ground," notes Fabian Linden, consumer economist for the Conference Board.

CONSUMERS ARE TRADING UP

The gradual narrowing of the gap is already beginning to show up in consumption patterns among Northern and Southern markets. H. John Meany, president of Los Angeles-based Norris Industries Inc., notes that more and more Southern consumers are purchasing higher-quality garbage disposals, dishwashers, ovens, and other appliances. "Twenty years ago," he says, "all we ever sold in the South were bottom-of-the-line products. Today, we sell quality levels."

Kellogg Co. sees a similar shift in cereal sales. Historically, ready-to-eat cereals have not been hot sellers in the South. Yet from 1972 to last year, per capita consumption zoomed 37% in the Southeast and 40% in the Southwest. While that was still slightly less than the 42% increase in total national sales, Kellogg Vice-President Robert C. Bland calls the gain "significant" for Kellogg's future marketing plans. "The South has simply become more like other areas of the country," Bland says. Northerners who moved South, he notes, "have taken their eating habits with them."

Typical of many of these transplanted consumers is Nancy Johnson. Three years ago, she quit a $13,000 job with American Telephone & Telegraph Co. in New Jersey, married a Georgian, and moved to Atlanta, where she took a $10,000 position with Citizens & Southern National Bank. Now a corporate trust officer at C&S, she earns $16,500. "You still have about a $3,000 lag when you come south," she says. But she claims Atlanta's living costs are lower, transportation is better, and the living is certainly easier.

Seven months ago, Donald R. May actually ran into higher living costs when he moved his family from Midland, Mich., to Miami and went to work for Cordis Dow Corp., a manufacturer of artificial kidney machines. May, who earns between $25,000 and $35,000 a year as controller-treasurer for Cordis Dow, estimates the difference in living costs at 8% to 10%. Compared with the house he owned back in Midland, May paid 80% more for an even smaller home in Miami. While he finds clothing and food less expensive in Florida, he says: "Our auto insurance is 365% higher. And we were surprised to find that it costs as much to cool a home here as it does to heat one in Midland." Yet he has no regrets about moving. "My wife and children and I are quite happy," he says.

In the low-growth Northern markets that many consumers are leaving behind, manufacturers and merchants are doing what they always do when things get tough: They are tightening up, watching their costs, and holding fast. "We're just not expanding in the Northeast," says Nelson S. Gifford, president of Dennison Mfg. Co., a Massachusetts-based manufacturer of industrial and commercial products.

Many of these same companies are giving far more attention and emphasis to Southern markets. For the first time this year, for instance, Ford Motor Co. has abandoned its national network TV commercials and switched to regional TV "spots." These will plug the Mustang in the Southeast, the Pinto in California, and bigger Fords in the Northeast. Five or 10 years ago, notes Ronald J. Robbins, corporate marketing analyst for Ford, the primary car-buying group in Atlanta ran 30 to 45 years of age. "It bought nothing smaller than intermediate-sized cars," Robbins says. Now because of changing migration trends, he notes, the 20-to-34 age group predominates, "and it is buying small" (a preference, of course, that at least partly reflects higher energy costs).

Del Monte Corp. abandoned blanket national advertising five years ago. With its $15 million annual ad budget, Del Monte now advertises five basic product groups to 17 "mini-markets" around the country. That means 85 possible combinations for advertising and marketing. Depending upon the season and local preferences, for instance, Del Monte might push pineapple in Florida, catsup in Texas, and green beans in Arizona. In one of nine catsup markets, the new strategy added two market-share percentage points. By breaking out markets, Del Monte Vice-President Fernando R. Gumucio claims that the big food company is getting "much more marketing productivity."

