Regardless of the other crowd
Get A's at the end of the day.

I put forth every effort
To do my very best in school;
I studied all the books I had
I obeyed all the rules

And now the time has come for me
To lay my life's work down;
I feel that I should make a place
For some of our young.

RADIO COMMENTARY ON ABORTION

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 2, 1976

Mr. BUTLER. Mr. Speaker, with reference to the recent debate on the Hyde amendment to the Labor-HEW appropriations bill, I call attention to the following WTOP commentary by James J. Kilpatrick of August 30:

WTOP COMMENTARY

(By James J. Kilpatrick)

There is something especially cruel, pointless, and indefensible in the position taken by the House of Representatives in the latest controversy over abortion. The House is insisting upon an amendment to the pending $57 billion appropriations bill for HEW. The amendment would prohibit the expenditure of Medicaid funds for the purpose of abortions. The Senate has refused to go along.

If the effect of this amendment were absolutely to prohibit abortions anywhere, any time, by anybody, for anybody, perhaps it would make some sense. But Congress has no such power to define abortion as a crime and to impose a sweeping ban. That is the business of the separate States.

What we have here is a misguided proposal to make therapeutic abortions more difficult for the very class of women least able to fend for themselves—the poor women on welfare. The amendment won't prevent them from getting abortions. It will merely drive them into the hands of the underground abortion mills; or it will foster the birth of more unwanted children who will form a new generation of supplicants on the public dole.

No useful public purpose will be served by the House amendment. The money that might be saved will be spent, now or later in aid to families with dependent children. Middle-income and upper-income women, able to afford abortions, will get them. Only the poor will be denied the safety and security of proper medical care. Maybe this is good politics—I doubt it—but it is a mean-spirited act. I hope the House retreats. I'm James J. Kilpatrick.

SENATE—*Tuesday, September 7, 1976*

(Legislative day of Friday, August 27, 1976)

The Senate met at 12 o'clock noon, on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

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

Eternal Father, God of all history, whose goodness and mercy has followed us all our days, and whose love will not let us go, let the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord, our Strength and our Redeemer.

Renew our faith in the victory of Thy purposes. Bring us to a new and simple trust in Thee. Show us the way to directness, to clarity, to simplicity. Deliver us from confused thinking and ambiguous speech. Nourish our minds by the grace and truth of Thy Word. Hold us securely to the eternal verities which make a people great and good and strong.

We pray in the name of that One whose life is the light of the world. 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., September 7, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, September 1, 1976, be approved.

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

COMMITTEE MEETINGS

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet today to consider ambassadorial nominations and S. 3309, authorizing distribution of a USIS film on George Washington, H.R. 14681, investment insurance and guarantees issued by OPIC, and H.R. 14973, the Tiajuana flood control project.

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

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 8 to consider nominations.

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

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on September 8, to consider bills on which final action is assured this Congress.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet on September 8 and 9 to consider the role of U.S. corporations in South Africa.

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

SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on September 8 to consider railroad retirement.

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

SUBCOMMITTEE ON CHILDREN AND YOUTH OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Children and Youth of the Committee on Labor and Public Welfare be authorized to meet on September 8 and 9 concerning children in foster care.

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

SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations be authorized to meet on September 9 and 10 to continue hearings on the Grumman Corp.

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

REQUEST FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO MEET ON SEPTEMBER 14

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 14 to consider black lung legislation.

Mr. GRIFFIN. Mr. President, on behalf of several other Senators, I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

COMMITTEE ON LABOR AND PUBLIC WELFARE AND SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on September 15 on a nomination; and that the Subcommittee on Health of the Committee on Labor and Public Welfare be authorized to meet on September 17 to consider diabetes legislation.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered 1112, 1117, 1120, 1130, 1136, and 1137.

DEL CITY AQUEDUCT

The bill (H.R. 6622) to provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1179), explaining the purposes of the measure.

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

PURPOSE

H.R. 6622 authorizes the Secretary of the Interior to enter into an amendatory contract with the Central Oklahoma Master Conservancy District in order that the Secretary may participate financially in the cost of repairing a defective pipeline installed by the United States as a feature of the Norman project in Oklahoma.

BACKGROUND

The Norman project (authorized in 1960) consists of a multipurpose storage reservoir and a system of pumping plants and aqueducts for delivery of municipal and industrial water to three cities in Central Oklahoma. As soon as the project began water delivery in 1966, breaks began to occur in the 6.2-miles Del City aqueduct, with 84 breaks to date. Responsibility for repairing the pipeline was borne by the contractor until 1972, when the Bureau of Reclamation assumed repair costs as part of a research program to determine the causes of failure. Since then the Bureau of Reclamation has assumed the costs for the repair of 10 breaks in the pipeline.

The Administration, in testimony before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs on June 15, 1976, testified in favor of enactment of H.R. 6622.

ANALYSIS

H.R. 6622 would authorize the Secretary of the Interior to amend the prepayment contract with the Conservancy District in such a way as to contemplate a credit on the district's annual repayment obligation to the United States in an amount determined by the Secretary to represent extraordinary maintenance as distinct from routine maintenance. This determination would be based on an analysis of the maintenance history of a representative sample of comparable projects and would be subject to negotiation with the Conservancy District.

Administration testimony indicated that based on historical records, an average of six breaks will occur in the 36-inch pre-cast concrete pipe each year for the foreseeable future. Average annual costs of the repairs are estimated to be $3,000 and it is anticipated that repairs will be undertaken by the district with the costs being credited toward the annual repayment obligation for the project to the United States.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on H.R. 6622 was held before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs on June 15, 1976.

H.R. 6622 was reported to the floor of the House on September 15, 1975, and was approved by the House in October 6, 1975.

COST AND BUDGETARY CONSIDERATIONS

Pursuant to section 401 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a 5-year cost estimate for H.R. 6622 and the repair of the Del City aqueduct, a feature of the Norman Federal Reclamation project.

It was assumed that the legislation will be enacted during the transition quarter and that repair costs would be paid by the disproved by the House on Ocober 6, 1975.

The cost estimate is derived by estimating the total number of breaks expected in the aqueduct and the average cost to repair a given break. The estimate of the number of breaks is based on the recent historical experience and excludes those expected to occur under normal operating conditions.

The Bureau of Reclamation provided an estimate of the cost of repairing a single break in the Aqueduct based on 1975 price levels. This cost has been adjusted in the estimate for fiscal year 1977 to reflect costs of concrete pipeline based on 1976 price levels. This adjustment was based on Bureau of Reclamation construction cost indices. The adjusted cost for fiscal year 1978, fiscal year 1979, fiscal year 1980, and fiscal year 1981, was based on projected increases in the implicit price deflator for nonresidential structures.

Cost estimate

Revenue loss:	
Fiscal year:	
1977	$3,100
1978	3,300
1979	3,400
1980	3,600
1981	3,800

In accordance with section 252(a) of the Legislative Reorganization Act of 1970, the committee provides the following estimate of costs.

H.R. 6622, as reported by the committee would result in an estimated total reduction in revenue to the Federal Government of $150,000 over the 40-year period of the repayment contract.

McGEE CREEK PROJECT, OKLAHOMA

The Senate proceeded to consider the bill (S. 2194) to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 2, line 1, after "area," insert "a wildlife management area,";

On page 2, line 4, strike "conveyance facilities, public outdoor recreation facilities, and a scenic recreation area." and insert "conveyance facilities and public outdoor recreation facilities.";

On page 2, line 12, strike: "lands as he determines necessary to develop a scenic recreation area adjacent to the McGee Creek Reservoir of not to exceed twenty thousand acres. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic area for the safety, health, protection, and compatible recreational use of the visiting public." and insert in lieu thereof: "lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.";

On page 3, line 3, strike out: "with the State of Oklahoma, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the development of a recreational management plan, and for the management of recreation including the operation and maintenance of the facilities within the area." and insert in lieu thereof: "a non-Federal public body or bodies for operation and maintenance of the scenic recreation and wildlife management areas.";

On page 3, line 23, strike out: "costs: *Provided,* That the costs of the lands and facilities for developing the scenic recreation area, authorized by section 2 of this Act, shall be nonreimbursable." and insert in lieu thereof: "costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 2 of this Act shall be nonreimbursable.".

On page 4, line 5, strike "contract has" and insert "contracts have";

On page 5, line 13, strike "$40,000,000 (January 1975 price levels)" and insert "$83,239,000 (January 1976 price levels)";

So as to make the bill read:

S. 2194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, a wildlife management area, and controlling floods. The principal features of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

SEC. 2. In order to provide for the protection, preservation, use, and enjoyment by the general public of the unique scenic and esthetic values of the existing pristine canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

SEC. 3. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 2 of this Act and may enter into an agreement or agreements a non-Federal public body or bodies for operation and maintenance of the scenic recreation and wildlife management areas.

SEC. 4. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 5. (a) The Secretary is authorized to enter into a contract with a qualified entity or entities for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 2 of this Act shall be nonreimbursable.

(b) Construction of the project shall not be commenced until suitable contracts have been executed by the Secretary with a qualified entity or entities.

(c) Such contract may be entered into without regard to the last sentence of section 9, subsection (c), of the Reclamation Project Act of 1939.

(d) Upon execution of the contract referred to in section 5(a) of this Act, and upon completion of construction of the project, the Secretary shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

(e) Upon execution of the contract referred to in section 5(a) of this Act, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 6. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation area authorized by section 2 of this Act shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 7. There are hereby authorized to be appropriated to defray construction costs of the McGee Creek project the sum of $83,239,000 (January 1976 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project.

The amendments were agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1184) explaining the purposes of the measure.

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

PURPOSE OF THE MEASURE

The purpose of S. 2194 which was introduced on July 28, 1976, by Senators Bartlett and Bellmon of Oklahoma, is to authorize the construction, operation, and maintenance of the McGee Creek project in Atoka County, located in southeastern Oklahoma. Project purposes include provision of a municipal and industrial water supply, flood control, recreation, and fish and wildlife enhancement.

BACKGROUND AND NEED

Studies of projected population and economic growth in the Oklahoma City Standard Metropolitan Statistical Area and Atoka County indicate that demand for water will exceed available supplies before the year 2000, which will require development of additional sources. The Oklahoma City SMSA is located in a relatively dry part of the State and the McGee Creek area has long been considered a potential source of municipal and industrial water. Oklahoma City has filed for and been granted the rights to 40,000 acre feet annually from the McGee Creek Basin by the State of Oklahoma.

Pursuant to Public Law 93–122, the Bureau of Reclamation has prepared an interim feasibility report on the McGee Creek project which was forwarded to the Congress on June 9, 1976. The report was prepared utilizing the guidelines established by the Water Resources Council for multiobjective planning of water resource projects and sets forth four alternative plans for meeting the following identified project objectives: a municipal and industrial water supply for the Oklahoma City SMSA and Atoka County; preservation and management of the ecosystem and natural resources of the McGee Creek Basin; improvement of the economic base of Atoka County; flood protection to agricultural lands; and preservation of water quality. Of the four alternate proposals described in the report, "Plan D" is presented as best meeting the Principle's and Standards for Planning Water and Related Land Resources as prepared by the Water Resources Council.

DESCRIPTION OF THE PROJECT

The recommended project plan provides for the construction of an earth-fill dam on McGee Creek, an auxiliary dike, a pipeline and appurtenant works including a pumping plant for the conveyance of municipal and industrial water to the existing Atoka Reservior approximately 16 miles distant and provision of recreation and fish and wildlife facilities.

A summary of project data is as follows:

McGee Creek Dam: Type, earthfill; height, 156 feet; crest length, 2,300 feet; reservoir capacity, 277,900 acre-feet; surface area, 6,840 acres (maximum).

Auxiliary Dike: Type, earthfill; height, 59 feet; crest length, 4,800 feet.

Delivery System: 630 feet 90 inch concrete pipe; 10.75 miles of 78 inch concrete pipe; 6.6 miles of 72 inch concrete pipe; appurtenant facilities such as pumping plant, surge tank, regulating tank, and control station.

The project will provide an estimated firm yield of 68,000 acre feet of water annually for municipal and industrial purposes. It is anticipated that prior to realization of municipal and industrial demands, surplus waters will be released to McGee Creek thereby enhancing water quality.

Included in Plan D is the proposed acquisition of 10,000 acres for mitigation of wildlife losses and provision of a wildlife management area. In addition, it is proposed that 8,900 acres be acquired in order to preserve an outstanding scenic area adjacent to the reservoir. Testimony during the hearing on S. 2194 advocated preservation of this area because of its natural beauty and pristine character and ability to provide a wilderness-type recreation experience.

FINANCIAL AND ECONOMIC ANALYSIS

The total estimated cost of the McGee Creek project is $83,239,000 based on January 1976 price levels, of which $72,261,000 would be reimbursable with interest for the costs allocated to the municipal and industrial water supply function of the project. The allocation of project costs is as follows:

	Amount	*Percent*
Municipal and industrial water supply	$72,261,000	87
Flood control	1,469,000	2
Fish and wildlife	933,000	1
Recreation	2,397,000	3
Natural and scenic areas	5,339,000	6
Archeology	840,000	1
Total	83,239,000	100

Annual benefits based upon the report prepared by the Bureau of Reclamation are estimated to be $7,241,600 with annual costs estimated to be $5,781,000 resulting in a net beneficial effect of $1,460,000 annually. Based on January 1976 price levels, the estimated benefit cost ratio is 1.2 to 1.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on S. 3394 was held before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee on June 15, 1976. A hearing on a companion measure was held before the House Interior Committee's Subcommittee on Water and Power Resources on June 17, 1976. Authorization of the McGee Creek project was subsequently included in H.R. 14578, a bill to authorize various Federal Reclamation projects and programs, which was reported to the floor of the House on August 3, 1976, and was offered as an amendment to S. 3283, which was approved by the House on August 26, 1976. S. 3283 is presently pending before the Senate Interior and Insular Affairs Committee.

ADMISSION OF ADDITIONAL FOREIGN NATIONALS TO THE COAST GUARD ACADEMY

The Senate proceeded to consider the bill (H.R. 11407) to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy, which had been reported from the Committee on Commerce with an amendment on page 1, beginning with line 9, strike out through page 2, line 13, and insert in lieu thereof:

"(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

"(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted

to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

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 section 195 of title 14, United States Code, is amended to read as follows:

"§ 195. Admission of foreign nationals for instruction; restrictions; conditions

"(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

"(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

"(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

"(d) A person receiving instruction under this section is—

"(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

"(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.".

The amendment was agreed to.

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

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1187) explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to increase the number of foreign nationals who may be admitted to receive instruction at the Coast Guard Academy from the present ceiling of 24 to 36.

BACKGROUND

Under the existing provisions of section 195 of title 14, United States Code, the Secretary of the Department in which the Coast Guard is operating may permit up to four Philippine nationals designated by the President of the United States to receive instruction at the Coast Guard Academy. In addition, the President is authorized to permit 20 citizens of the American Republics to attend the Coast Guard Academy, under the terms of Executive Order 7964, which implements the provisions of section 221 of title 20, United States Code. Executive Order 7964 requires the American Republics to furnsh the pay, allowances, emoluments, and travel funds of persons from those countries attending the Academy, while the provisions of 14 U.S.C. 195 authorizes the United States to fund the pay and allowances for Philippine nationals at the Academy. Under the provisions of the Executive Order 7964, Canadian nationals are not eligible to attend the Academy as nationals of an "American Republic."

H.R. 11407 was introduced in the House of Representatives on January 20, 1976 at the request of the Department of Transportation. As introduced, the bill consolidated the authority of 14 U.S.C. 195 and 20 U.S.C. 221 and its implementing executive order into one section of law. It also authorized the admission to the Coast Guard Academy of 12 additional foreign nations from countries friendly to the United States and included Canadian nationals within the total number of citizens from the American Republics authorized to attend the Academy. Thus the ceiling on the number of foreign nationals attending the Academy at any one time was raised to 36. The provision of 14 U.S.C. 195 regarding the distinction in funding authority between Philippine and other foreign nationals was maintained. The restrictions and conditions imposed on foreign nationals by the terms of 14 U.S.C. 195(c) were unchanged in the House bill.

H.R. 11407 was reported without amendment by the House Committee on Merchant Marine and Fisheries on May 10, 1976 and on May 18, 1976 it passed the House of Representatives without amendment.

COMMITTEE ACTION

The Committee clearly recognizes the value of the training of foreign nationals at U.S. educational institutions. The growing international character of the mission of the U.S. Coast Guard makes the exchange between future Coast Guard officers and their foreign counterparts particularly beneficial to both the United States and other nations. There is also no doubt that the opportunity this training affords citizens of nations without such facilities is extremely valuable. The Committee is in strong accord with the program of foreign national training at the Coast Guard Academy.

On June 17, 1976 the Committee, in open executive session, ordered reported without objection H.R. 11407 with an amendment in the nature of a substitute.

The Committee amendment eliminated the specific geographic and national designations and ceilings therefor. In lieu thereof, the overall ceiling on foreign nationals was consolidated at 36 and the President granted the authority to designate such individuals without geographic limitation. The Committee amendment also substituted for the provision which creates a distinction between Philippine and other foreign nationals in the funding of such training, one which requires all countries whose nationals attend the Academy to agree in advance to reimburse the United States for the costs, including pay and allowances, for such instruction. However, recognizing in certain circumstances it may be in the best interests of the United States to provide such training without cost to a foreign country, authority to waive the agreement for reimbursement is granted to the Secretary.

The Committee amendment provides necesssary and sufficient flexibility to permit the designation of nationals from any foreign country to receive training at the Coast Guard Academy. The amendment recognizes that the expense for foreign trainees should not be borne by the United States but does provide necessary flexibility in that regard.

ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there will be no additional cost to the Federal Government as a result of the enactment of this legislation.

KANOPOLIS UNIT, PICK-SLOAN MISSOURI BASIN, KANSAS

The Senate proceeded to consider the bill (S. 1821) to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis unit of the Pick-Sloan Missouri Basin program, Kansas, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments as follows:

On page 2, line 1, strike "recreation" and insert "recreation, environmental preservation,";

On page 2, line 3, after "Interior" insert "in collaboration with the Secretary of the Army acting through the Chief of Engineers";

On page 3, line 1, after the period, insert the following:

"Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this Act. Costs allocated to environmental preservation shall be nonreimbursable and nonreturnable under Federal reclamation law."

On page 4, beginning with line 4, insert the following:

"SEC. 6. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior."

On page 4, beginning with line 14, strike out all through line 21, and insert in lieu thereof:

"SEC. 7. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the Kanopolis unit the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construcion of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit."

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, the Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and in-

dustrial water supply, fish and wildlife conservation and development, public outdoor recreation, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis North and South Canals, laterals, drains and necessary facilities to effect the aforesaid purposes of the unit.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Kanopolis unit shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213) as amended.