Sears, Penney, and other leading merchants also are sharpening their Southern focus. Throughout the South, they are adding more and more stores, distribution centers, and special regional merchandise. With an eye on Southern population projections, Montgomery Ward & Co. even changed its en-

tire regional structure in 1972. By splitting its Eastern region in half, Ward added a fifth regional organization for the Southeast. During the next five years, Ward plans to build 12 to 15 stores a year, mostly in the Southeast and Southwest. "Those areas are going to be wall-to-wall people," says an exuberant Frederick H. Veach, who is executive vice-president of corporate development for the Chicago-based retailer. "And we build stores to serve people."

INDUSTRIAL CUSTOMERS, TOO

John R. Wealty, the vice-president who heads the Semiconductor Group of Motorola Inc., says the same thing about industrial customers. Welty's group now divides the country into nine sales regions of nearly equal volume. Recently, says Welty, his Orlando (Fla.) sales manager found his regional volume mushrooming 30% above all other regions. "Ten years ago," says Welty, "Florida was a desert as far as the sales of high-technology electronic components were concerned. Today it is a fast-growing market, as are Alabama, Texas, and other parts of the South. High-technology manufacturing is prospering in the South because talented people want to live there."

That also applies to semiconductor makers themselves. "If one looks back to the mid-50s," Welty says, "you find the center of gravity for the semiconductor industry right around Schenectady, N.Y. It was virtually all there in the Northeast. Today the industry leaders are in Arizona, Texas, and California." Among them are: Texas Instruments, Fairchild, and, of course, Motorola's Semiconductor Group, which is based in Phoenix.

Does this portend an even larger and more massive migration of markets in the coming years? Not necessarily, says Hilton's Dillon. "Certainly there's some drain of resources from the North," Dillon concedes. "But I don't see it as some malady that spells the demise of the great Northern cities. There are still good markets all over the country." For the South, adds George Brown, former director of the Census Bureau and now corporate secretary for the Conference Board, the present market shifts are helping the country to achieve more economic equilibrium. "The South is catching up—that's all," says Brown. "And that has to make our economy and our markets just that much stronger."

ENVIRONMENTAL IMPACT STATEMENTS ON OUR NATIONAL FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 1976

Mr. BROWN of California. Mr. Speaker, I have been a strong supporter of the requirement under the National Environmental Policy Act for the filing of environmental impact statements on proposed plans or decisions by the departments and agencies of the Federal Government. This emphasis on environmental consideration is an important step toward maintaining an ecologically balanced habitat for our citizens.

The U.S. Forest Service has pointed out that their environmental impact statements demonstrate an acceptable level of concern for the effects that timber management decisions have on the forest environment. But I have received copies of comments by the Wildlife Management Institute on specific impact statements which outline many of their serious omissions and areas of neglect with regard to consideration for erosion, wildlife, and proper road construction.

The need for insuring environmental safeguards in our national forest management is becoming more apparent with each passing day. The only way for Congress to do so is through legislation. I ask my colleagues to read the following letters by the Wildlife Management Institute. I firmly believe that if one studies the various documents and information available on present national forest management and the need for reform that one's conclusion would be that stronger guidelines and restrictions are indeed necessary:

WILDLIFE MANAGEMENT INSTITUTE,

Washington, D.C., December 5, 1975.

Mr. SPENCER T. MOORE,

Forest Supervisor, Gifford Pinchot National Forest, Vancouver, Wash.

DEAR MR. MOORE: The Wildlife Management Institute is pleased to comment on the Draft Environmental Statement, Upper Lewis River Planning Unit, Gifford Pinchot National Forest.

Land use planning, and the preparation and selection of management alternatives, has tremendous long range or permanent effects on wildlife. Our remarks will generally be limited to wildlife effects in the plan.

There are three serious omissions from the report that detract from its analytical value and prevent a full and proper consideration of wildlife effects.

The first is lack of knowledge on non-game birds and small mammals utilizing the area and the effects the land management practices will have on wildlife diversity and numbers. It is no longer satisfactory to say that logging will provide diversity and thus help wildlife, when only a few of the species are listed in the statement, and knowledge of habitat requirements is lacking for most. We would suggest that university wildlife students could be employed in the summer to survey the area for species present and their relative abundance.