SEC. 3. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contracts shall not exceed 50 years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this Act. Costs allocated to environmental preservation shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 4. For a period of ten years from the date of enactment of this Act, no water from the unit authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment of this Act, no water from the unit authorized by this marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 31, 41), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimburseable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 6. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

SEC. 7. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the Kanopolis unit the sum of $30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reasons of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for postauthorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

Mr. DOLE. Mr. President, as the sponsor of this bill to reauthorize the Kanopolis irrigation district in Kansas, I want to say a few words to my colleagues about its importance to my State. The Senate Interior Committee has, with the concurrence of OMB and the Department of the Interior, reported the measure favorably and, I understand, enthusiastically. Last month, the House of Representatives unanimously approved the project as part of an omnibus authorization bill. I am confident that the Senate will do likewise today.

VALUABLE PROJECT

The Kanopolis irrigation proposal is expected to provide an important water supply for some 20,000 acres of land immediately below the existing Kanopolis Reservoir, which was constructed in 1948. Currently, this valuable grain and cattle land is watered by undependable ground water and river-flow sources. Indications are that the unit would also prove to be a significant source of municipal and industrial water supply for surrounding communities, including Salina and McPherson, and that it would have a favorable impact on wildlife habitation in the area.

It is my understanding that, in weighing the relative benefits and costs of this proposed irrigation project, the Bureau of Reclamation has computed a "b/c ratio" of 3.54/1, which is exceptionally favorable by most project standards. In fact, the Bureau has advised that annual benefits for the project would exceed estimated annual costs by some $5,390,-200. Just as significant, from a cost perspective, is the fact that future water users in the Kanopolis irrigation district would be able to repay approximately 78 percent of the total project construction cost of $26,530,000. This factor is especially reassuring at a time when sincere efforts are being made to place restraints on Federal expenditures in Washington. I am convinced, therefore, of the economic justification for, and the soundness of, the Kanopolis project.

NEED TO EXPEDITE APPROVAL

The principal threat to the Kanopolis irrigation project is, and has been for some time, the simple factor of delay. I and several of my colleagues in the Kansas delegation have supported this project for more than a decade, and we have been disappointed to see the necessary authorization repeatedly postponed.

Fortunately, it now appears that approval will be forthcoming during this session of Congress. The Bureau of Reclamation and the Army Corps of Engineers have worked closely together in preparing the feasibility report and proposed draft environmental statement which have been favorably reviewed by appropriate Federal agencies here in Washington, as well as by interested State and local officials. Support for the project has been duly registered by the Governor of Kansas and by the Kansas Water Resources Board.

LITTLE THREAT TO WILDLIFE

The anticipated loss of some surrounding areas of wildlife habitat would, I understand, be partially compensated for through agreements with the Corps of Engineers for the Kansas Forestry, Fish and Game Commission to manage certain Federal lands within the reservoir rights-of-way for wildlife purposes. Also, acquisition of an additional 350 acres of private land within the reservoir rights-of-way is provided for. The Fish and Wildlife Service has itself advised that there is no indication that development of this project would modify or destroy any endangered species' habitat.

CONCERNS ANSWERED

I am aware of earlier concern among some area residents that development of irrigation facilities would affect the level of Kanopolis Reservoir to such an extent that flood control and recreational functions might be impaired. The Department of the Interior has discounted such fears, however, pointing out that a portion of the flood control responsibility could be easily transferred to the existing Cedar Bluff Reservoir upstream on the Smoky Hill River. The Bureau also indicates that Kanopolis Reservoir should not be subject to drawdown conditions sufficient to harm recreational opportunities. Both of these factors should be watched carefully, I believe, as development of the unit proceeds.

In addition, an analysis of the possible effects on water quality has been coordinated with the Environmental Protection Agency. The EPA has determined that the operation for a municipal and industrial water supply and the return flows from the irrigated land would not pose any significant water quality problems in the Smoky Hill River basin. Careful monitoring should insure the safety of the water quality.

CONCLUSION

In closing, I want to emphasize to my colleagues the important job-producing and food-producing impact of this irrigation project. Situated in the heart of our Nation's cattle and wheat country, farms in the area promise to provide important food supplies for the Nation in the years ahead. Preliminary studies indicate that this unit will have valuable potential as a source of water for these supplies and it is estimated that the net farm income in the irrigation district will be increased by more than $2.5 million annually as a result of this project.

I am confident that the Senate will see fit to approve this project today, and I intend to carefully monitor development of the Kanopolis irrigation project through its completion.

The amendments were agreed to.

The bill was ordered to be engrossed

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1196), explaining the purposes of the measure.

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

EXCERPT

PURPOSE OF THE MEASURE

The purpose of S. 1821, which was introduced on May 22, 1975, by Senator Dole of Kansas, is to authorize the Secretary of the Interior to construct, operate, and maintain the Kanopolis reclamation project in central Kansas in order to provide a municipal and industrial water supply for the City of Salina and the State of Kansas, an irrigation supply for 20,000 acres, conservation stream flows, and project-related recreational facilities.

BACKGROUND AND NEED

The Proposed Kanopolis unit is located in central Kansas on the Smokey Hill River. Kanopolis Dam and Lake is an existing Corps of Engineers single purpose facility and was authorized as a flood control project by the Flood Control Acts of 1944 and 1946. However, Public Law 88–442 of August 14, 1964, was enacted which requires that all units of the Pick-Sloan Missouri River Program (which includes the Kanopolis Unit) not under construction as of that date must be specifically authorized by Congress; hence the introduction of S. 1821.

In anticipation of the construction of the Kanopolis reclamation project, the Corps of Engineers and the Bureau of Reclamation reached an agreement in 1949 whereby the Bureau of Reclamation would include in the then-authorized upstream Cedar Bluff Reservoir, 191,860 acre feet of flood control storage in exchange of the right to utilize 162,500 acre feet of storage in the Kanopolis reservoir. The Bureau of Reclamation's Cedar Bluff Reservoir was completed in 1951, and the agreed-upon flood storage has been made available for control of floods in the Smokey Hill, Kansas, and Missouri River System.

The Bureau of Reclamation, pursuant to Public Law 89–561, has completed a feasibility investigation of the Kanopolis Unit which became available for examination in February, 1976. The Principles and Standards for Planning Water and Related Land Resources developed by the Water Resources Council as well as the Bureau of Reclamation's multiobjective planning procedures were used in developing the report on the Kanopolis Unit. During the planning process, several alternative proposals were examined which lead to the formulation of the "recommended plan" as contained in the feasibility investigation.

The proposed project will provide a municipal and industrial water supply judged adequate to meet the projected needs for the City of Salina for the next thirty years. In addition, a full service water supply for 20,000 irrigated acres will contribute significantly to the local and regional economy. Testimony on S. 1821 indicated strong support for the contribution to water quality downstream from the Kanopolis Dam that would be made as part of the projected operational schedule for the Dam and Reservoir.

DESCRIPTION OF THE PROJECT

The recommended project plan calls for the conversion of the presently single-purpose Kanopolis Dam and Reservoir into a multi-purpose project directed to meet a variety of needs. Minor modifications are proposed for the dam with principal project features consisting of 42.5 miles of main service canal and 76 miles of laterals with appurtenant control structures and relift pumping plants necessary to serve 20,000 acres of prime agricultural lands downstream from the reservoir. Soil types are excellent, about 4,500 acres are Class I lands; 7,600 acres are Class II; and 4,400 acres are Class III. The remaining 3,500 acres are presently considered Class IV because of the need for pumping facilities to serve them. With water made available they will be comparable to Class I lands in productivity. Of particular note will be the conversion of the cropping pattern which presently produces 50 bushels of sorghum or 30 bushels of wheat per unirrigated acre to the production of corn at an estimated 118 bushels per acre with irrigation water.

Municipal and industrial water supplies will be released from Kanopolis Dam to the Smokey Hill River for later diversion near the point of consumption.

FINANCIAL AND ECONOMIC ANALYSIS

The total estimated cost of the Kanopolis project is $30,900,000 based on January 1976 price levels. The allocation of project costs is as follows:

Flood control	$1,423,000
Irrigation	26,052,000
Municipal and industrial water supply	1,832,300
Fish and wildlife	112,000
Environmental preservation	420,000
Preauthorized studies	1,060,000

Costs allocated to irrigation are reimbursable without interest in keeping with Reclamation Law. Agricultural water users of the Kanopolis unit will repay over the allowable fifty-year period approximately $19,850,000 or over 76 percent of the irrigation allocation. The Committee notes that this is one of the highest repayment ratios encountered on an irrigation project in recent years.

Costs associated with the provision of a municipal and industrial water supply will be repaid with interest while costs for fish and wildlife and environmental preservation will be nonreimbursable.

Annual benefits based upon the report prepared by the Bureau of Reclamation are estimated to be $8,214,200 with annual costs estimated to be $2,824,000 resulting in a net beneficial effect of $5,390,200 annually. Based on January 1976 price levels, the estimated benefit cost ratio is 3.54 to 1 which the Committee notes is unusually high.

LEGISLATIVE HISTORY

A hearing to take public and Administration testimony on S. 1821 was held before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee on May 6, 1976. A hearing on a companion measure was held before the House Interior Committee's Subcommittee on Water and Power Resources on April 27, 1976. Authorization of the Kanopolis Unit was subsequently included in H.R. 14678, a bill to authorize various Federal Reclamation projects and programs, which was reported to the floor of the House on August 3, 1976, and was offered as an amendment to S. 3283, which was approved by the House on August 26, 1976. S. 3283 is presently pending before the Senate Interior and Insular Affairs Committee.

COST AND BUDGETARY CONSIDERATIONS

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a five-year cost estimate for the expenditures authorized by S. 1821 and the construction of the Kanopolis Unit. It is assumed that construction would not be initiated until fiscal year 1978 at the earliest and cost estimates have been adjusted to reflect expected future increases.

Fiscal year:	*Expenditures (in millions)*
1978	$0.5
1979	4.5
1980	11.6
1981	10.6
1982	3.7

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970, the Committee provides the following estimate of costs:

S. 1821, as reported by the Committee, would authorize the appropriation of $30,900,000 based on January 1976 price levels.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO S. 3554

The resolution (S. Res. 513) waiving the provisions of section 402(a) of the Congressional Budget Act of 1974 with respect to S. 3554 was considered and agreed to, as follows:

Resolved, That the provisions of section 402(a) of the Congressional Budget Act of 1974 are waived with respect to S. 3554, a bill to establish a National Commission on Neighborhoods.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 3081

The resolution (S. Res. 515) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3081, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) are waived with respect to the consideration of S. 3081, a bill to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes. Such waiver is necessary to permit consideration of statutory authority to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system and thereby encourage States to retain their inspection programs, rather than terminating their programs and obligating the Federal Government to perform the inspection and bear 100 per centum of the costs.

EXECUTIVE P, 94TH CONGRESS, 2D SESSION—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with the Republic of Korea, signed at Seoul June 4, 1976 (Executive P, 94th Cong., 2d sess.), transmitted to the Senate on September 3, 1976, by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention signed at Seoul on June 4, 1976, between the Government of the United States of America and the Government of the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Encouragement of International Trade and Investment, together with a related exchange of notes.

There is no convention on this subject presently in force between the United States and Korea.

The Convention follows generally the form and content of most conventions of this type recently concluded by the United States. Its primary purpose is to identify clearly the tax interests of the two countries to avoid double taxation and to help prevent the illegal evasion of taxation.

For the information of the Senate, I also transmit, a covering report of the Department of State with respect to the Convention.

This Convention would promote closer economic cooperation and more active trade between the United States and Korea.

I urge the Senate to act favorably at an early date on this Convention and its related exchange of notes and to give its advice and consent to ratification.

GERALD R. FORD.

THE WHITE HOUSE, *September 3, 1976.*

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of two additional bills that have been cleared on both sides, calendar orders No. 979 and No. 988.

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

STATE-FEDERAL MEAT AND POULTRY INSPECTION AMENDMENTS

The Senate proceeded to consider the bill (S. 3081) to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with amendment as follows:

On page 2, line 8, strike "89–718" and insert "87–718";

On page 2, beginning with line 11, strike out: "The percentage of the total cost of any cooperative arrangement for meat or poultry inspection purposes to be contributed to any State by the Secretary under this Act shall be equal to the highest percentage contributed to any State under section 301 (a) (3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection or the highest percentage contributed to any State under section 5(a) (3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection.". and insert in lieu thereof:

"The amount to be contributed to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes under this Act in any year shall be that percentage of the estimated cost of such cooperative arrangement for such year equal to the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 301(a) (3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection purposes or the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 5(a) (3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection purposes: *Provided*, That the amount to be contributed in any year to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes entered into under this Act after June 30, 1976, may not exceed 50 per centum of the estimated total cost of the cooperative arrangement.".

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 the second sentence of paragraph (3) of section 301(a) of the Federal Meat Inspection Act, as amended (21 U.S.C. 661(a) (3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

SEC. 2. The second sentence of paragraph (3) of section 5(a) of the Poultry Products Inspection Act, as amended (21 U.S.C. 454(a) (3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

SEC. 3. The Act entitled "An Act to provide further for cooperation with States in administration and enforcement of certain Federal laws" (Public Law 87–718) is amended by adding the following new paragraph at the end thereof:

"The amount to be contributed to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes under this Act in any year shall be that percentage of the estimated cost of such cooperative arrangement for such year equal to the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 301(a) (3) of the Federal Meat Inspection Act in the case of a cooperative arrangement for meat inspection purposes or the highest percentage of the estimated total cost of the cooperative program for such year contributed to any State under section 5(a) (3) of the Poultry Products Inspection Act in the case of a cooperative arrangement for poultry inspection purposes: *Provided*, That the amount to be contributed in any year to any State by the Secretary for the cost of any cooperative arrangement for meat or poultry inspection purposes entered into under this Act after June 30, 1976, may not exceed 50 per centum of the estimated total cost of the cooperative arrangement.".

SEC. 4. The amendments made by this Act shall be effective beginning with the fiscal year which begins October 1, 1976.

Mr. DOLE. Mr. President, the Senator from Kansas rises to support this legislation which increases the amount that may be paid as the Federal Government's share of cooperative meat or poultry inspection programs in the individual States from 50 to 80 percent of the total.

Under provisions of the Federal Meat and Poultry Inspection Acts, the U.S. Department of Agriculture is required to assume responsibility for inspecting intrastate meat or poultry plants in States which are unwilling or unable to conduct an inspection program equal to Federal requirements. At the present time, the Federal Government does all poultry inspection in 21 States. Another 17 States have allowed the Federal Government to take over meat inspection.

The trend has been to let the Federal Government assume meat and poultry inspections since this shifts the cost of inspection from State governments to the Federal Government. State meat inspection programs were either never certified or found not equal to Federal inspection in only six States. The remaining 11 States requested the Federal Government to take over meat inspection. All poultry inspection has been undertaken at the request of individual States.

Mr. President, I believe that many livestock producers and packers would like to maintain State inspection services. However, State governments realize that they would have no direct costs for inspection if they simply let the Federal Government take over.

By the Federal Government's assumption of 80 percent of the inspection costs, State inspection would be a much more viable alternative to many State governments than the current 50 percent of costs they must cover. The Federal Government obviously would also make a smaller total outlay than would be necessary by the complete takeover of all State inspection services.

Legislation to amend section 301 of the Federal Meat Inspection Act and section 5 of the Poultry Products Inspection Act has passed the Senate in both the 92d and 93d Congresses. In both cases this legislation failed to pass the House of Representatives.

I urge the Senate to again approve this legislation.

The amendments were agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1040) explaining the purposes of the measure.

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

EXCERPT

SHORT EXPLANATION

S. 3081 would increase the maximum Federal contribution to the cost of any State meat or poultry inspection system under title III of the Federal Meat Inspection Act, or section 5 of the Poultry Products Inspection

Act, respectively, to 80 percent of such cost. The maximum Federal contribution now authorized in each case is 50 percent.

The bill provides that the new 80–20 cost-sharing formula would—with respect to the Talmadge-Aiken Act (Public Law 87–718)—only apply to cooperative arrangements for meat or poultry inspection purposes entered into on or before June 30, 1976.

BACKGROUND AND NEED FOR LEGISLATION

I.

The Federal Meat Inspection Act and the Poultry Products Inspection Act require the Secretary of Agriculture to inspect the slaughter of certain domestic livestock and poultry and the processing of meat and poultry products. The Secretary has jurisdiction from the time livestock and poultry are received at the slaughtering establishments until the finished products are distributed in commerce to consumers, or otherwise distributed subject of the Acts. The primary objective of these laws is to assure that meat and poultry products distributed to consumers are wholesome, not adulterated, and properly marked, labeled, and packaged.

Poultry and animals are examined for signs of disease or abnormality before slaughter. Following slaughter, each individual carcass and its viscera are scrutinized carefully. This inspection establishes the wholesomeness of carcasses and organs passed for human consumption. Those that do not pass inspection are condemned and destroyed. The magnitude of the overall task can be measured by the number of animals and birds inspected in 1975—over 113 million livestock and 3 billion birds.

Establishments preparing meat and poultry products for sale or distribution in interstate or foreign commerce are required to have Federal inspection unless exempted under the Acts. Those doing intrastate business in certain "nondesignated" States operate under State inspection programs that are required to apply standards at least equal to those under the Federal Acts. Federal inspection is required to be extended to intrastate operations in those "designated" States that do not maintain an inspection program with requirements at least equal to those under the Federal Acts.

During 1975, Federal inspection was provided by the Animal and Plant Health Inspection Service of the Department at 6,782 plants, and supervision was exercised over 5,645 plants under State inspection. To provide the inspection and supervision required by the meat and poultry inspection laws, 9,038 Federal employees and 4,500 State employees were required.

The Department of Agriculture is responsible for applying uniform standards with respect to sanitation, inspection procedures, and product labeling at all plants under Federal inspection. It is also responsible for assessing the effectiveness of State inspection programs to assure that standards at least equal to those under the Federal Meat Inspection Act and the Poultry Products Inspection Act are being applied by the States to meat and poultry establishments under their jurisdiction. In addition, support is extended by the Department to State programs in the form of funds, training, and technical assistance.

II.

Following the amendment of the Federal Meat Inspection Act by the Wholesome Meat Act in December 1967, and following the amendment of the Poultry Products Act in August 1968, considerable efforts were made by all States to develop and maintain—with respect to intrastate operations in the States—meat and poultry products inspection programs having requirements at least equal to the requirements under the Federal Acts. Thirty-three and 26 States, respectively, developed and continue to maintain "at least equal" State meat and poultry inspection programs. Nearly all of these States had inadequate meat and poultry products inspection programs at the time of enactment of the Wholesome Meat Act and the Wholesome Poultry Products Act. That the States were able to develop "at least equal" programs in a short period of time was a significant accomplishment. Most important, it demonstrated their commitment to the partnership approach to Government contained in the Federal Meat and Poultry Products Inspection Acts.