The second omission is the discussion and careful consideration of the importance of riparian vegetation to wildlife and of the measures required for protecting and enhancing riparian vegetation.

The third omission is lack of emphasis on the values of mature and overmature timber and snags to certain classes of wildlife, and of the effect each of the alternatives will have on the amount and distribution of mature timber and snags. They are mentioned from time to time in the statement, but instead of remarks buried in the text, they should have a discussion section of their own.

None of the alternatives are acceptable, because none provide enough overmature or old growth timber, properly dispersed, to provide habitat for forest birds and mammals requiring such stands. We are talking about stands 150–300 years old that may be cut or salvaged as other stands reach that age and can provide other such habitat. The last paragraph on page 39 and the first paragraph on page 40 mention this as Item 1. We do not advocate extension of rotation age on the whole unit. We do advocate extension of rotation age on sufficient areas (on all altitudes and sites) to provide at least minimum habitat requirements. Loss of old growth timber is recognized in the last sentence, page 37, but is for the most part ignored or glossed over in the statement.

Region 6 has a forward looking snag policy. On the surface this looks like the solution, but we see no real hope of having many snags in 50 to 70 years under any existing programs or the alternative selected. Most areas are scheduled for timber harvest, which will eliminate new snag formation. Repeated logging entry for thinning and other silvicultural tasks will remove the cull, damaged and diseased trees before they can become the tall snags or the soft foraging snags of the future. Even girdling to create snags will not create tall or soft snags in the forest of the future. The only discussion of this is paragraph 2, page 43.

We have made inquiries on the makeup of the Gifford Pinchot interdisciplinary planning team, and are informed that it does not include a wildlife and fisheries member, instead wildlife input is provided by the wildlife biologist assigned to the Forest. We believe wildlife is such an important forest resource that it, like forestry, rates at least one full time professional on an interdisciplinary planning team. Part time participation, no matter how good the professional who does it, will not provide the necessary day to day representation necessary when trade offs are made in the planning process. We appreciate the budgetary constraints under which you must operate; nevertheless, the advantages of a full time wildlife planner are huge. We have observed this across the Columbia River on the Mt. Hood National Forest where wildlife receive constant planning consideration, simply because a wildlife specialist is on the planning team. We urge inclusion of a full time wildlife representative on your planning team.

Some specific comments on the Impact Statement follow:

Page 24, line 2: How much of the 47,740 acres of old growth will remain?

Page 25, items 6 and 7: Soils and water are the basic resources and should be at the top of the list.

Page 29, Recreation, 1st paragraph: Language here, and in some wildlife sections, leads to the impression that most lands reserved for recreation and wildlife are "rough, benchy, or new second growth," and are only left for these uses because they are unsuitable for logging.

Page 29, last paragraph: We wonder why the proposed action makes no recommendation for continuance of berry fields when (on page 89) you list berry picking as the largest single recreation use with up to 270,000 man days of use.

Page 31, 3rd paragraph: Any comprehensive plan for roads and trails should provide for seasonal or permanent closures when necessary to benefit wildlife.

Page 34, Wildlife, 3rd paragraph: An "adequate buffer" strip. How big is adequate? From recent experience we know timber operators and wildlifers have different definitions of "adequate."

Page 35, paragraph 2: How will the roads be managed to limit harassment of wildlife?

Page 43, 3rd paragraph, last sentence: The proposed action *may* not eliminate any species but it will, in the long run, drastically reduce those requiring old growth and snags.

Page 56, Wildlife, 3rd paragraph: The 12,300 acres of old growth retained are again only in areas where logging is impractical. They do not include level lands or other diversity of site!

We are pleased to submit our views on the statement and plan. We are not attempting to be overly critical—the deficiencies we have noted are widespread throughout the Forest Service. Adequate impact statements should face these wildlife impacts in a straightforward manner and, we would hope, make changes in the selected alternatives to benefit wildlife. We can no longer say that good forestry is good wildlife management. Anything done to the land affects different species in different ways. We should all strive to collect the necessary base line data on wildlife, then manage the land to prevent irreversible wildlife damages, and better yet,

to enhance all wildlife habitats possible, while eliminating none.

Sincerely,

DANIEL A. POOLE,
President.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., February 27, 1976.

Mr. RICHARD L. STAUBER,
Acting Forest Superior, Tahoe National Forest, Nevada City, Calif.

DEAR MR. STAUBER: The Wildlife Management Institute is pleased to comment on the Draft Environmental Statement, Truckee-Little Truckee Rivers Planning Unit.

We fully appreciate the complexities of planning in an area of such heavy recreation use and checkerboard ownership. We also understand your problems of maintaining a desirable use mix on national forest lands as some adjacent private lands are developed.

The selected alternative appears to provide uses for almost every need, with the exception of consideration and planning for the nongame birds and mammals that are an important interest for all forest visitors. It is likely that the selected alternative could be made acceptable if it were revised to include substantially more wildlife emphasis. Until that is done, we find the selected alternative unacceptable. All other alternatives also are deficient with respect to the needs of nongame species.

Our objections are based on the following factors:

1. Although there are 200 species of birds and many mammals on the planning unit, there are no provisions to provide habitat, as such, for their requirements. The plan appears to rely entirely on the hope they will be provided for if other uses do not change the vegetation too much. While this may be true in some areas, it does not hold in those areas to be used for commercial timber production. We propose leaving blocks of overmature timber for wildlife needing such habitat. As these trees go out of the picture they would be salvaged and other, but younger, blocks of old growth trees would replace them. Old growth should be available on all sites and aspects of the unit, including commercial timber.

2. Serious consideration should be given to road closures to reduce wildlife harrassment.

3. The area already has heavy off-road vehicle use. Serious efforts should be made to reduce it, rather than to continue it at about the present level as indicated in Table IV. Such use causes not only physical deterioration of the forest, but great harrassment to wildlife. ORV control will be exceptionally difficult because of the ownership pattern, but control should be started and firmly enforced.

4. We were unable to locate any reference or plan to maintain adequate snags for cavity nesting birds and animals. Management plans should contain a positive program and criteria for snags and include methods of providing snags in all parts of the unit, including recreation areas.

5. We would like more detail on how deer winter ranges are to be improved. New research and publications are coming out that list needs for escape and thermal cover of several species. This data should be included in the final environmental statement and in the plan. Cover retention is even more important in areas of interspersed ownership and heavy recreation use, because private lands are most likely to receive emphasis detrimental to wildlife.

6. There is no discussion or plan for retention or improvement of riparian vegetation. This is some of the most valuable wildlife, fisheries and recreation land in the forest. Proper management is every bit as important for riparian vegetation as commercial timber and should be examined in the same detail.

Some specific comments follow:

Page 11, a. 7. This goal provides for "sufficient wildlife habitat of a quantity necessary to insure a desired mixture of types and numbers." This goal is completely unacceptable. It does not include quality or dispersion of habitat, both equally as important as quantity. Who determines the "desired" mixture of types and numbers?

Page 36. "Summer Off-Road Vehicle Use." These paragraphs are a good summary of soil damages. They should be expanded to include wildlife damages and harassment.

Page 52. Much more detail is needed on what species of birds (200) use the area, and what "common" mammals use it.

Page 83. The rationale presented here for selection of the proposed alternative is not adequate. There are other sections scattered throughout the statement giving other reasons. These should be brought together and presented as a clean line of logic leading to the selection. At it now stands, it appears that the plan contains something for everyone. We do not believe an accessible area so near to a large human population can continue to provide such a mix of all uses in the foreseeable future.