Unfortunately, the Federal Meat and Poultry Products Inspection Acts provide little incentive for States to continue their meat inspection programs; in fact, the Acts provide a financial disincentive. A State must now bear at least 50 percent of the cost of carrying out its inspection program. Since 1971, the Department of Agriculture has been obligated to assume State inspection programs if the State wishes to give up its program. Under the Federal Meat and Poultry Products Inspection Acts, States which are not able to or do not wish to maintain their inspection systems may simply turn those responsibilities over to the Federal Government.

Recent inflation has produced severe budgetary pressures on the States. This inflationary pressure has, in several cases, motivated States to give up their inspection programs. If a State fails to develop and effectively enforce an "at least equal" State program, the Secretary is required to designate the State. Thirty days after such designation is published in the Federal Register, the Federal program and provisions of the Federal Acts apply with respect to inspection of establishments and operations and transactions wholly within the State as provided by the Acts.

Seven States turned their meat programs over to the Department of Agriculture in the past year and six relinquished their poultry inspection programs.

With the assumption of the State of California inspection activities, the Department of Agriculture will be operating the complete meat inspection programs in 17 States and the poultry inspection programs in 24 States. Of the 17 States that have been designated under the Federal Meat Inspection Act in the past 6 years, 11 were designated at the request of the States involved. All of the 24 States designated under the Poultry Products Inspection Act were designated at the request of the individual States.

CHRONOLOGY OF DESIGNATIONS OF STATE MEAT INSPECTION PROGRAMS

States	Date	Reason for designation
North Dakota	June 22, 1970	Failed to meet inspection requirements.
Montana	Apr. 27, 1971	Do.
Minnesota	May 16, 1971	Do.
Nebraska	Oct. 10, 1971	Do.
Kentucky	Jan. 14, 1972	Do.
Oregon	July 1, 1972	Requested designation.
Pennsylvania	July 17, 1972	Failed to maintain inspection requirements.
Missouri	Aug. 18, 1972	Requested designation.
Washington	June 1, 1973	Do.
Nevada	July 1, 1973	Do.
New Jersey	July 1, 1975	Do.
Colorado	do	Do.
New York	July 16, 1975	Do.
Connecticut	Oct. 1, 1975	Do.
Tennessee	do	Do.
Massachusetts	Jan. 12, 1976	Do.
California	Apr. 1, 1976	Do.

CHRONOLOGY OF DESIGNATIONS OF STATE POULTRY INSPECTION PROGRAMS

States	Date	Reason for designation
Arkansas	Jan. 2, 1971	Requested designation.
Colorado	do	Do.
Georgia	do	Do.
Idaho	do	Do.
Maine	do	Do.
Michigan	do	Do.
Minnesota	do	Do.
Montana	do	Do.
West Virginia	do	Do.
North Dakota	do	Do.
Oregon	do	Do.
South Dakota	do	Do.
Utah	do	Do.
Kentucky	Aug. 31, 1971	Do.
Nebraska	do	Do.
Pennsylvania	Oct. 31, 1971	Do.
Missouri	Aug. 18, 1972	Do.
Washington	June 1, 1972	Do.
Nevada	July 1, 1973	Do.
New Jersey	July 1, 1975	Do.
Connecticut	Oct. 1, 1975	Do.
Tennessee	do	Do.
Massachusetts	Jan. 12, 1976	Do.
California	Apr. 1, 1976	Do.

In the absence of legislation increasing the level of Federal assistance, it appears likely that the Federal Government will be required to assume responsibility for inspection in a great many more States.

At its March 4, 1976, meeting, the National Meat and Poultry Inspection Advisory Committee—which is composed of State officials who have responsibility for inspection systems within their States—voted to endorse legislation providing for 80–20 funding and expressed concern to the Department of Agriculture that unless increased financial assistance is provided, the Federal Government may ultimately have to assume responsibility for all or most State inspection systems.

IV.

The bill would also permit an increase in the level of Federal financial assistance under existing cooperative arrangements for meat and poultry inspection entered into pursuant to the Talmadge-Aiken Act (Public Law 87–718).

The Talmadge-Aiken Act authorizes the Secretary of Agriculture, when he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture to attain greater economy in the enforcement of Federal laws and regulations. Many States, in keeping with their interest in participation in consumer protection activities, cooperate in programs under the Talmadge-Aiken Act to assist the Department of Agriculture in performing Federal functions under the Federal Meat Inspection Act and the Poultry Products Inspection Act. The Federal Government presently bears 50 percent of the cost of such Federal programs. Section 3 of the bill provides that the Federal share of such existing cooperative programs would be equal to the highest percentage contributed to any State under the Acts in the cooperative programs for administering State meat or poultry products inspection laws.

COMMITTEE CONSIDERATION

During the 93d Congress, the Senate adopted S. 1201, a bill almost identical to S. 3081, as introduced.

The Subcommittee on Agricultural Research and General Legislation held hearings on a similar bill (S. 1316) on May 26, 1971. The bill was generally favored by witnesses other than the American Meat Institute.

On March 4, 1976, Senator Dole introduced S. 3081. On June 16, 1976, the Committee—meeting in Executive session—considered the bill, amended it in certain respects, and ordered it reported to the Senate.

It is the Committee's hope that increasing the Federal share of meat and poultry in-

spection program expenses to 80 percent will be an incentive to States with existing inspection programs to continue the programs. The increased Federal contribution could also encourage designated States to redevelop their inspection systems.

COST ESTIMATE

I.

The Committee estimates that in fiscal year 1977 the cost of increasing the Federal contribution as provided by S. 3081 would be $16.8 million—30 percent of the estimated total cost of State inspection programs for 1977. Costs for the succeeding four years would depend upon numerous factors, especially the impact of the legislation on discontinued State inspection programs. A change in the funding formula could cause designated States to redevelop their inspection systems. Therefore, accurate estimates are impossible to make. However, the estimates provided by the Congressional Budget Office for fiscal years 1978–1981 approximate, in the Committee's opinion, the maximum increase in Federal expenditures in carrying out S. 3081.

Without greater Federal assistance for State inspection, all the States may discontinue their inspection programs, leaving the Federal Government to bear the whole cost of inspection. The higher Federal contribution authorized by the bill could be expected to encourage States to maintain their inspection systems and, therefore, result in a savings for the Federal Government.

II.

The cost estimate prepared by the Congressional Budget Office reads as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 1, 1976.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 3081, legislation dealing with the Cooperative Meat and Poultry Inspection Program.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 3081.

2. Bill title: Cooperative Meat and Poultry Inspection Program.

3. Purpose of bill: Amends Section 301 of the Federal Meat Inspection Act, as amended, and Section 5 of the Poultry Products Inspection Act, as amended, to increase from 50 to 80 percent the Federal government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes.

4. Cost estimate: Costs are incurred primarily as a result of grants made to States having cooperative meat and/or poultry inspection programs. The funds are used for State and local employee salaries. The increase in Federal costs is shown in the table below.

Increase in Federal Costs Under 80 Percent Formula

Fiscal year:	*Millions*
1977	$16.8
1978	18.4
1979	20.1
1980	22.0
1981	24.2

5. Basis for estimate: In fiscal year 1977, 33 meat and 26 poultry inspection programs will be in effect on a cooperative basis. The Federal cost of these programs is estimated to be $28 million under the 50 percent formula. An 80 percent funding formula in fiscal year 1977 would raise Federal costs to $44.8 million. The fiscal year 1977 costs under both formulas were inflated through fiscal year 1981 using CBO estimates of changes in the Consumer Price Index. The figures in the table represent the net increase that results from moving to an 80 percent formula. The estimate assumes that the number of States participating in cooperative meat and/or poultry inspection programs will remain the same through fiscal year 1981.

6. Estimate comparison: The U.S. Department of Agriculture estimated that the Federal cost for fiscal year 1977 would increase from $33.6 million with the 50 percent formula to $53.8 million with the 80 percent formula, an increase of $20.2 million. The CBO estimate reflects the recent withdrawal of California from the program whereas the Department of Agricultures' estimate does not. The Department did not attempt to project costs beyond fiscal year 1977.

7. Previous CBO estimate: None.

8. Estimate prepared by: Kathleen E. Montgomery.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

III.

According to the Department of Agriculture, the estimated increased cost of carrying out S. 3081 for fiscal year 1977 would be $20.2 million.

NATIONAL NEIGHBORHOOD POLICY ACT

The bill (S. 3554) to establish a National Commission on Neighborhoods, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Neighborhood Policy Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that existing city neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote that objective.

(b) The Congress further finds that the tendency of public policy incentives to ignore the need to preserve the built environment can no longer be defended, either economically or socially, and must be replaced with explicit policy incentives encouraging conservation of existing neighborhoods. That objective will require a comprehensive review of existing laws, policies, and programs which affect neighborhoods, to assess their impact on neighborhoods, and to recommend modifications where necessary.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is hereby established a commission to be known as the National Commission on Neighborhoods (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members, to be appointed as follows:

(1) two Members of the Senate appointed by the President of the Senate;

(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) sixteen public members appointed by the President of the United States from among persons specially qualified by experience and training to perform the duties of the Commission, at least five of whom shall be elected officers of recognized neighborhood organizations engaged in development and revitalization programs, and at least five of whom shall be elected or appointed officials of local governments involved in preservation programs. The remaining members shall be drawn from outstanding individuals with demonstrated experience in neighborhood revitalization activities, from such fields as finance, business, philanthropic, civic, and educational organizations.

The individuals appointed by the President of the United States shall be selected so as to provide representation to a broad cross section of racial, ethnic, and geographic groups. The two members appointed pursuant to clause (1) may not be members of the same political party, nor may the two members appointed pursuant to clause (2) be members of the same political party. Not more than eight of the members appointed pursuant to clause (3) may be members of the same political party.

(c) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the public members.

(d) The executive director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals recommended by the Commission.

DUTIES

SEC. 4. (a) The Commission shall undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

(1) an analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

(2) an identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

(3) an analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

(4) an assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

(5) an analysis of the impact of poverty and racial conflict on neighborhoods;

(6) an assessment of local and regional development plans and their impact on neighborhoods; and

(7) an evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

(b) The Commission shall make recommendations for modifications in Federal, State, and local laws, policies, and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

(1) new mechanisms to promote reinvestment in existing city neighborhoods;

(2) more effective means of community participation in local governance;

(3) policies to encourage the survival of economically and socially diverse neighborhoods;

(4) policies to prevent such destructive practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

(5) policies to encourage better maintenance and management of existing rental housing;

(6) policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

(7) modification in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

(8) reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

(c) Within two years after the date on which funds first become available to carry out this Act, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

COMPENSATION OF MEMBERS

SEC. 5. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and for other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but at rates not in excess of a maximum rate for GS–18 of the General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including traveltime. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(d) The Commission may award contracts and grants for the purposes of evaluating existing neighborhood revitalization programs and the impact of existing laws on neighborhoods. Awards under this section may be made to—

(1) representatives of legally chartered neighborhood organizations;

(2) public interest organizations which have a demonstrated capability in the area of concern;

(3) universities and other not-for-profit educational organizations.

(e) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this Act; hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereo. Hearings by the Commission will be held in neighborhoods with testimony received from citizen leaders and public officials who are engaged in neighborhood revitalization programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated not to exceed $2,000,000 to carry out this title.

EXPIRATION OF THE COMMISSION

SEC. 8. The Commission shall cease to exist thirty days after the submission of its report under section 4.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1052), explaining the purposes of the measure.

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

EXCERPT

HISTORY OF LEGISLATION

In the course of investigating and devising a remedy for the problem of "red-lining", or the unjustified denial of mortgage credit to older urban neighborhoods, the Committee became increasingly aware of the absence generally of policies, programs, or laws that promote the preservation of existing housing in established city neighborhoods. In many cases, the impact of existing policies deliberately or inadvertently contributes to the decline of our neighborhoods. In the case of mortgage credit, the Committee found a reluctance on the part of some mortgage lenders to lend on older housing in moderate income neighborhoods. Consequently, terms are often more attractive on new suburban housing. Confronted with this dual credit market, many residents who might have stayed were pushed out—or pulled out—of the older neighborhoods.

The Committee believes that other structural allocations of resources exist in the form of subsidies, programs, and habits; taken together, these have the effect of favoring new expansion at the expense of preservation. From the Committee's review of housing programs and policies, preservation of established neighborhoods has been a stepchild of federal policy. There has never been an explicit recognition of established neighborhoods and existing housing as the Nation's principal housing resource. Indeed, as one witness commented, existing housing is not only our main housing resource, it is the largest single component of the country's national wealth.

The Committee held hearings on May 5, 6, 7 and 8, 1975 on the red-lining problem. The Home Mortgage Disclosure Act, which was signed January 2, 1976, should help to deter red-lining. It requires the disclosure, by census tract or zip code, of the number and dollar amount of mortgage loans made by virtually all of the Nation's depository institutions. The first statistics required under that Act will be available September 30.

The Committee believes, however, that availability of credit on equal terms is only one prerequisite for nighborhood preservation. The National Neighborhood Policy Act, introduced by Senators Proxmire and Garn, is intended to address broader issue. A hearing was held June 14 to receive testimony on the bill from representatives of communities where preservation is a major concern, and from Federal, state and local officials familiar with preservation efforts.

SUMMARY OF THE LEGISLATION

The bill includes a congressional finding that existing neighborhoods are a national resource that should be conserved, and that public policy should promote that objective. It further finds that existing policies and programs do not adequately do so.

Section 3 of the bill establishes a National Commission on Neighborhoods which shall have two years to make an assessment of existing policies laws and programs that impact neighborhoods, and to recommend modifications. The recommendations shall include, but not be limited to:

1. New mechanisms to promote reinvestment in existing City neighborhoods.

2. More effective means of community participation in local governance.

3. Policies to encourage the survival of economically and socially diverse neighborhoods.

4. Policies to prevent blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote urban homeownership.

5. Policies to encourage better maintenance and management of existing rental housing.

6. Policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures.

7. Modifications in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods.

8. Reorientation of existing housing and community development programs, and other tax and subsidy policies that affect neighborhoods, to better support preservation objectives.

The legislation provides that the Commission shall have 20 members, including 16 public members appointed by the President and 4 members of Congress. Of the public members, at least 5 must be officers of neighborhood organizations engaged in preservation activities, and 5 must be local public officials involved in preservation programs. The Commission must reflect a broad ethnic, racial, geographic and political diversity.

The Commission's chairman and executive director require Senate confirmation. The Commission may award grants and contracts to carry out its research. Its budget shall be $2 million. Two years after commencing activity, the Commission must make its report to Congress. The Committee also expects an interim report after not more than one year. Thirty days after transmitting its final report, the Commission shall cease to exist.

NEED FOR THE LEGISLATION

In the past, neighborhood preservation has been a very minor component of housing policy. The Committee believes preservation must become its fundamental objective. This cannot be accomplished by piling new programs on top of existing incentives and practices that frustrate preservation. Rather, more successful preservation will require shifts in emphasis in a wide range of policies and programs.

The National Neighborhood Policy Act will provide an official recognition of the importance of preserving neighborhoods, as well as a Commission to assess the impact on neighborhoods of existing policies and programs, and to recommend the necessary changes.

For example, many Federal housing programs historically have been insensitive to the ecology of the neighborhoods into which they intrude. The criticisms of Federal urban renewal and highway building programs as destroyers of neighborhoods are well known. In some communities, careless FHA underwriting and administrative practices have

contributed to abandonment of otherwise viable neighborhoods.

Advocates of greater preservation efforts have also urged that in new construction, Federal policy should require localities to make "in fill" the top priority in their use of subsidized housing programs. Infill refers to new construction on vacant land in established neighborhoods, as a means of shoring up such neighborhoods. Some cities have had great success by using a variety of housing programs (public housing, Sec. 235, urban homesteading, Sec. 312 loans, and direct purchase using state housing bond funds) to acquire abandoned or dilapidated housing units that are blighting otherwise viable neighborhoods, and rehabilitate such units.

The Commission will be in a position both to evaluate the negative aspects of existing programs that affect neighborhoods, and to identify model approaches that could be augmented by appropriate modifications in Federal policies and programs. The Committee expects the Commission to recommend both administrative and legislative measures that will convert Federal housing programs into better allies of housing preservation.

The Commission will also be in a position to assess the impact of the Community Development Block Grant program on neighborhood preservation. At the Committee's hearings, criticisms were voiced by some neighborhood groups that an inadequate portion of these funds may be going for uses consistent with neighborhood preservation. The Commission may find that this is an entirely appropriate decision for local officials to make; or it may find that there should be greater incentives in the block grant program for use of the funds for direct preservation activities. For example, one of the Committee's witnesses urged the Committee to adopt as an incentive a "double dollars" provision, under which HUD would match, dollar for dollar, block grant funds spent on preservation.

Beyond direct subsidy and grant-in-aid programs, Federal policies affect neighborhoods in more subtle ways. The presence or absence of reinvestment incentive for lending institutions affects the availability of loans. So do the policies of secondary market institutions. Lending institutions invest more than a hundred dollars in residential mortgages for every dollar of direct Federal housing aid. The Commission will assess the impact of lending policies on preservation. It may recommend enactment of additional incentives or vehicles, to encourage depository institutions to invest in preservation, or it could recommend creation of a new form of community development bank, or both.

A third area affecting preservation whose significance is often ignored is tax policy. The discussion of the impact of the tax code on housing is usually couched in terms of its stimulus to investment in new construction. Yet the form of tax deductions available to investors in existing rental housing has a great influence on patterns of ownership, quality of management, adequacy of maintenance. Local tax policies have similar affects. Discussions of tax reform have focused largely on tax equity, rather than housing policy. The Commission will be in a unique position to analyze the tax code from the viewpoint of its impact on neighborhood preservation objectives. Is it conducive to good management and maintenance? If not, what modifications would make it more consistent with preservation objectives? Are there exaggerated tax incentives for demolition and speculation. How could these be modified?

Do local tax assessment practices discourage investment in rehabilitation and preservation? Have localities experimented with more appropriate formulas? Have these facilitated preservation? What is the impact on preservation of other local policies, such as zoning, and the provision of basic municipal services and community improvements?

Thus far, most successful neighborhood preservation strategies have leaned heavily on home ownership. This can work well in row house communities or other older neighborhoods with a preponderance of 1–4 family structures well suited to traditional home ownership. But there is also a need to preserve multi-family housing. The Commission will be able to recommend new strategies for fostering preservation of multiple dwellings, including new forms of ownership.

NEIGHBORHOOD HOUSING SERVICES

The Committee commends the Urban Reinvestment Task Force as the single most effective Federal initiative on behalf of neighborhood preservation. The Task Force was a joint creation of HUD and the Federal Home Loan Bank Board, which has now been expanded to include representatives of the other financial regulatory agencies. The Task Force sponsors a program called Neighborhood Housing Services (NHS), with a budget of $2.5 million a year. NHS provides a model for neighborhoods interested in grass roots preservation efforts. As described by William Whiteside, staff director of the Task Force:

"The program has five basic elements. First a group of residents who want to preserve their neighborhood, improve their homes, and who are willing to put in the necessary effort to establish and operate a NHS program. Second, local government which is willing to improve the neighborhood by making the necessary improvements in public amenities and public services and by conducting a sensitive housing inspection program coordinated with NHS activities. Third, a group of financial institutions which agree to reinvest in the neighborhood by making normal market rate loans to homeowners meeting their credit standards which will make tax deductible contributions to the NHS to support its operating cost. Fourth, a high risk revolving loan fund to make loans at flexible rates and terms to residents not meeting commercial credit standards. And fifth, a NHS organization, which is a private, non-profit corporation having a board of directors of which a majority are community residents, along with significant representation from financial institutions, and normally a three-member staff.

"Neighborhood Housing Services programs represent a working partnership of community residents, lenders and local government with each group strongly represented and respectful of the other's position. This partnership must be constructed with the greatest care.

"Key features of the NHS model are: Neighborhood Housing Services is a local program. The program is non-governmental. The program is non-bureaucratic. The program is a self-help effort. The program is not a give-away and the program is concentrated in specific neighborhoods."

The Committee believes the NHS program should be expanded—carefully—in a manner that does not disrupt its unusual virtues, as a nonbureaucratic program which is tailored to fit local circumstances and which builds on what exists, namely the energy and consent of existing community residents as well as the bricks and mortar of existing housing.

As NHS is an unusual program, Mr. Whiteside is apparently a rare bureaucrat: In his testimony before the Committee, he warned against too much funding:

"Our success thus far has resulted from the carefulness of our works and the quality of our staff and that we have acted primarily as a catalyst in stimulating local initiative. Any immediate large scale expansion of the Task Force's activity that would damage these qualities would be counterproductive."

The Committee particularly commends the approach of the Urban Reinvestment Task Force to promote reinvestment by lending institutions in older neighborhoods by bringing together neighborhood voluntary associations with lending institutions and local public officials in a manner that maximizes the positive impact on the preservation of the community. The Committee does not see the Commission as a substitute or a rival to the Urban Reinvestment Task Force, and expects that Neighborhood Housing Services program and other programs of the Task Force will continue as the Commission goes about its work. The Commission would do well to draw on the resources of the Task Force, and it would be highly appropriate for a representative of the Task Force staff to serve on the Commission.

CONCLUSION

The Committee anticipates that the work of the Commission will result in a shift of emphasis in Federal programs that affect cities, in order to make the impact of Federal policies and laws more consistent with the objective of neighborhood preservation that is given official recognition as a national goal in this Act. This will not be accomplished by a single new program, but by a change in emphasis in numerous programs, laws and policies.

The Committee views this as a continuing process, and does not see the Commission's work as a pretext for legislative inaction during the next two years, but as an additional resource that will assist the Congress and the executive branch, both in its final report and in its ongoing work.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. Mr. President, I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, is there an order for the recognition of a Senator this morning?

The ACTING PRESIDENT pro tempore. Under the order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

I yield to the Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

THE PRESIDENT'S BICENTENNIAL LAND HERITAGE PROGRAM

Mr. JACKSON. Mr. President, President Ford's recent announcement of his "Bicentennial Land Heritage Program" appeared, at first, to be a welcome change in the administration's attitude toward national parks and Federal public recreation programs. When the details are examined, however, the new program turns out to be a mix of actions already underway by congressional direction, ostensible support for appropriations after the appropriation progress has been completed, and a large measure of rhetoric.

The Interior Committee, on a bipartisan basis, has struggled against the administration for 3 years to achieve an increase in the land and water conservation fund while the President's representatives threatened to veto any new spending.

Now, after the budget process is complete, after the battles are over, after

the administration has insisted on every cut in funding for land acquisition, operations, maintenance and personnel it could get, now the administration comes in with a spending package. It is now 4 weeks before adjournment and immediately after the second resolution on the budget has been reported.

The timing of this proposal leads me to believe that the President cynically expects the Congress to fail to act. I cannot accord any sincerity to the action whatsoever.

What about new authorizations? The $1.5 billion which the President says he wants authorized in title I of this measure is already authorized. Section 101 (b) requests authorization of the appropriation of the backlogged land and water fund moneys. That authorization already exists, and what is worse, the backlog exists because this administration refused to request the full amount back in fiscal year 1974 when they requested only $55 million of the $300 million authorized. Only a few weeks ago this administration fought to prevent the appropriation of these same moneys and succeeded.

Section 101(b) also requests authorization for appropriations for the operation of the national park system. The fact is that the act of August 25, 1916, already authorizes those sums and the amounts contained in the President's message are less than one-sixth of what is actually needed according to the National Park Service.

The most appalling part of title I is section 101(b)(2) which would appear to be an initiative to provide needed money for urban open space. In 1961 the open space grant program was established. It fell victim to "the new federalism" of the Nixon years and was folded into the community development block grant program. What this meant was the end of the open-space program. If the President were serious about urban open space, he would administratively revive the open space program and fund it year after year rather than issuing press releases.

The President's reference to doubling the acreage of the national park system was highlighted in the press. This increase is nearly all a matter of designating public lands in Alaska for park purposes. The process of selection was initiated by the Congress in 1970.

Mr. President, with respect to this supplemental appropriation request, I ask unanimous consent that an excerpt from the Interior Committee's submittal to the Budget Committee of March of this year on the fiscal year 1977 budget, and a letter signed by Senator J. BENNETT JOHNSTON, chairman of the Subcommittee on Parks and Recreation, and Senators PAUL J. FANNIN and CLIFFORD P. HANSEN, ranking mineroity members on the full committee and subcommittee, to the Appropriations Committee, supporting the same increases, be printed in the RECORD at the conclusions of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. I offer these materials to show that meeting these needs is critical and has been constantly supported in the Congress. I hope the Congress will approve the supplemental appropriation without the 10-year authorization requested by the President so that the funds are actually spent and not impounded once the elections are over.

Mr. JACKSON. I also submit for the RECORD a copy of the administration's letter of opposition to the enactment of the increases in the Land and Water Conservation Fund. I ask unanimous consent that that be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

EXHIBIT 1

APRIL 26, 1976.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: We are writing to urge your favorable consideration of the recommendations made by the Committee on Interior and Insular Affairs for increased funding for land acquisition by Federal agencies through the Land and Water Conservation Fund and for increased personnel levels and development funds for the National Park Service in the budget for fiscal year 1977.

In the submittal by the Interior Committee to the Budget Committee we indicated that we believe that a significant increase is needed in appropriations from the Land and Water Conservation Fund, specifically (as indicated in footnote 13 on page 20) that the National Park Service should have an additional $120 million, the Forest Service an additional $25 million, and the Fish and Wildlife Service an additional $8.5 million, with the remainder of the present backlogged funds going to the States in grant monies. The Committee justification for personnel and development increases for the National Park Service are contained on pages 45 and 46 of the enclosed report. We believe these funds are also critically needed.

This need has also been recognized by the Budget Committee in its report on the first concurrent resolution on the Budget and is consistent with the proposed levels for function 300.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

PAUL J. FANNIN,
Ranking Minority Member.

J. BENNETT JOHNSTON,
Chairman, Parks and Recreation.

CLIFFORD P. HANSEN,
Ranking Minority Member, Parks and Recreation Subcommittee.

PARKS AND RECREATION SUBCOMMITTEE

NATIONAL PARK SERVICE

The National Park Service has three major areas in which additional budgetary authority is needed: Personnel, land acquisition, and development.

Personnel.—The National Park Service is presently over 1,000 permanent personnel below the authorized ceiling. The closure of Crater Lake National Park last summer was a direct result of the lack of adequate personnel. It is, in fact, remarkable that no deaths have resulted from this situation which applies to all park units. The report of Senator Hatfield on the Crater Lake closure stated:

"Of considerable concern was the lack of adequate staffing at the national park. The entire episode might have been avoided had the park not been understaffed and a permanent employee with the specific responsibility been present rather than having water quality as an additional responsibility of an electrician or painter. The ultimate responsibility for the understaffing rests not with the National Park Service, but rather with the Office of Management and Budget and the Congress. The Crater Lake situation is not unique. Testimony received at oversight hearings on Yellowstone National Park indicated that Yellowstone could use about 130 more permanent staff. That impact of the understanding is that the professionalism and public responsibilities of the Park Service are being sacrificed. They are being sacrificed because the duties must be undertaken by seasonal or temporary personnel or be undertaken by permanent staff with other full time responsibilities, or not be undertaken at all.

"At Crater Lake, for example, there are only 16 permanent employees out of the authorized level of 24. One of the absent staff is a plumber who would have had the full time responsibilities for checking the sewage and water systems and testing the water. Had Crater Lake been adequately staffed, this episode would not have occurred. A quick check of other areas shows that National Capital Parks for example is almost 200 positions short of its authorized level despite the approaching tourist influx to Washington for the Bicentennial.

"Specific park situations vary. North Cascades is 16 percent below authorized level. Coulie Dam is 24 percent below level as is Mount Ranier. Lava Beds Park Service is failing to do the job they are entrusted to do. Whether the missing employees are rangers who could prevent an assault or other crime, a technician who could prevent a Crater Lake incident, or an interpretive specialist who could explain a geologic formation or a flower to a child, the public is being shortchanged. We, the Federal Government, are not doing what we promised the American people when they entrusted us with the care and interpretation of our National Park System. The National Park Service is not the culprit, and it is this Senator's intention to make that point. The Office of Management and Budget is an excess of budgetary zeal has presented the Congress with reduced budgets. The Congress, with all appropriate hand wringing has deplored the state of the economy and acquiesced. The economy is certainly important, but so also is the level of unemployment in this country and the health, safety, and enjoyment of the American people who visit our national parks. We have been as guilty of neglecting the welfare of the American people when we piously accept foolish manpower and funding cuts as when a doctor from the Public Health Service overrules his staff recommendations in favor of more experiments. This problem is all the more serious in this period of high unemployment when the Park Service must turn away dedicated people because the Congress is unwilling to provide funds."

The committee agrees with Senator Hatfield's analysis and urges that the personnel levels be increased immediately to authorized levels. The enormous demands being placed on the Park System, which will be aggravated during this Bicentennial Year, necessitate the immediate hiring of the additional 1,000 personnel. The committee believes that it is unconscionable in a period of high unemployment that the Park Service must turn away qualified and dedicated people and that the public's health, safety, and enjoyment of the national parks should be jeopardized.

Land acquisition.—The backlog in land acquisition for the National Park System exceeds $700 million (some ceilings need to be raised) and is constantly growing due to land price escalation, inflation, and the addition of new units. The failure to fully appropriate the land and water conservation fund (which has been carrying a backlog of $230-plus million for several years) is evidenced at such units as Sleeping Bear Dunes where costs have risen from $19 million when the

unit was authorized in 1970 to $57 million. Similarly, in 1962 Point Reyes would have cost $14 million but will now cost in excess of $57 million also.

The committee recommends an additional $120 million to the Park Service together with 150 new positions to begin to acquire what the Congress promised the American people we would acquire and preserve when the various units were established. It should be noted that no new authorization is needed for this appropriation due to the backlog in the land and water conservation fund from prior years.

Development.—The development backlog of the National Park Service exceeds $2.7 billion of which $1.6 billion is basic repair and rehabilitation, and about $1.1 billion is construction of new facilities mainly at newer units. The condition of facilities and historic sites at many national parks is appalling. The damage to the C. & O. Canal from Hurricane Agnes in 1972, for example, has not yet been repaired. It should be noted that expenditures in this area can have a salutary effect on the private sector providing new employment opportunities in the construction and trade industries. For the most part, new budgetary authority will result in greater outlays in fiscal year 1978 and succeeding years, but the authority should be granted for fiscal year 1977.

CONTINUING PROGRAMS AND COMMITTEE RECOMMENDATIONS—SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

[Dollars in thousands; fiscal years]

Program name	Administering agency(s)/ bureau(s)	Appropriation account No.	Authorization			Budget authority			Outlays		
						President's budget for 1977		Committee recommendation	President's budget for 1977		Committee recommendation
			1975	1976	1977	1976 estimate	1977 estimate		1976 estimate	1977 estimate	
PARKS AND RECREATION SUBCOMMITTEE											
Operation of NPS	NPS	10-24-1036-0-1-303.			Open	$251,736	$272,864	[10] $311,000	$240,834	$273,495	[10] $311,000
Road construction, NPS	NPS	10-24-1037-0-1-303.			Open	0	0	10,000	39,000	22,900	43,000
Planning and construction, NPS	NPS	10-24-1039-0-1-303.			Open	27,215	33,200	[11] 48,20	54,819	54,536	[11] 55,000
Preservation of historic properties	NPS	10-24-1040-0-1-303.	$25,000	$25,000		24,666	14,500	[12] 154,500	17,066	21,000	[12] 154,500
Land and water conservation fund	BOR	10-16-5005-0-2-303.	300,000	536,000	536,000	338,086	330,000	[13] 563,000	300,000	329,000	[13] 563,000

Footnotes 1 to 9 omitted.
[10] Provides for 1,000 persons to meet National Park Service authorized ceiling.
[11] Represents additional authority to let contracts.
[12] This figure reflects $150,000,000 in grants which would be authorized by title II of S. 327.
[13] Increase is for $120,000,000 (150 positions) for NPS; $25,000,000 for Forest Service; $8,500,0 for Fish and Wildlife Service; $124,500,000 to States.

EXHIBIT 2

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 9, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 327, a bill "To amend the Land and Water Conservation Act of 1965 as amended and to establish the National Historic Preservation Fund."

We recommend against the enactment of S. 327 because we believe that such a massive increase in the authorized level of the Fund at this time would jeopardize the Administration's efforts to hold down Federal spending.

Title I of S. 327 would increase the existing $300 million annual income level of the Land and Water Conservation Fund to $1 billion each fiscal year through FY 1989 by utilizing Outer Continental Shelf mineral leasing receipts. The bill would also amend the Land and Water Conservation Fund Act to increase the percentage of the total State allocation available to any one State from 7 percent to 10 percent and allow a State to use up to 50 percent of its share for planning or development projects and up to 70 percent for land acquisition. In addition, the bill would require a State requesting assistance from the Fund to submit its plan to the areawide planning agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and for Title IV of the Intergovernmental Cooperation Act of 1968. The States would also be authorized to use not more than 25 percent of their total annual allocation for the planning and development of sheltered facilities for recreation activities normally pursued outdoors under certain conditions. The bill would also amend the Act to authorize funds for the acquisition of lands for inclusion in the National Wildlife Refuge System administered by the Fish and Wildlife Service of this Department.

Title II would amend Section 108 of the Act of October 15, 1966 (80 Stat. 915) to authorize the Secretary of the Interior to waive the 50 percent matching requirement with respect to Statewide historic preservation plans and project plans, but would require that any such grant not exceed 70 percent of the cost of such plans. In addition, Title II would amend Section 108 of the 1966 Act by creating a separate fund in the Treasury of the United States, termed the "national historic preservation fund," from which appropriations may be made for grant purposes. This fund would comprise $150 million annually derived from revenues due and payable to the United States under the Outer Continental Shelf Lands Act and/or the Act of June 4, 1920, the Mineral Leasing Act.

Title III would require the Presidential appointment and Senate confirmation of the Directors of the Bureau of Land Management, National Park Service and Bureau of Outdoor Recreation as well as the Governor of American Samoa and the Commissioner of Reclamation.

Title IV would authorize the States to use their share of the receipts from oil shale leases on public lands for the planning, construction and maintenance of such public facilities and services as the State legislature may direct. Current law now limits the State's use of such receipts to the construction and maintenance of public roads or for the support of public school or other public educational institutions. We would note that separate legislation (S. 834) similar to Title IV of S. 327 passed the Senate on April 22, 1975.

The Land and Water Conservation Fund Act of 1965 (P.L. 88-578; 78 Stat. 897) established a fund in the United States Treasury to provide a program for (1) the acquisition of lands for federally administered recreation areas; and (2) matching grants to State and local governments for planning, acquisition and development of recreation lands and facilities. The Fund is administered by the Bureau of Outdoor Recreation of this Department and revenues are derived from the sale of Federal surplus real property, the Federal motorboat fuel tax, and Outer Continental Shelf mineral receipts.

The amount of land authorized to be acquired with funds from the IWCF and the value of this land has increased substantially since the enactment of the program. For example, the National Park Service will have approximately $573 million worth of land to acquire after fiscal year 75. This includes over $215 million of land at Big Cypress, Big Thicket, and Cuyahoga National Recreation Area which are areas that the Congress directed that the acquisition be substantially completed within six years.

However, our economy today is plagued by the twin problems of inflation and recession. Unless we develop a strategy both to reduce the rate of inflation and selectively to stimulate recovery, our economy and the high standard of living it has brought us will be imperiled. Meeting our economic goals of recovery and future growth without an eroding inflation rate is a more immediate priority than increasing the funding authorization for these programs.

As you are aware there is $262 million currently authorized for the Land and Water Conservation Fund but not appropriated to date. This amount excludes the $300 million recommended in the President's Budget for 1976. If fiscal policy constraints can be diminished in the future, we could propose as a Departmental budget initiative the use of the approximately $200 million portion of these unappropriated funds which is not needed to repay advances to the Fund to finance the acquisition of authorized lands. This could be done without increasing the authorized level of the Fund at this time.

The Act of October 15, 1966 (80 Stat. 915), was a landmark in this Nation's commitment to preserve the significant aspects of our historic heritage at all levels—Federal, State and local. The 1966 Act authorized matching grants to the States and the National Trust for Historic Preservation in the United States for planning and for projects

having as their purpose the acquisition and development of "any district, site, building, structure, or object that is significant in American history, architecture, archeology, and culture." Since the 1966 Act was passed, a total of more than $52 million has been appropriated for grants to States, and the National Trust, for State, local, and private historic preservation projects and plans. Active projects to preserve historic districts, sites, and structures are now continuing in all 50 States, the District of Columbia, American Samoa, and Guam.

As it was last amended by Public Law 93–54 of July 1, 1973, 87 Stat. 139, the Act authorizes funds for grants only through fiscal year 1976. We have recently transmitted to the 94th Congress a legislative proposal which would amend the existing law to extend the authorization through FY 1978 at the FY 1976 level of $24.4 million.