Page 86. General management directions #9 on a zoological study for endangered species is good. We believe another direction is needed, one providing habitat studies for nongame wildlife and satisfaction of their needs in all project planning.

Page 88, paragraph 5. Here and elsewhere in the report, sensitive plants should be identified by common, or family, names for the nonbotanist reader. This could be in an appendix.

Pages 94–95. The state line area is an important winter range for deer. A management goal is "protect and improve winter deer range." You propose to allow compatible timber harvest. New research on cover requirements is becoming available. Because new knowledge is showing intricate small unit cover relationships, we must oppose any timber harvest on winter ranges at this time.

Page 156, Table 13. These tables contain valuable use figures on all alternatives. They contain no figures on the values of wildlife viewing. The broad statements on wildlife habitat are not sufficient to even illustrate, let alone compare, the values most people derive from wildlife.

Page 160, Table 15. The acreage proposed for wildlife habitat improvement is small. Another entry on acreage and snags for nongame species should be included.

Page 176, paragraph 2. We disagree that "all alternatives will provide adequate habitat." The analysis of effects do not justify this statement, unit wide diversity is not provided, and habitat requirement knowledge is admitted to the lacking for many species. As written, this paragraph is a hopeful dream, not a reality.

Our sole concern is good wildlife management in any land use plan. We hope you will consider, and include our suggestions on habitat in the plan and in the final statement. Wildlife are the nearest thing this nation has to a universal interest. We urge you to recognize that interest and give all wildlife species the recognition they need and deserve.

Thank you for considering our views.

Sincerely,

DANIEL A. POOLE,
President.

HOUSE OF REPRESENTATIVES—*Wednesday, May 26, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my song, He is my God, my father's God, and I will exalt Him.—Exodus 15: 2.

Eternal God, our Father, who has made and preserved us as a nation, we thank Thee for Thy guidance through the 200 years of our existence and we pray that Thou wilt continue to guide us this year and all the years to come.

Grant that we may never forget the faith of our Founding Fathers who set in motion this glorious land of liberty nor may we ever forget the fortitude of those who lived and died that this country may continue to be free.

Help us now to deepen the morality of our daily living, to develop a high sense of integrity and honor, and to devote ourselves more fully to the best interests of our Republic by learning to live together doing justly, loving mercy, and walking humbly with Thee.

"America! America! God shed His grace on thee, and crown thy good with brotherhood from sea to shining sea." Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. MCFALL). The Chair has examined the Journal of the last day's proceedings and, without objection, announces to the House his approval thereof.

There was no objection.

CALL OF THE HOUSE

Mr. MYERS of Indiana. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. HALEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 305]

Andrews, N.C.	Diggs	Murphy, N.Y.
Annunzio	Edwards, Ala.	Nix
Archer	Erlenborn	O'Neill
Ashley	Esch	Peyser
Bell	Fisher	Railsback
Bergland	Flynt	Rees
Biaggi	Ford, Mich.	Rhodes
Bingham	Giaimo	Riegle
Boggs	Gibbons	Risenhoover
Boland	Green	Rodino
Brademas	Hamilton	Rose
Breckinridge	Harkin	Ruppe
Brooks	Harsha	Santini
Brown, Mich.	Hébert	Sarbanes
Brown, Ohio	Heckler, Mass.	Scheuer
Burlison, Mo.	Hicks	Schneebeli
Burton, Phillip	Hightower	Stanton,
Butler	Hinshaw	James V.
Carter	Hungate	Steelman
Cederberg	Jones, Ala.	Stokes
Clausen,	Karth	Stuckey
Don H.	Landrum	Symms
Clawson, Del	Levitas	Teague
Clay	Litton	Udall
Conlan	McDonald	Vanik
Conyers	Milford	Waxman
Danielson	Miller, Calif.	Weaver
de la Garza	Mills	Wylie
Dellums	Mitchell, Md.	Young, Alaska
Derwinski	Moorhead, Pa.	Young, Ga.
Devine	Morgan	