This recommendation is consistent with the President's moratorium on new Federal spending programs other than those involving energy production, national defense and certain humanitarian efforts, and his stated policy to avoid excessive growth of Federal spending in the long run.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of S. 327 would not be in accord with the President's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, I yield such time as he may need of my remaining time to the distinguished Senator from Louisiana (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. President, if I were the President of the United States and my record were as dismal on the subject of parks and recreation, as is the President's, I would avoid bringing up the subject during this campaign. I would certainly not raise the issue through a new program under the billing of a "bold new initiative."

Mr. President, last week we held hearings on the President's "bold new" program in my Subcommittee on Parks and Recreation, a subcommittee of the Interior and Insular Affairs Committee. What we found was that the President's Bicentennial heritage program, far from being a bold new initiative, is nothing more than a collection of sound, smoke, mirrors, and rhetoric.

Specifically, the President's plan is deafening in its silence on the subject of the Land and Water Conservation Fund Act Amendments of 1976, which bill has been to conference and will soon be considered for final passage by both of the legislative bodies.

I was most interested to know if the President's grand proposal was in lieu of or in addition to these Land and Water Conservation Fund Act amendments. However, Mr. President, the Secretary of the Interior, who is charged with administering these programs, could not answer that question. Indeed, he could neither tell the committee whether the President was going to sign this legislation which is now so close to final passage, nor, for that matter, whether or not he would recommend that the President sign the legislation.

Mr. President, as you probably know, the conferees on the Land and Water Conservation Fund Act amendments have agreed to increase the Fund from $300 million per year, as at present, to $600 million per year in fiscal year 1978; $750 million in fiscal year 1979; and $900 million for each year thereafter through fiscal year 1989. As amended, the act will provide $4.14 billion through 1989 for acquisition of Federal recreation lands, and $6.21 billion in grants to assist States and local governments to purchase park and recreation areas.

In addition, the amendments will provide $100 million each in fiscal years 1978 and 1979 and $150 million each in fiscal years 1980 and 1981 in grants for historic preservation projects.

From what I could glean from Mr. Kleppe's testimony, Mr. President, this "bold new initiative" seeks no additional funding authorization either for the acquisition of parks and recreation areas or for historic preservation grants. Apparently, the President's plan is only a supplemental appropriation request for funds that we long ago authorized him to spend, but which he has consistently refused to spend despite the appeals of this Congress and a number of agencies in his own administration.

The President knows full well that this last minute appropriation request comes at a most inopportune time: only days after the second budget resolution had been marked up in the Budget Committee. His request exceeds his own budget and the budget this Congress has adopted. Nevertheless, Mr. President, I will pledge my full support of this program, and I am sure my colleagues will as well, if we can get a few clarifications from the President.

First, and at a minimum, he ought to immediately promise the American people that he will not veto the Land and Water Conservation Fund Act Amendments of 1976.

Second, he should immediately state that his proposal is merely a supplemental appropriation request in order to avoid any time-consuming jurisdiction disputes which might arise between the committees of Congress.

Third, he should state whether his request exceeds his budget and, if it does, whether he will seek a reduction in appropriations to other Federal programs in order to balance the budget or whether he will seek to increase his own budget.

Fourth, if he will seek to cut other Federal programs, he should specify these programs and the amount of the reductions he will seek.

Again, if President Ford will immediately supply satisfactory information in these four areas, Mr. President, I, and I am sure my colleagues, will work for the passage of this proposal. If he does not, then this proposal is truly without substance, a proposal filled with nothing more than political hypocrisy proffered to the American people here on the very eve of the adjournment of Congress. Indeed, this whole message was sent to us only 23 days before the Congress adjourns. If, indeed, the President is serious, and I seriously doubt that the President is serious in wishing the Congress to pass this legislation, then it is up to him to be forthcoming with the needed additional information.

Mr. President, I ask unanimous consent that a letter, dated April 30, 1976, to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), from the Senator from Louisiana (Mr. JOHNSTON) be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
April 30, 1976.

Hon. ROBERT BYRD,
Chairman, Senate Interior Appropriations Subcommittee, Washington, D.C.

DEAR MR. CHAIRMAN: Recently I wrote you with three of my colleagues on the Senate Interior Committee—Senators Jackson, Fannin, and Hansen—to urge increases in funding for parts of the National Park Service budget in Fiscal Year 1977. That letter was rather brief, and in substance reiterated the conclusions reached by the Interior Committee in its submittal to the Budget Committee. Because I believe strongly that this need is a high national priority, I wanted to elaborate on some of these funding requests.

I would propose that we make the following specific additions to the budget for the National Park Service:

1. Personnel—It is my understanding that the National Park Service is now more than a 1,000 permanent personnel below its required level. The Park Service lacks the men and women it needs to properly maintain the parks; to properly conduct interpretive programs in the parks; to properly provide visitor services and visitor protection; and to properly conduct the administration that is naturally part of a $300 million operation.

The effects of our economizing each year on Park Service personnel are now becoming clear. Senator Hatfield filed an excellent report on the occurrences in one of the National Parks in his state, Crater Lake National Park. He has documented the shortage of personnel at Crater Lake as well as in the National Parks throughout the country. If we had filled a position at Crater Lake with a person who had full responsibility for water quality, as the table for manning in that National Park required, then we could have avoided a situation that threatened the health and safety of many American people who visited that part of our National Park Service.

Because problems like this are much too commonplace, I am requesting that we add the funding for 1,000 personnel in the National Park System in FY 1977. The estimate that I have received from the National Park Service is that the average salary of each of these people is approximately $13,000 and therefore the dollar amount that I would request is $13 million. I am also requesting that we provide in the statute for the additional positions, so that the will of the Congress in this particular area will not be thwarted by personnel ceilings imposed by the Office of Management and Budget after the legislation has passed.

2. Historic Preservation—As you know, for several years now the National Park Service has operated a historical preservation grant program of some $20 million. The President proposes in his budget that this amount be halved—that only $10 million be provided for grants to states for the purpose of historic preservation. It is ironic that the President would propose such a massive reduction in such an important area at the same time that the full Senate has twice passed legislation proposing expenditures of $150 million a year for the next five years; also, it is noteworthy that the President's own authorization request is $20 million.

When we neglect the opportunities that we have in our country for historic preservation, we often forego the opportunity for

such preservation entirely. If we cannot invest funds now in historical structures that require preservation and restoration, it is almost inevitable that those structures will deteriorate to the point where they can no longer be meaningfully preserved. It is for this reason that a far more substantial federal commitment is required at this time.

Even recognizing the budget constraints under which we work this year, I would hope that we could fund the historical preservation grant program in an amount well in excess of last year's figure, particularly in light of the Senate's passing a bill that has such substantial funding levels. As a very minimum, our Committee should maintain last year's funding level.

3. Construction—The proposed budget for the National Park Service includes $57 million in construction projects for next year. This figure represents less than 10% of the total construction needs that presently exist in the National Park Service. Clearly with a need that is so great, we cannot in any single year take more than a few partial steps toward finishing the work that needs to be done. In a year such as 1977, when we face substantial unemployment, I think it would be especially appropriate to increase our investment in National Park construction somewhat. Besides meeting the needs of the National Park Service, this would also be a job creation measure.

Therefore, I would recommend that we include $20 million over the President's budget request for construction projects in the National Parks. I would also recommend that we include in our report specific language that indicates that these projects will be of the type that will be important in terms of job creation. I am aware of correspondence between Congressman Yates and Secretary Kleppe which makes a proposal very similar to the one that I am offering at this time. I believe that this additional $20 million would be a great opportunity not only to enhance facilities in our National Parks but also to put people to work in the most constructive kinds of jobs.

4. Land Acquisition—The President this year has recommended that the normal annual allocation of $300 million from the land and Water Conservation Fund be made. Of this amount it is anticipated that only $77 million will go towards acquisition of land and become part of the National Park System. This will leave an outstanding backlog in land acquisition needs after the 1977 fiscal year of $372 million.

There is presently a backlog of $246 million in the Land and Water Conservation Fund. I would not propose that we appropriate that full amount this year, but I believe that some portion of that money should be made available to the National Park Service so that we can continue land acquisition in major park areas. Specifically, I would recommend that up to $120 million of backlog be appropriated for priority areas as determined by the National Park Service. I make this recommendation in light of the fact that the costs of acquiring parcels for our National Park System are increasing every year. When we delay in buying this year, we will have to pay more for the same land in 1978, and in every subsequent year. Therefore, with a backlog in the Land and Water Conservation Fund, we insure that this money buy the maximum acreage by using it now.

I would also like to indicate at this time that the Senate Interior Committee has favorably reported, and the Senate has passed, pieces of legislation to create National Recreation Areas in the Santa Monica Mountains in California and on Nantucket Island off the coast of Massachusetts. Both of these projects, as well as a project along the Chatahoochee River in Georgia, rely upon a new concept in funding recreational areas. Under this new concept, all of the daily operational responsibility and expense will lie with states and localities after the initial federal investment in new recreational areas.

I believe that this new concept is a critically important one for continuing to develop our recreational resources in this country. Therefore, I think it will be essential that we immediately fund these programs at such time that the authorizing legislation has passed both houses of Congress and has been signed into law by the President. The amounts with which we are dealing are:

Santa Monica—$50 million.

Nantucket—$10 million.

Chatahoochee—$12 million.

I wanted to inform you of these exciting new plans in the park area.

I certainly appreciate your consideration of these proposals, and I trust that the final appropriation measures as passed by the Senate this year will reflect a renewed Federal commitment to do nothing less than what we must do to preserve our natural resources, our historical resources, and to create sufficient recreational opportunities for all Americans.

With kindest personal regards,

Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

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

Mr. JACKSON. I yield for a question.

Mr. NELSON. Mr. President, I have listened with great interest to the remarks of the distinguished chairman of the committee (Mr. JACKSON) and the Senator from Louisiana, and I must admit that I am somewhat perplexed respecting the President's proposal which they have discussed. When I read the President's remarks at Yellowstone Park, I thought that the administration had come around and was going to begin to attempt to undo the damage it has done over the past few years. I would appreciate it if I could have a few points clarified.

The President mentioned that this program would double the acreage in our National Park and Wildlife Refuge System. I do not see any mention of that in the legislation transmitted to the Congress.

I wonder if the Senator from Washington, as chairman of the committee which has the legislative responsibility, would help clarify that point.

Mr. JACKSON. Mr. President, I am happy to respond. The administration legislation has absolutely nothing to do with doubling the acreage of our park and recreation resources. As the Senator remembers, when the Congress was considering the Alaska Native Land Claims Settlement Act, Senator BIBLE and I proposed an amendment to require the Secretary of the Interior to withdraw not to exceed 80 million acres in Alaska for inclusion within the four major recreation and preservation systems. The administration recommendation pursuant to that congressional mandate, would add approximately 32.2 million acres to the National Park System and 31.5 million acres to the National Wildlife Refuge System. These are the areas to which the President apparently referred.

Mr. NELSON. But this is based, then, upon legislative decisions made some time ago?

Mr. JACKSON. That is correct.

Mr. NELSON. Then there are not, despite what the headlines indicated at the time of the President's statement, any new park proposals in this legislation?

Mr. JACKSON. No, there are none. If you examine the 11 areas mentioned in the background information provided by the administration, you will notice that all the areas are already authorized and some were passed despite administration objections.

Mr. NELSON. I remember the fight with the administration especially with respect to Cuyahoga Valley National Recreation Area and the amount of acreage which we felt was imperative for Big Thicket. What the Senator is saying, and I regret that he is right, is that there is nothing in this new program which has not either already occurred or will occur without any further action by the administration. Is that correct?

Mr. JACKSON. The Senator is correct.

Mr. NELSON. I understand that the conference report on the Land and Water Conservation Fund Act Amendments of 1976 has been filed in the House and will be filed in the Senate today. Is that correct? Does the Senator from Louisiana have any comment on that?

Mr. JOHNSTON. That is correct, the report was filed in the House on September 2, 1976, and I am filing the Senate report today. The House, of course, will act first on the report.

Mr. NELSON. Do the amendments provide the $1 billion per year which was in the Senate version of S. 327, pursuant to an amendment I proposed in the last Congress?

Mr. JOHNSTON. No. As the Senator knows, the administration strongly opposed the billion dollar per year funding level. The House version called for incremental increases of the fund to $800,000,000 per year in fiscal year 1980. In conference, over the administration's threats of veto, we were able to raise that funding level to $900,000,000 per year beginning in fiscal year 1980 by an increase in the level of funding to $600,000,000 for fiscal year 1978 and $750,000,000 for fiscal year 1979.

Mr. NELSON. How much will this new funding level provide for the purchase of federal recreation land?

Mr. JOHNSTON. As the Senator knows, 40 percent of the Land and Water Conservation Fund is set aside for acquisition of Federal recreation lands. The fund now provides $120 million each year for Federal acquisition. In fiscal year 1978 that sum will increase to $240 million; in fiscal year 1979, the sum will be $300 million; and in fiscal year 1980 and each year thereafter through fiscal year 1989, there will be $360 million for Federal recreation area acquisition. Through 1989, these amendments will provide a total of $4.14 billion for acquisition of Federal recreational areas.

Mr. NELSON. What is the current cost backlog of already authorized but unacquired Federal recreation lands?

Mr. JOHNSTON. At present there is approximately $3 billion in backlog, and these amendments will provide the money to begin to attack this backlog problem.

Mr. NELSON. Not all of that backlog is in the National Park System, as I recall; is it?

Mr. JOHNSTON. The Senator is correct. Taking into account new areas, land price escalation, and inflation, the National Park System accounts for about one-fourth of the total backlog.

Mr. NELSON. All those funds have been authorized; have they not?

Mr. JOHNSTON. No. As you recall, the Senate just passed an omnibus ceiling, increase for the National Park System which totaled over $60 million. That legislation represents the cost to the taxpayers of the continued intransigence of the administration in refusing to agree to the appropriation of moneys to purchase the threatened lands within our national parks.

Mr. NELSON. The land and water conservation fund amendments also would provide needed grant money to the States, under provisions of current law; would they not?

Mr. JOHNSTON. Yes, absolutely. S. 327 as agreed to in conference would provide a total of $6.12 billion in matching grants over the remaining life of the fund.

Mr. NELSON. It appears that this new "parks bill" is somewhat inconsistent with the administration position in the past on providing needed revenue for national parks; does it not?

Mr. JOHNSTON. The Senator is absolutely right. If anything, that is an understatement. Not only was the President's original budget submission lower than what was needed, the administration blocked any attempt to increase funding to responsible levels.

This new appropriation request barely agrees with the Interior Committee's original request to the Budget Committee made back in March. In fiscal year 1976, for example, the Park Service asked for $397 million for operations, the President budgeted $354 million, and Congress—over administration objections—raised that figure to $364 million. Again, in the new fiscal year beginning October 1, the President asked for $359 million, substantially less than the Park Service had requested, and Congress raised it to $377 million. The Fish and Wildlife Service had a special fund to buy wetlands for migratory birds. Last year, Congress appropriated $7.5 million for the fund and this year $4 million. In both years the Ford administration asked that nothing be appropriated for this purpose.

Mr. NELSON. Well, among other things, I am somewhat confused about the President's request for 2,000 new positions. Will this be in addition to the 942 positions already authorized by Congress?

Mr. JOHNSTON. The President's proposed legislation would appear to request 1,000 persons above the 942 which the Congress has authorized over the last 2 years. You may remember, however, that for fiscal year 1976 the Congress provided 395 new positions for the National Park Service which the President refused to fill. Instead he proposed 400 new positions for fiscal year 1977, in effect an increase of five positions over what he had already been granted. The Congress for fiscal year 1977 provided 548 new permanent positions in addition to the 395 previously authorized. In the subcommittee hearing last Wednesday, Secretary Kleppe assured us that those 548 positions were not included in the 1,000, but old habits are hard to break and I personally would feel better if I received the President's assurance that this is not the same old shell game that we have had for these last few years.

Mr. NELSON. Am I correct, then, after having read the widespread front page publicity in papers all over the United States about the President's proposal to double the park system, there is, in fact, nothing additional or new proposed by the President?

Mr. JOHNSTON. That is correct, and in fact, if the President's program is a substitute for the Land and Water Conservation Fund Amendments of 1976, which are presently ready to be acted on by this Congress and sent to him for signature, then it constitutes a significant step backward, pulling back about halfway from what Congress proposed.

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 exceed 30 minutes, with statements therein limited to 5 minutes each.

SENATE CONCURRENT RESOLUTION 140 THROUGH SENATE CONCURRENT RESOLUTION 176—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. NELSON submitted the following concurrent resolutions:

S. CON. RES. 140

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Korea (transmittal number 7T–51), transmitted on September 1.

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of tanks to Korea (transmittal number 7T–43), transmitted on September 1.

S. CON. RES. 142

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Pakistan (transmittal number 7T–50), transmitted on September 1.

S. CON. RES. 143

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Pakistan (transmittal number 7T–48), transmitted on September 1.

S. CON. RES. 144

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of bombs to Israel (transmittal number 7T–26), transmitted on September 1.

S. CON. RES. 145

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft support to Iran (transmittal number 7T–29), transmitted on September 1.

S. CON. RES. 146

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Iran (transmittal number 7T–28), transmitted on September 1.

S. CON. RES. 147

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of bombs to Israel (transmittal number 7T–41), transmitted on September 1.

S. CON. RES. 148

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Pakistan (transmittal number 7T–49), transmittal on September 1.

S. CON. RES. 149

Resolved by the Senate (the House of Representatives concurring), That pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Pakistan (transmittal number 7T–30), transmittal on September 1.

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of anti-tank weapons to Saudi Arabia (transmittal number 7T–30), transmitted on September 1.

S. CON. RES. 151

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Israel (transmittal number 7T–47), transmitted on September 1.

S. CON. RES. 152

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Norway (transmittal number 7T–42), transmitted on September 1.

S. CON. RES. 153

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of torpedoes to Pakistan (transmittal number 7T–24), transmitted on September 1.

S. CON. RES. 154

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Morocco (transmittal number 7T-17), transmitted on September 1.

S. CON. RES. 155

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft maintenance and training to Germany (transmittal number 7T-45), transmitted on September 1.

S. CON. RES. 156

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Korea (transmittal number 7T-19), transmitted on September 1.

S. CON. RES. 157

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to the Philippines (transmittal number 7T-44), transmitted on September 1.

S. CON. RES. 158

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft and missiles to Singapore (transmittal number 7T-18), transmitted on September 1.

S. CON. RES. 159

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia (transmittal number 7T-20), transmitted on September 1.

S. CON. RES. 160

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia (transmittal number 7T-22), transmitted on September 1.

S. CON. RES. 161

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Saudi Arabia (transmittal number 7T-21), transmitted on September 1.

S. CON. RES. 162

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-46), transmitted September 1.

S. CON. RES. 163

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-32), transmitted on September 1.

S. CON. RES. 164

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Iran (transmittal number 7T-36), transmitted on September 1.

S. CON. RES. 165

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Iran (transmittal number 7T-34), transmitted on September 1.

S. CON. RES. 166

Resolved by the Senate (the House of Representatives concurring), That, purusant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of vehicles to Saudi Arabia (transmittal number 7T-35), transmitted on September 1.

S. CON. RES. 167

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of ammunition to Israel (transmittal number 7T-16), transmitted on September 1.

S. CON. RES. 168

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Israel (transmittal number 7T-27), transmitted on September 1.

S. CON. RES. 169

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of air defense weapons to Saudi Arabia (transmittal number 7T-38) transmitted on September 1.

S. CON. RES. 170

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of torpedoes to Iran (transmittal number 7T-25), transmitted on September 1.

S. CON. RES. 171

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of missiles to Saudi Arabia (transmittal number 7T-15), transmitted on September 1.

S. CON. RES. 172

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of training equipment to Saudia Arabia (transmittal number 7T-40), transmitted on September 1.

S. CON. RES. 173

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Saudia Arabia (transmittal number 7T-37), transmitted on September 1.

S. CON. RES. 174

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of helicopters to Iran (transmittal number 7T-31), transmitted on September 1.

S. CON. RES. 175

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of construction to Saudi Arabia transmittal number 7T-23), transmitted on September 1.

S. CON. RES. 176

Resolved by the Senate (the House of Representatives concurring), That, pursuant to section 36(b) of the Arms Export Control Act, the Congress objects to the proposed sale of aircraft to Australia (transmittal number 7T-33), transmitted on September 1.

Mr. NELSON. Mr. President, I send to the desk 37 concurrent resolutions of objection of Congress, pursuant to section 36(b) of the Arms Export Control Act of the proposed sales to various countries, and ask that they be properly referred.

The PRESIDING OFFICER. The concurrent resolutions will be received and appropriately referred.

Mr. NELSON. Mr. President, over 3 years ago I first offered legislation which eventually formed the basis for the law providing for congressional oversight and veto over the sales of U.S. arms overseas. Today that section of the law—section 36(b) of what is now known as the Arms Control Export Act—is undergoing its most serious test. Today is the first legislative day that Congress can act to examine a disturbing package of 37 separate reports stating that the administration intends to offer to sell arms to 11 separate countries for a total dollar figure of $6.024 billion. On Wednesday evening, September 1, on the eve of Congress traditional Labor Day recess, the President informed Congress of this series of decisions. This single day's work obligates the United States to sell the equivalent of 13.7 percent of all arms sales made by this country in the past quarter century.

The sheer magnitude of this announcement is clearly sufficient cause for Congress to act. But there are other disturbing aspects of the Executive's decision. Starting from the moment Congress received the executive announcement, the clock began ticking toward the 30-day deadline which Congress statutorily has to act to block any or all of these proposed sales. Failure to act means that the sales can go through as proposed by the President. The clock has been ticking over the recess. And today is the first legislative day—the first day that Congress has been in session—since the proposed sales were announced. Now Congress has only 24 days in which to act. This test of the law may very well prove that the statute providing congressional oversight should be amended to adhere to my original proposal—that Congress should have 30 days in which it is in continuous session rather than merely 30 calendar days in order to consider adequately arms sales proposed by the executive branch.

In any case, by introducing resolutions of objection on all 37 reports, I am asking the appropriate committee in Congress, the Committee on Foreign Relations, to hold hearings and call administration witnesses to explore in

detail the underlying rationale for so extensive an arms sales plan to be advanced at this particular moment. The Committee on Foreign Relations is being asked to serve as a brake on this runaway roller-coaster which the executive branch prefers to call its "arms sales policy." In introducing these resolutions on all 37 reports, I do not expect nor wish to see all the sales stopped. Rather, it is intended to avoid prejudicing the case against sales to any single country before hearings have actually been held.

Mr. President, despite the fact that the executive branch has extensive expertise available to evaluate the military, political, and foreign policy implications of its arms sales, it is clear from the history of these sales that we have become the world's leading arms merchant willy nilly without an overall plan or policy and without any careful judgment whether we are serving our national interests and the interests of world peace and stability. It is urgent that Congress become a partner in the evaluation of the overall implications of these latest Administration arms sales proposals.

Mr. President, I am here to question just how well the executive branch has conducted its examination of these plans. Merely observing the manner in which notice of these proposed sales was transmitted to the Committee on Foreign Relations raises disturbing questions. Comparing the orignial laundry list of proposed sales and the resultant individual notifications reveals serious discrepancies, even though both transmissions were prepared by the Department of Defense. For instance, the day after receiving the overall list of offers, the Committee on Foreign Relations was surprised to find in its box an additional arms sales notification to Israel, boosting obligations to that country by something over $72 million. That same communication brought news that the dollar value of proposed arms sales to Saudi Arabia had mysteriously increased by $40 million. In transmittal No. 7T–40 for training equipment to Saudi Arabia, there is $1 million discrepancy between the cover letter and the actual notification. Now DOD may not be disturbed by these clerical errors. After all, $1 million is a drop in the bucket for Saudi Arabia which is planning to buy $702 million worth of FMS goods and services on just this 1 day. But, Mr. President, a $1 million clerical error is at least a good indication that not everything is exactly shipshape in America's arms sales policy. Discovery of these errors should lead us to probe further.

Did the proper authorities in the executive branch really ask all the questions they should have about these sales? Did they really do all their homework? Are they coordinating with one another? What do these sales mean in terms of regional arms races in the various areas to which these weapons are destined? Are these weapons destabilizing by virtue of their offensive capabilities? What provisions have been made to guard against transfer of these weapons to third countries? What is the extent of political commitment implied by U.S. transfer of weapons to these different nations? Are we treating the transfer of weapons to Norway the same as we are treating the transfer of even more sophisticated equipment to Iran? Should we treat the sales to these two very different countries on the same basis?

These are bothersome questions. But not raising them would be a dereliction of duty on the part of Congress and on the part of the executive branch. Foreign military sales constitute major foreign policy decisions involving the United States in military activities.

Making decisions without sufficient deliberation has gotten us into trouble in the past and could easily do so again. Furthermore, the record of the past several years yields disturbing evidence that the conduct of America's arms sales policy is simply in a shambles. The bare statistics for the foreign military sales program tell much of the story why. For some time now, but during the past 6 years in particular, we have witnessed an exponential growth in the volume of military equipment sold abroad by the United States. In fiscal year 1975, U.S. foreign military sales orders totaled $9.5 billion. They dropped slightly in fiscal year 1976 to $8.3 billion, but if last week's announcement stands unchallenged the 1976 fiscal year total will reach $14.4 billion. Only 6 years before, in 1970, the foreign military sales program accounted for less than $1 billion worth of equipment. That means we have increased transfers 14 times in 6 years.

Paralleling this rapid growth in the sheer volume and cost of arms sales has been a steady tendency for the United States to sell increasingly destructive and sophisticated military equipment. We are selling some of our most advanced weapons, even before our own Armed Forces is fully supplied—as in the case of the sale of 80 F–14's to Iran and now in the sale that the President proposes to make of 160 F–16 aircraft to Iran with a total dollar value of $3.8 billion.

Additionally, the major recipients of U.S. arms have dramatically changed. A program originally designed to assist major NATO allies has become the chief means by which many nations of the so-called Third World acquire weapons. More than half of our foreign military sales in recent years have been made to nations of the newly oil-rich Persian Gulf and Mideast. Such sales have major foreign policy implications, but there is little if any evidence that the administration has given adequate thought to the long-range diplomatic or military consequences of such weapons transfers.

A recent study conducted by the Committee on Foreign Relations reports that President Nixon in May 1972 gave Iran an open-ended commitment to buy "virtually any conventional weapons it wanted." The report concluded, "to let Iran buy anything it wanted effectively exempted Iran from arms sales review processes in the State and Defense Departments. This lack of policy review on individual sales requests inhibited any inclinations in the Embassy, the U.S. military mission in Iran—ARMISH-MAAG—or desk officers in State and DOD to assert control over day-to-day events."

This willy-nilly selling to the Shah has locked us into a commitment which I warned about back in 1974 when I was still fighting for the first step toward congressional oversight in the arms sales area. At that time, I stated that:

> Selling to Iran means more than just a fast buck for U.S. defense contractors or a shot in the arm for the U.S. trade balance. It means we are deeply involving U.S. military in the military future of Iran—a nation to which under a 1959 agreement, the United States is committed to "take such appropriate action, including the use of armed forces, as may be mutually agreed upon." We are pouring rivers of sophisticated arms into a nation whose dubious military adventures include the occupation in 1971 of three small strategically located islands at the entrance to the Persian Gulf, which the Arabs in the area also claim.

Today, in light of the Iran report by the Foreign Relations Committee, that statement delivered 2 years ago has proved sadly prophetic. States the committee report:

> The U.S. having sold sophisticated arms in large quantities to Iran, has assumed a growing and significant "commitment" in terms of supporting that equipment. . . .

And lest the Iran report overshadow the entire U.S. arms sales program, let me remind my colleagues of a statement of a U.S. military official which I quoted back in 1974 regarding U.S. arms sales policy toward Saudi Arabia. The statement about Saudi-American relations is practically a paraphrase of the U.S. policy toward Iran:

> I do not know of anything that is nonnuclear that we would not give the Saudis.

Commenting on our policy then, I described "an incredible policy which attempts to be 'even-handed' in the Middle East but which boggles the mind for its shortsightedness. The same policymakers in our Government who approve sales to Iran are also pushing sales to the Arab powers in the Persian Gulf region—Saudi Arabia and Kuwait—thus fueling the arms race."

What has the administration done to analyze the long-term commitments and consequences of these sales besides approving more sales? Where are its studies to confirm or deny the fears I expressed several years ago? It would seem that the administration has been too busy making sales to bother about making policy. Indeed the sum total of ad hoc decisions appears to be its only policy. For whatever reasons, it simply has not gotten around to analyzing and forecasting the future implications of its sales program. Since May of last year, the executive branch has been batting around a NSSM—National Security Staff Memorandum—on the subject. The study has apparently been abandoned after bogging down in the bureaucratic echelon below the Secretary of State level. It would appear that that will also be the fate of a comprehensive study in the Persian Gulf which has been in the works for months. In any case, the lack of a comprehensive analysis and a lack of coherent planning has not hampered the

arms sales momentum which has reached breakneck speed.

In light of the administration's shocking record on arms sales, it will take a great deal of convincing to prove to me that the United States must commit itself this month to sell 160 F–16's to Iran. Telling Congress that this decision is in the national interest just will not wash. The public is still digesting the mounting evidence that several years ago a President acting practically alone—save for the assistance of the commercial arms salesmen and their agents who may have employed bribery—set the stage for the sale of the 80 F–14's to Iran.

Mr. President, clearly Congress must act to impose a more cautious note in our arms sales policy. The President has demonstrated that he is incapable of so acting by sending up his Labor Day packet. The chaotic manner in which his announcement was delivered reveals a deeper chaos in his arms sales program which only a responsible Congress can now temper.

Mr. President, I ask unanimous consent that an editorial from this morning's Washington Post, entitled "A Congressional Test on Arms Sales," an article from Harvard magazine of June 1976, entitled "America the Arsenal!" and an article from Newsweek of September 6, 1976, entitled "Anatomy of the Arms Trade," be printed in the RECORD.

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

[From the Washington Post, Sept. 7, 1976]

A CONGRESSIONAL TEST ON ARMS SALES

Rising apprehension over the sale of American arms abroad lends special significance to the hearing that a Senate subcommittee has scheduled on the proposed $3.8 billion sale of sophisticated F–16 jet fighters to Iran. For Iran two years ago from the oil-price increases revenues finally commensurate with its military ambitions. It has been buying arms with a kind of drunken fervor.

The administration has been coasting on the premise that Iran's good will in oil, diplomacy and strategy—not to speak of the billions in proceeds from the sales—is sufficient cause to continue this extraordinary supply relationship. If officials have pondered what Iran's larger purposes might be, or what risks the United States might be taking sponsoring Iran's arsenal and providing the thousands of technicians to make it work, they have kept their puzzlement to themselves. There are reports that in addition to some $10 billion worth of military hardware and services already sold, Secretary of State Kissinger discussed another whopping package on his recent trip to Teheran. The new F–16 item is apparently a part of it.

Just this year, in belated response to just such apparent arms orgies, Congress enacted legislation giving itself new powers to review executive-sponsored commercial arms sales. This is the category in which the huge deals with Iran, and the Arabs, are made. Previously, legislators had tended to limit their concern to the now relatively smaller category of deals in which the U.S. government plays a financial part. It is under the new legislation, which gives Congress 30 days in which to disapprove a sale, that the Senate foreign relations aid subcommittee is preparing a hearing on the F–16s.

The time is relatively short in which the Congress can draft an intelligent questionnaire. Any useful inquiry, for instance, must go beyond hand-wringing into exploration of the whole broad range of policies, commitments and interests of which this projected sale is but one part. It is rather like trying to shoe a running horse. Yet the beast must be slowed and the effort made, if the Congrss is to exercise in practice the powers and responsibilities it is so eager to claim in theory. This is an important test.

Characteristically, the administration, having removed the restraints from its arms sales to the oil-happy states in greater or lesser degree, is muttering in dark dismay now that the Congress is finally trying to catch up. Rather than concede earlier fault, the administration complains that the Congress is rudely butting in. It's true. But there's no choice. In a runaway situation, restoring policy to the kind of reasonable standard which will command an informed Washington-wide consensus is tough going. It not only requires a blending of complex policy factors. It also forces a confrontation of institutions, as the one attempts to share power in an area which the other is accustomed to regarding as its private preserve. That is why the F–16 hearing, which touches just one arms deal among many that the administration has in train, cannot be the end of the road.

Like other foreign governments, Iran is troubled to find that it must deal increasingly with several often competing sources of power in Washington. It feels it entered in good faith into a relationship with the appropriate American authority, and it is tempted to question the motives as well as the judgment of the party now trying to get into the act. One almost begins to pity poor Iran, and poor Saudi Arabia, which is in the Sidewinder missile market, or would like to be, in a big way—and poor Who's Next. But there is a larger moral to all this. The executive must be readier to share its power with Congress. The Congress, in turn, must accept the broader "executive" context in which decisions on particular arms deals must be made. And even then, foreign buyers accustomed to working within the frame of a rigidly authoritarian government (as most of our arms buyers tend to be) will have to take into account the fact that when they are doing business with the United States, they are dealing with a free-wheeling political system that cannot always guarantee a final, authoritative, and irreversible answer.

[From Harvard magazine, June 1976]

AMERICA THE ARSENAL: WHAT SHOULD U.S. ARMS-TRADE POLICY BE?

(By Anne Hessing Cahn)

Why should we concern ourselves with America's arms-trade policy? After all, there is nothing new about arms trading.

Throughout history, few nations or groups of people have perceived themselves as self-sufficient in producing the weapons they felt necessary to pursue their interests; an arms trade between neighbors, tribes, clans, or nations is as old as warfare itself. In the Bible, we find not only arms transfers, but all the ancillary aspects of trade restrictions, competition, and maintenance of equipment. The First Book of Samuel, in chapter 13 (19–22), relates:

"Now there was no smith found throughout all the land of Israel: for the Philistines said, Lest the Hebrews make them swords or spears:

"But all the Israelites went down to the Philistines, to sharpen every man his share, and his coulter, and his ax, and his mattock.

"Yet they had a file for the mattocks, and for the coulters, and for the forks, and for the axes, and to sharpen the goads.

"So it came to pass in the day of battle, that there was neither sword nor spear found in the hand of any of the people that were with Saul and Jonathan: but with Saul and with Jonathan his son was there found."

The United States has been sending military advisers abroad for over a hundred years. In 1869, American military advisers were in Egypt, and in 1885, military officers were sent to Korea. What is new, and what makes the subject worthy of our attention, is the extraordinary rate of growth in arms trade. In 1961, worldwide trade in arms involved $2.4 billion; last year, total orders exceeded $20-billions' worth, nearly a tenfold increase in fourteen years.

The United States has aptly been called the General Motors of this industry, with weapons transactions yielding well over $10 billion for each of the last two years. The Soviet Union lags far behind, with sales of about $5 billion, followed by France with $4 billion and Great Britain selling about $1.5-billions' worth. These four nations are responsible for nearly 90 percent of the world's total arms sales. But a study conducted by the Arms Control and Disarmament Agency found that between 1961 and 1971, 57 nations each exported at least half a million dollars' worth of weapons, and 113 countries imported arms valued at a similar amount. So it is a multiplayer game we are trying to understand.

The increase in arms sales has been very rapid. In 1970, the United States sold approximately $1-billions' worth of weapons. By fiscal 1973, this had tripled to $3.8 billion, and the following year it tripled once more to over $10 billion. Any instrument of United States policy that grows so dramatically over such a short period of time should be of concern to the citizenry.

Most of us would assume that such a shift—which, as Thomas Hughes of the Carnegie Endowment for International Peace recently wrote, has turned America from the arsenal of democracy into just the arsenal—would be the result of rational governmental decision-making. One would think that the policy would be carefully scrutinized by all the executive agencies involved (in this case, the State Department, the Department of Defense, the Treasury, and the Commerce and the Arms Control and Disarmament Agencies) prior to making commitments to foreign governments. Further, one might expect that the military, technical, political, strategic, and arms-control implications of major transactions would be thoroughly communicated both to Congress and to the American people. In fact, none of these conditions has been met. Despite a tenfold dollar increase in four years, no government-wide policy study has been issued; no "white paper" on arms sales has been made public. The famous National Security Study Memorandum was not even initiated until May 1975, which was after the United States had signed orders to sell over $25-billions' worth of weapons within a four-year time span. As an indication of the lack of urgency with which the subject of arms trade is considered by this Administration, that study is still continuing, a year later.

Thus, another reason for concern about America's arms-trading policies is that the policy-making machinery within the executive branch has collapsed. Sales decisions are devoid of serious assessments of the risks, benefits, or long-range implications of arms races. We are witnessing ad hoc decision-making with elements of a "satchel" philosophy, by which visiting heads of state are not allowed to return home empty-handed, but are sold or given a helicopter or a few missiles as "goodwill" gestures. Contemporary decisions seem also to be heavily based on the competition principle—if we do not sell the planes, tanks, or widgets, the British, French, or Russians will. And there are balance-of-payments considerations, too.

But adding up these disparate elements leaves us far short of a well-articulated policy publicly debated and widely discussed.

Yet another reason for concern is the sophistication of the weapons being traded today. In the past, we, and other supplier nations, used to sell or give away our second-hand, obsolete weapons (last year's models, as it were), as part of a program to update and modernize the inventories of our own forces. Now we are selling front-line technology hot off the drawing boards. For example, the Bell gunship helicopter ordered by Iran, which can fire cannon, rockets, and antitank missiles, is more advanced than any helicopter now in the United States forces; these helicopters will be delivered to Iran at the same time they are introduced into our own armed forces. The Tow antitank missile, which was made available to Israel in just the last two days of the Yom Kippur War, is now being exported to twenty countries. The Russians have supplied and trained Arab countries with similar types of weapons.

Our own military is beginning to question the wisdom of this headlong rush to sell our latest weaponry abroad. Defense Department officials now worry about the combat readiness of our own forces because of our extensive sales from existing inventories.

Training foreign armed forces to use, maintain, and repair the huge quantity of planes, ships, tanks, and missiles that are beginning to flow across the seas will require a large commitment of United States military and civilian personnel abroad. Our own all-volunteer armed forces are finding that they will have to compete with foreign governments for these highly trained personnel.

The manner in which the subject of United States advisers overseas was communicated to Congress and to the public illustrates the need for concern. The initial public announcement in February 1975 of the $77-million contract awarded to the Vinnell Corporation to train the Saudi Arabian national guard did not identify the country in which the Americans would be working nor the nature of their jobs. When the information was given to Congress, it was on a classified basis.

Similarly, the agreement between Iran and Rockwell International in February–March of 1975 to establish a communications-intelligence facility—capable of intercepting civilian and military communications in the Persian Gulf—was not made public until June. This was despite the fact that the agreement called for recruitment of past and present staff of the United States National Security Agency and the Air Force Security Service, many of whom have, or have had, access to this country's most closely guarded intelligence techniques.

One defense analyst recently estimated that by 1980 there may be well over 150,000 Americans in Iran alone associated in some way with servicing Iranian military forces. We should know by now that arms supplies and military advisers abroad can be the first step down a perilous slope. If this will be one of the eventual side effects of today's arms-sales policies, the American people ought at least to be informed about it.

Just as the quality and quantity of our arms shipments have changed, so too have the recipients of our largess. In the immediate post-World War II period, the main receivers were our European allies and the "forward-defense countries," those on the perimeter of the Soviet Union and China. The rationales were phrased in the terminology of the Cold War: to contain monolithic Communism, to bolster our allies to withstand the onslaught of Red armies marching across Europe, and to secure base and landing rights for our own forces. Today, more than 80 percent of our arms sales are to the Persian Gulf and the Middle East. In 1974, Iran signed orders to buy more American military equipment than the rest of the world combined had ordered from any country in any previous year. Yet the same rationales of twenty years ago are being used to justify today's sales to these countries.

One important by-product of these prodigious arms sales to the Persian Gulf countries, is the spillover effect on the volatile Middle East. The arms we are now furnishing to Jordan, Saudi Arabia, Kuwait, and Lebanon, by heightening Israel's sense of insecurity, are fueling the very arms race in the Middle East we say we are committed to avoiding. Our massive infusion of highly sophisticated weaponry into the region can hardly be seen as conducive to stability.

Lastly, we should consider the lack of public and Congressional control in the formulation of arms-trade policies. Just as the quantity and quality and the recipients of arms have changed, so too has the method of payment, and with it Congress participation in the transactions. When weapons were furnished to our allies after the Second World War, they were donated as military aid and Congress had to authorize and appropriate the necessary funds. As the European allies recovered and our foreign-policy horizons began to broaden, credit was then extended to loan nations money to buy American weapons. Again, Congress had to authorize and appropriate the money. In both cases—the extension of aid and of credit—mechanisms existed for the participation (albeit often perfunctory) of Congress.

The transition from aid and credit to cash transactions occurred simultaneously with the rapid rise in United States arms sales. Until 1974, Congress effectively had no voice in cash arms transactions. It seemed to many that there was an inverse relationship between the importance of arms transactions as implements of United States foreign policy and the amount of Congressional involvement.

By 1974 three factors coalesced presaging change:

Congress began to reassert its prerogative in the formulation of foreign policy in general, and in the area of arms sales in particular.

Congress reacted sharply to the disclosure in the news media of some large arms deals.

Congress responded to public concern about the growing volume of arms traffic. Harris polls a year ago showed that, by an overwhelming 65-to-22-percent majority, Americans opposed United States military aid to foreign countries. A 53-to-35-percent majority opposed military sales (as contrasted with military aid).

The Nelson Amendment to the Foreign Military Sales Act, passed in 1974, provided for a Congressional veto of any weapon sale valued at $25 million or more (by a concurrent resolution of both Houses passed within twenty calendar days of notification of the impending sale by the executive branch).

Since the amendment became effective, 45 notifications of pending sales have appeared in the Congressional Record. Examining these reports, one finds that 22, or just under half, are in part classified or leave some of the required information unspecified. One such notification, reported on March 3, 1975, transmitted no information whatsoever, since the name of the recipient country, the equipment sold, the quantity, and the cost were all classified.

This year, both Houses of Congress realized that the Nelson Amendment involves Congress too late in the process. Too many bureaucratic and diplomatic wheels have been set in motion by the time Congress is notified of the pending sale. What Congress needs, as Carl Marcy, former chief of staff of the Senate Foreign Relations Committee, recently wrote, is "to be in on the takeoffs as well as the crash landings."

In early April, the International Security Assistance and Arms Export Control Act of 1975 was referred back to the House and Senate by a joint House-Senate Conference for final approval. The bill:

Unifies the procedures of arms sales by commercial and government-to-government channels,

Establishes an over-all annual ceiling for all military sales of 9 billion constant 1975 dollars, subject to a case-by-case Presidential waiver,

Phases out all military-assistance programs and military-assistance advisory groups by September 30, 1977,

Requires all military sales of $25 million or more and all sales of "major defense equipment" to be handled on a government-to-government rather than commercial basis,

Requires the President to submit an annual country-by-country justification of the government-to-government sales program to Congress,

Requires the President to conduct a comprehensive study of the arms-sales policies and practices of the United States government, and to report the finding to Congress,

Expands the reporting procedures on military exports, including agents' fees and political contributions,

Limits the President's authority to draw on Department of Defense stocks for military-assistance programs unless he certifies that such a transfer is vital to United States security, and

Increases the time available for Congressional consideration to thirty calendar days.

With this capsulation of how arms-trade policy is formed in the executive and legislative branches, we can now address the question of what should America's trade policies be?

First, and foremost, America's basic policy should be not to sell weapons as a matter of policy at all. Only in certain cases, when there exists a broad, well-defined consensus or when there is a longstanding United States commitment or a special and well-understood close relationship, should our general policy be one of arms sales. Areas that fall into this category are our NATO allies, Israel, Japan, and possibly Korea. For all other countries, the burden of proof should be on those who want to make the sale. How would the sale benefit long-term United States objectives? What alternative options exist for meeting those objectives, other than the sale of arms? What are the arms-control and arms-race implications of the proposed transfer? What alternative sources of supply are available? How would United States national interests be affected if another nation supplied the weapon?

Second, international affairs is not, as some would have us believe, the exclusive domain of the executive branch. The Constitution divides between the two branches of government the power to determine the nation's foreign policies and to shape their content. American arms-sales policies must be fashioned in a cooperative spirit between them.

Third, we must stop abusing the national-security classification system as we have been doing by withholding information about arms sales from the American people. It is difficult to see how disclosure of American arms sales or training can be construed as injurious to the security interests of the United States, and that is the only legal basis for such a classification. It is the recipient countries that do not want their neighbors, rivals, or potential adversaries to know how many of what kind of weapons they are acquiring from whom. But for the United States government to acquiesce in

this practice is a warped use of the nation's security classification program and should be immediately disavowed, along with all other forms of clandestine dealings.

Lastly, the American public ought to be more actively involved in the determination and formulation of our arms-trade policies. There are no absolute experts in determining the national interest and there is nothing in the realm of basic foreign policy—or any other policy—that cannot be understood by most Americans.

The executive branch, which will always strive to present current policies in their most favorable light, also has an obligation to furnish materials that would facilitate the expression of alternative views. Newsletters, digests, public debates, increased availability of documents—all of these can help to increase the public's awareness of and interest in foreign policy and arms-trade issues.

On the legislative side, I would advocate more Congressional foreign-policy debates, with opposing witnesses cross-questioning each other; opening more Congressional debates to television; and using Congressional newsletters as a means to educate constituents on questions such as pending arms sales.

Can this be done? In the words of Albert Schweitzer, "As to the question of whether I am a pessimist or an optimist, I answer that my knowledge is pessimistic but my willing and hoping are optimistic."

[From Newsweek, Sept. 6, 1976]

ANATOMY OF THE ARMS TRADE

What on earth is the true faith of an Armorer?

To give arms to all men who offer an honest price for them, without respect of persons or principles: to aristocrat and republican, to Nihilist and Tsar, to Capitalist and Socialist, to Protestant and Catholic, to burglar and policeman, to black man, white man and yellow man, to all sorts and conditions, all nationalities, all faiths, all follies, all causes and all crimes.—G. B. Shaw, "Major Barbara"

The arms business is no longer quite the freebooting enterprise that Shaw described 70 years ago, when the "merchants of death" peddled their munitions worldwide without restriction. These days, the trade is controlled, not by privateers, but by governments that regard their arms exports, in Henry Kissinger's words, as "a fundamental element in the over-all design of . . . foreign policy." But the arms trade is nonetheless one of the world's largest and fastest-growing businesses—and it is now under sharp and sometimes moralistic attack.

From a mere $300 million in 1952, international arms sales soared to an estimated $20 billion last year. With nearly half the total, the U.S. is the world's biggest dealer, shipping an arsenal of weapons—from old M1 rifles to swing-wing supersonic fighters—to dozens of countries, with the lion's share going to the volatile Middle East (chart, page 41). Just recently, the U.S. announced a step-up in sales to Black Africa, largely to counter a massive infusion of Soviet weaponry. Because wars of the future, like the 1973 Arab-Israeli conflict, are expected to be intensive struggles that consume arms rapidly, many nations are eager to build massive stockpiles—and the oil-rich countries have little difficulty buying the best. In all, American arms sales abroad create about 350,000 jobs in the U.S., account for 7 per cent of U.S. exports and directly affect the fortunes of McDonnell Douglas, Grumman, Lockheed, Northrop and other major suppliers.

OUT OF CONTROL

Now critics are sounding their own call to arms. In a recent report on sales to Iran, the Senate Foreign Relations Committee warned bluntly that the nation's military sales program is "out of control." Earlier this year, Congress passed the Arms Export Control Act, which gives it 30 days to veto any sale over $25 million, and bars sales to nations that violate human rights or transfer U.S. weapons to other countries without U.S. approval. Even within the military itself, critics are speaking out.

The government, charges Rear Adm. Gene R. Larocque, head of the Center for Defense Information, is pursuing an "uncontrolled, unplanned, hectic effort . . . to sell weapons all over the world to any country which can afford them." That, he says, "will reduce national security in the long run."

Most significant of all, the arms business is shaping up as a big issue in the Presidential campaign. Jimmy Carter has pledged to try to reduce the arms traffic. "Can we be both the world's leading champion of peace and the world's leading supplier of the weapons of war?" Carter asked in a speech to the Foreign Policy Association last June. "We cannot have it both ways."

To defense planners, though, selling arms *is* the best way to champion peace. U.S. sales are needed, they say, to counter Soviet influence and to insure regional balances of power, especially in the Middle East, that will deter aggression. By helping friendly nations defend themselves, the U.S. hopes to avoid involving itself in another Vietnam-type war. The key question is not whether to halt arms sales altogether—just about everyone agrees that would be dangerously impractical—but rather how the trade should be managed so that the right nations get the right weapons.

But managing the arms business is a much more complicated task than it once was. In the 1950s and 1960s, the U.S. shipped arms free to its allies as part of its foreign-aid program. Because the taxpayer was footing the bill, there was a builtin fiscal constraint, and proposals were more carefully scrutinized in Congress. But today more than 90 percent of the nation's "defense equipment transfers" are sales paid for by the foreign customer. Military sales have thus become a tax-free way of offsetting some of the nation's sky-rocketing oil-import bill and an easy way of providing business for defense contractors without additional Pentagon spending. As a result, complains one Capitol Hill staffer, "there's no natural constituency for opposition to arms sales."

BYPASSING THE EXPERTS

The change has also effectively transferred nearly all authority from Congress to the State Department. A customer nation routes its requests to State, which determines on its own whether the sale is in the U.S. interest. If it so deems, the Pentagon then acts as the purchasing agent, negotiating the best deal it can with a U.S. manufacturer on behalf of its overseas client. Often, even the experts at the State Department are bypassed. In 1972, for example, President Nixon gave the Shah of Iran virtual carte blanche to buy just about any non-nuclear American weapon that he wanted—and the Shah promptly purchased from Grumman 80 F–14 jets, one of the most sophisticated planes made in the U.S.

In all, the Shah has purchased $10 billion worth of military goods and services since then. Last week Kissinger reported Iran would spent another $3.4 billion to buy 160 F–16 fighters, a new plane to be made by General Dynamics. Though Congress now has veto power over such deals, it is hard put to examine every sale over $25 million. "We do not have the time or the staff to set U.S. arms policy," says Robert Mantel, a staffer on the Foreign Relations Committee. "About all we can do is hope to force the Administration to face the issues."

In the eyes of the critics, several issues need to be faced:

The "back-end" problem. Many of the U.S. weapons sold abroad are so complex that the U.S. needs to furnish huge training and support staffs. By 1980, it is estimated, as many as 60,000 U.S. advisers and their families will be needed in Iran alone—raising the specter that they could be held hostage in a war or even that the U.S. would get directly involved. Just last week, terrorists in Teheran murdered three Americans who worked for Rockwell International.

The unfriendly take-over. While both Iran and Saudi Arabia are considered friendly to the U.S., there is always the risk that either government could fall. "I would hate to have an unfriendly regime take over in a country such as Iran, where an F–14 could be thoroughly examined," says former Defense Intelligence Agency analyst Dale Tahtinen.

The nuclear danger. While the United States doesn't sell nuclear weapons to foreign countries, it has, according to Admiral Larocque, sold or given away more than 18,000 missile ships and aircraft capable of carrying such weapons. "It is now within the capacity of almost every nation to develop or obtain nuclear weapons to go with those missiles, ships and aircraft," he warns.

Escalation of limited wars. In the 1965 India-Pakistan war, both sides used U.S. weapons, increasing the violence and extending what otherwise might have been a brief and primitive skirmish. Similarly, Newsweek's Arnaud de Borchgrave reports that arms from a dozen countries have clandestinely poured into Lebanon in recent months, escalating the conflict there. And now that both the Soviet Union and the U.S. are arming their respective allies in Africa, there is increased danger that a new arms race could trigger a war there, too.

Officials at both State and Defense say such risks are slight, though they do concede that the Nixon-approved sales to Iran did not allow analysts time to study all the implications. As a rule, though, all proposed arms deals are carefully screened, says Deputy Defense Secretary William P. Clements Jr., who oversees the Pentagon's foreign military-sales program. "Overloading any foreign country with weapons and equipment cannot properly serve our own interests in the long run," he maintains. "I don't approve a sale unless it serves our national interest." Indeed, the Pentagon claims it turns down 40 per cent of the requests for arms sales made by foreign governments. "We could sell a lot more than we do if we booked all the orders that come in," says Lt. Gen. Howard M. Fish, director of the Pentagon's Defense Security Assistance Agency.

To Clements and Fish, arms sales are a necessary and valuable policy tool—and they draw support from a General Accounting Office study released last June, which termed the sales program "a useful and highly effective instrument of foreign policy." Among other things, the GAO report notes, the State Department was able to use arms sales as a lever to pry "a more flexible response from Israel in the Middle East negotiations." In addition to extending U.S. influence, officials contend, arms sales also enable the U.S. to maintain military bases overseas and provide an opportunity to influence future foreign leaders. "These arms-sales programs form an important link, a bridge, to foreign countries," says Clements. "The foreign governments are grateful and they develop strong bonds with us."

IF WE REFUSE

At bottom, however, Washington seems to be committed to the arms trade because of a deeply held conviction that if the U.S. doesn't sell arms to a country that wants them, someone else will. "Put bluntly," says General Fish, "our friends want to deal with us. But if we refuse, there are others waiting in the wings."

There is considerable truth to that. The

arms business is one of the most fiercely competitive around—and even Israel is selling $320 million in weapons to 40 countries this year. Few nations say no to an eager customer. When, for example, the U.S. refused to sell F–5 fighters to Brazil in the mid 1960s, the French quickly sold Brazil sixteen of their Mirage fighter-bombers.

France is now the world's No. 3 arms dealer, just ahead of Britain but well behind the Soviet Union. In 1974, the latest year for which statistics are available, France sold nearly $4 billion in arms worldwide. And it spares no effort to win customers. "If I'm competing with a Frenchman to sell my equipment," says a British arms salesman, "I can practically guarantee that within 48 hours a French Air Force plane will arrive on the scene crammed with equipment and a team of experts." French Government officials often double as arms salesmen.

The British are not quite as hard-driving. "We're not allowed to peddle arms as if they were furniture," complains one salesman. But like the French, they openly use embassy personnel to drum up arms business. One result: Iran's army now owns more British-made Chieftain tanks than the British Army.

Despite French and British inroads, the Soviet Union is America's main rival. Since 1950, Moscow has sold more than $40 billion worth of arms worldwide. Although it currently claims 30 per cent of the world market—to America's 46 percent—Russia outsells the U.S. in the Third World by a wide margin. What's more, says Fish, the Russians have been "the most accommodating of the major arms suppliers in providing modern equipment" to the Third World. The Soviet Union was the first arms dealer to export jet fighters (in 1956), surface-to-air missiles (1961) and surface-to-surface missiles (1973). According to Dr. Michael Checinski, a former Polish intelligence officer now living in Israel, Moscow is producing 3,000 tanks a year (vs. 900 made in the U.S.), on the assumption that any future ground war in Europe will wipe out entire combat divisions in days.

Because the Russians maintain large stocks of hand-me-down weapons ready for export they can afford to sell their materiel at discounts of up to 40 per cent. "Soviet arms are priced lower than comparable Western equipment," says Fish, and Moscow often arranges generous terms. But, says Fish, Kremlin officials "set a [high] political price for the arms."

The U.S. is also motivated mainly by politics, not economics. Indeed, economic arguments are seldom heard in Washington these days, partly because they smack of the old "merchants of death" philosophy but partly because a total halt to arms sales abroad would boost unemployment by only 0.3 points. Still, the economic pressures are often intense because most of America's major defense contractors are dependent on foreign sales. Grumman, for instance, expects fully 15 per cent of its sales this year to come from foreign buyers.

Arms sales also reduce the nation's own defense costs. Foreign orders mean bigger production runs for arms manufacturers—and that makes each plane or tank rolling off the assembly line a bit cheaper. According to the Congressional Budget Office, $8 billion a year in foreign arms sales shave $560 million off the Pentagon's annual procurement bill. As a result, says a State Department official, "the armed services fall all over each other trying to make [foreign] sales."

IMPRESSING THE SHAH

Though the government contends it doesn't try to drum up business, it often assists domestic arms manufacturers. When, for example, Grumman wanted to impress the Shah with the capabilities of its F–14, the Navy obligingly lent it a pilot to put the plane through its paces at the Paris air show in 1973. Later, the government invited the Shah to Washington to see a "fly-off" between the F–14 and McDonnell Douglas's F–15. Grumman representatives greeted him with a tailor-made flying suit embossed with a royal crest. "We're not exactly passive in all this," admits president Peter Oram of Grumman International.

Indeed, while foreign arms sales are largely controlled by the government, most manufacturers station their own people abroad "to acquaint foreign governments with the advantages of our products," as one puts it. Grumman keeps a staff of 90 in Teheran, while Hughes Aircraft, whose TOW anti-tank missile has been bought by twenty countries, maintains offices in nearly a dozen foreign capitals. At one point, the rush by these representatives to sell arms to Iran grew so intense that it resembled "bees swarming around a pot of honey," according to the recent Senate report. Former Defense Secretary James Schlesinger had to dispatch a special Pentagon troubleshooter to Iran to calm things down. The vast amounts of cash changing hands have also made overnight fortunes for such middlemen as Saudi Arabia's Adnan Khashoggi and besmirched the reputation of Prince Bernhard of the Netherlands.

As the critics see it, huckstering is all but inevitable as long as the government continues to support massive arms deals. The critics urge several reforms. "My criteria on any arms transfer would be the existence of a direct American security interest," says former Assistant Defense Secretary Paul Warnke, now one of Jimmy Carter's defense advisers. That, he notes, would eliminate any sales made to maintain a "global balance" or extend U.S. influence. Nations like Israel and Iran would continue to get weapons, though shipments to the Shah would probably be sharply curtailed and limited to far less sophisticated arms. "They need F–5s rather than F–14s," Warnke says.

FORCING PRIORITIES

Moreover, some say, the government should set an annual ceiling on arms sales—as Congress failed to do earlier this year. Even if the ceiling is very high (the Congressional effort would have put it at $9 billion), "it'll force the Administration to start setting priorities," argues Harvard research fellow Anne Cahn. "As things are now, people on the Saudi desk [in the State Department] don't have to worry about what Iran's going to get."

Such reforms may improve control, but they will not do much to alter the basic imperatives that underlie the arms trade. Wars occur with astonishing frequency—in the last 30 years, there have been 119 armed conflicts involving 69 nations—and now that the U.S. has reduced its role as the world's policeman, regional powers feel the need to protect themselves. The question is whether shipping billions of dollars worth of weapons is the best way to world peace.

THE PRESIDENT'S BICENTENNIAL HERITAGE PROGRAM

Mr. HANSEN. Mr. President, I was keenly interested in the colloquy that took place earlier in the Chamber between good friends of mine, the chairman of the Committee on Interior and Insular Affairs, the ranking member of the Subcommittee on Parks and Recreation, the distinguished Senator from Louisiana, with whom I worked very closely and for whom I have great admiration, as well as for the chairman of the full committee and for my good friend from Wisconsin, the senior Senator.

I might state that as these good friends of mine from the other side of the aisle know I share their interest in trying to take all such steps as we can to seize upon this opportunity we now have to expand our national park system, not only acreagewise but to see that we have the proper staffing in order that these cherished national treasures may be given the full protection that they deserve to have in order that the benefits which will flow from them, I hope for all time to come, will not only be undiminished but might even be enhanced by the tender loving care that could be possible through more adequate funding.

I was a cosponsor of the bill to increase from the present Federal level funding to $1 billion annually the land and water conservation fund, believing as I do that it is important and is necessary to acquire the in holdings that presently are found scattered throughout many elements of the national park system. Mr. President as you know, we were not successful in getting that authorization increased to the point where Senator NELSON, I, and others, felt that it might very well have been increased.

I guess by agreeing in such great degree as I do Senators may wonder why I disagree at all. I disagree for quite another reason in the thrust of what was said this morning. I would have asked to be recognized but I did not want to interrupt the colloquy that was taking place because it was obvious that my good friends were having a little bit of difficulty at times trying to read the script in a way to know who was supposed to speak when, and I did not want to add to their burdens.

But I must say that I think the American people understand very well why the President's priorities have been what they have been in the past. It is our duty, responsibility, and job as members of the Committee on Interior and Insular Affairs to focus on the needs of that committee and the obligations of the Department of the Interior in the overall context of our national effort.

I make no apology for setting priorities that may be somewhat different insofar as parks and monuments are concerned as compared with other needs.

As we know, a number of people have suggested it is no problem to balance the budget—you just cut the national defense effort. I have not gone along with that concept. I know you, Mr. President, have not gone along with that concept, and I know that the chairman of the Committee on Interior and Insular Affairs has not gone along with it. He shares my view, or rather I suspect I should say more honestly I share his view, because I think he had studied the area of national defense in greater detail long before I had, in concluding that there are some nations in this world that we cannot trust too far and the only way to continue to secure the blessings of freedom and liberty for all Americans, and indeed to expand those concepts throughout the world, is to keep America strong.

So I have rejected outright, as Senator JACKSON has, the idea that we could change our priorities around, as many recommend right today in this Congress,

by putting more money into domestic programs and cutting back on the national defense effort that I believe and he believes we should be making.

I know, too, that not everyone shares my view or the view of the distinguished Senator from Louisiana that energy is important in this country. Senator JOHNSTON and I think that a greater effort should be made to see that we are not so dependent upon foreign nations as is the case at the present moment. We are importing today between 41 and maybe 43 percent of all of the oil we use in the United States.

Not everyone is fully aware of the significance of the fact that about three-fourths of the energy that we consume in the United States comes from oil and natural gas. When one contemplates how increasingly dependent we are becoming upon foreign sources of supply for our energy, I believe that the very knowledgeable leadership demonstrated by the junior Senator from Louisiana would chart a course that we well might heed. He has said repeatedly,

> Let us do everything we can to bring about an enlargement of the domestic supplies that come from energy sources in this country.

I share that view completely.

What I am trying to say, Mr. President, simply is this: Our priorities do change, and we have different ideas about what priorities should be. I am sure that the President of the United States, whether it was, as was true in the past, Richard Nixon; today, Gerald Ford; tomorrow, I do not know who—I have my choices and other people have their choices—but whoever it may be is going to have to articulate for the people of America those goals and those priorities that he feels are most important.

Certainly, no one can argue that national defense is not important, that inflation is not important, that jobs are not important. I think that what the President has been saying is that, as the economy grows steadily stronger, as more people become employed in the United States, as various indices of business activity give the green light for tomorrow in the business world for the likelihood of additional jobs tomorrow, it is time now to look at some of our other priorities. Indeed, that is what the President did when he came forward a couple of weeks ago, in Yellowstone Park, with the proposal that has been discussed here this morning. It is a proposal that I recognize constitutes a change in the priorities that we had; but I think it reflects a change in conditions as the business activity in this country has increased, as jobs have become more plentiful, as every indication is that we are going to have continued good business activity, a good economic climate in America. Then I agree with the Preident that the time has come to look at some of these long-range continuing goals, to see that we take steps now which not only will add more acreage to our National Park System, on the one hand, but also, on the other, provide the additional slots, the additional appropriations, to insure that all elements of the National Park System and of our recreational opportunities, insofar as public lands in America are concerned, will be adequate to meet the demands of an increasing population with greater leisure time.

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

Mr. HANSEN. I am happy to yield.

Mr. JOHNSTON. First, I thank the distinguished Senator from Wyoming for his nice comments about me personally.

Second, I thank him for his leadership in the field of parks and recreation.

Quite frankly, Mr. President, if the Senator from Wyoming were making the policy for the administration with respect to parks and recreation, I am quite sure that not only would I agree with that policy, not only would I praise it, but also, it would be substantially greater in terms of priority and in terms of a thrust for the people of this country than we presently have.

Not only has the President in the past 2 years not given a high priority to parks and recreation but, indeed, he has opposed every effort of Congress to increase it.

This may be a bold, new thrust, it may be a change of opinion, and I sincerely hope it is. If it is, I think it is not the place of Congress to sit and simply wring its hands and criticize the past; but, rather, it is the place of Congress to celebrate the present, to welcome home the prodigal son, and to join him in enacting a bold, new program for parks and recreation.

All we are simply saying is that we do not want to be given the promise of a bold, new plan without having the substance of it as well.

So I hope the Senator from Wyoming will continue his leadership in urging the President to sign the Land and Water Conservation Fund Amendments of 1976; because if the President does not sign that measure, I am sure the Senator from Wyoming will agree that his new program, his Bicentennial heritage program, is not a step forward but is a step backward. I hope we both can join the President not only in signing that bill but also in promising fully to implement and fully to fund that bill when and if it is enacted.

I thank the Senator from Wyoming.

Mr. HANSEN. I thank my colleague and friend from Louisiana for the observations he has made and the sincerity which impels him to speak as he has. I do not question for a moment, in any respect, the sincerity of the junior Senator from Louisiana.

I hope we do not find ourselves in the situation I saw on the floor of the Senate years ago, when a very distinguished Member of this body from Arkansas, who had long sought the repeal of the Gulf of Tonkin Resolution, was so infuriated because a Republican happened to propose its repeal—and indeed it was repealed—that he insisted a day or two later on repealing it a second time around, because he simply had not had the satisfaction of having made the proposal himself.

I am sure that I share the feeling, as I know my good friend from Louisiana does, that we want to help move this program. The President has called for it. Let us go forward, ascribing good faith to him, as I believe is merited; and I think we can work jointly with the people of America to insure the benefits that can come from such a fine program.

I thank my colleague very much.

Mr. JOHNSTON. I thank the Senator.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under authority of the order of September 1, 1976, messages from the President of the United States submitting sundry nominations were received on September 2 and September 3, 1976, and were referred to the appropriate committees.

(The nominations received during the recess are printed at the end of today's Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under authority of the order of September 1, 1975, the following messages from the House of Representatives were received during the recess of the Senate:

On September 1, 1976, a message stating that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes (subsequently referred to the Committee on Appropriations).

H.R. 14886. An act to revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes (subsequently referred to the Committee on Government Operations).

ENROLLED BILLS SIGNED

The message also stated that the Speaker had signed the following enrolled bills:

H.R. 3052. An act to amend section 512(b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities; and

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

(The enrolled bills were signed September 1, 1976, by the Acting President pro tempore (Mr. METCALF.)

On September 2, 1976, a message stating that the Speaker had signed the following enrolled bills:

H.R. 3884. An act to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

(The enrolled bills were signed September 2, 1976, by the Acting President pro tempore (Mr. METCALF).)

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under authority of the order of September 1, 1976, the following reports of committees were submitted on September 3, 1976, during the recess of the Senate:

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 14238. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1201).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 513. A resolution waiving the provisions of section 402(2) of the Congressional Budget Act of 1974 with respect to S. 3554 (Rept. No. 94–1202).

S. Res. 515. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3081 (Rept. No. 94–1203).

S. Con. Res. 139. A concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1977 (Rept. No. 94–1204).

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

S. 828. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes (Rept. No. 94–1205).

By Mr. CRANSTON (for Mr. HARTKE), from the Committee on Veterans' Affairs, with an amendment:

S. 2908. A bill to amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence, or alcohol or drug abuse disabilities; to make certain technical and conforming amendments; and for other purposes (Rept. No. 94–1206).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 13367. An act to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes (Rept. No. 94–1207).

EXECUTIVE REPORTS SUBMITTED DURING ADJOURNMENT

Under authority of the order of September 1, 1976, the following executive reports of the Committee on Foreign Relations were received during the adjournment of the Senate:

Exec. X, 93d Congress, 1st session. Customs Convention on Containers, 1972, as corrected by a Proces-Verbal of Rectification issued on April 29, 1974, and the International Convention for Safe Containers, both signed at Geneva on December 5, 1972, without reservation (Exec. Rept. No. 94–33).

Exec. I, 94th Congress, 1st session. Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973, without reservation (Exec. Rept. No. 94–34).

Exec. K, 94th Congress, 1st session. Convention for the Conservation of Antarctic Seals, with Annex, done at London, June 1, 1972, without reservation (Exec. Rept. 94–35).

Exec. M, 94th Congress, 2nd session. 1976 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, which Protocol was signed at Washington on May 7, 1976, on behalf of the Governments Party to the Convention, without reservation (Exec. Rept. No. 94–36).

MESSAGES FROM THE PRESIDENT

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

APPROVAL OF BILL

A message from the President of the United States announced that on September 3, 1976, he approved and signed the bill (S. 3435) to increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

RESCISSION IN BUDGET AUTHORITY FOR FOREIGN MILITARY CREDIT SALES—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $126,750,000 in budget authority available in the transition quarter for the Foreign military credit sales program. Approval of this rescission proposal would reduce Federal spending by $83 million through 1979.

Unusual circumstances not provided for by the Impoundment Control Act of 1974 have brought about the transmission of this special message at a time that will not allow for a 45-day period of continuous session of the Congress prior to the end of the transition period when the affected funds lapse. These circumstances result from the coincidence of (1) the late approval of the Foreign Assistance Appropriations Act, 1976, on June 30, 1976, the eve of the transition quarter, (2) the short duration of the unique transition quarter itself, and (3) the schedule of congressional recesses of more than three days during this period. In view of this unusual situation, I ask the Congress to give prompt consideration to the proposed rescission.

The details of the proposed rescission are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *September 7, 1976.*

MESSAGE FROM THE HOUSE

At 3:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 137) to correct the engrossment of the Senate amendments to H.R. 10612.

The message also announced that the House has passed the bill (H.R. 15371) to provide for protection of the spouses of major Presidential and Vice-Presidential nominees, in which it requests the concurrence of the Senate.

The message further announced that the Speaker has appointed Mr. ZABLOCKI as a member of the U.S. Group of the North Atlantic Assembly; and that Mr. BROOKS was designated to serve as chairman of the delegation for the remainder of the 94th Congress.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

STATUS OF REJECTED RESCISSIONS

A letter from the Acting Secretary of Health, Education, and Welfare relating to two errors in the GAO report on the status of certain rescissions; to the Committee on Appropriations, the Budget, and Banking, Housing and Urban Affairs, jointly, pursuant to the order of January 30, 1975.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operations of Amtrak during the month of July 1976 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Improvements Needed in Defense's Efforts To Use Work Measurement" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF STATE

A letter from the Senior Adviser and Coordinator for International Narcotic Matters of the Department of State transmitting, pursuant to law, a report entitled "Fiscal Year 1975 International Narcotics Control Program Budget" (with an accompanying report); to the Committee on Appropriations.

REPORT OF THE DEPARTMENT OF DEFENSE

A letter from the Acting Assistant Secretary of Defense transmitting a secret report entitled "F–15 Selected Acquisition Report and the SAR Summary Tables" for quarter ending June 30, 1976 (with accompanying report); to the Committee on Armed Services.

APPROVAL OF LOAN BY THE REA

A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, a report on an approved REA-insured loan to East River Electric Power Cooperative, Inc., of Madison, South Dakota (with accompanying report); to the Committee on Appropriations.

PROPOSED CONSTRUCTION PROJECTS BY THE DEPARTMENT OF DEFENSE

Three letters from the Deputy Assistant Secretary of Defense transmitting report on (1) six construction projects to be undertaken by the Air National Guard; (2) seven construction projects to be undertaken by the Army National Guard; and (3) two construction projects to be undertaken by the Naval Reserve (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE ARMY

A letter from the Assistant Secretary of the Army transmitting a draft of proposed legislation to amend section 4349(a) of title 10, United States Code (with accompanying papers); to the Committee on Armed Services.

REPORTS OF THE DEPARTMENT OF THE NAVY

A letter from the Commander, Naval Facilities Engineering Command, transmitting, pursuant to law, reports covering July 1, 1975 through June 30, 1976 relating to contracts awarded on other than competitive bid basis (with accompanying reports); to the Committee on Armed Services.

REPORTS OF THE DEPARTMENT OF THE ARMY

A letter from the Acting Assistant Secretary of the Army transmitting, pursuant to law, reports on research and development contracts in excess of $50,000 for the period January 1, 1976 through June 30, 1976 (with accompanying reports); to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF DEFENSE

A letter from the Acting Assistant Secretary of Defense transmitting, pursuant to law, the report of Department of Defense procurement from small and other business firms for July 1975 through May 1976 (with accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF THE FEDERAL MARITIME COMMISSION

A letter from the Chairman of the Federal Maritime Commission transmitting, pusuant to law, volume 17 of the Reports of the Federal Maritime Commission containing decisions rendered between July 1974 and June 1975 (with accompanying report); to the Committee on Commerce.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A communication from the Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 3, 1976, to the Committee on Foreign Relations.

REPORT OF THE JOINT FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM

A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, the third annual report of the Joint Financial Management Improvement Program on productivity trends from fiscal year 1967 to fiscal year 1975, to the Committee on Government Operations.

REPORTS ON PROPOSED CHANGES IN CERTAIN SYSTEMS OF RECORDS

Communications from the Acting Secretary of Agriculture, the Assistant Secretary of Commerce for Administration, and the Executive Secretary of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, reports on proposed changes in the system of records in their various Departments, Agencies, etc., for implementing the Privacy Act, to the Committee on Government Operations.

DEPARTMENT OF DEFENSE EFFORT TO USE WORK MEASUREMENT

A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Department of Defense's efforts to use work measurement, Department of Defense, to the Committee on Government Operations.

REPORTS OF THE GENERAL ACCOUNTING OFFICE

Two communications from the Acting Comptroller General of the United States, transmitting, pursuant to law, reports entitled as follows: "Improving Fiscal, Budgetary, and Program-Related Information for the Congress"; "Implementation of the Health Maintenance Organization Act of 1973"; to the Committee on Government Operations.

DOCUMENTATION FOR THE PROJECT INDEPENDENCE EVALUATION PROGRAM

A communication from the Administrator of the Federal Energy Administration, transmitting, pursuant to law, a report containing complete structural and parametric documentation for the Project Independence Evaluation System, to the Committee on Interior and Insular Affairs.

REPORT ON CHANGES IN MARKET SHARES OF PETROLEUM PRODUCTS

A communication from the Administrator of the Federal Energy Administration, transmitting, pursuant to law, a report on changes in market shares of the statutory categories of retail gasoline marketers with estimates of gallonage sales by marketing type for May 1976 (preliminary estimates) and April 1976 (final), to the Committee on Interior and Insular Affairs.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Four communications from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports as follows:

A report stating all the facts and pertinent provisions of law in the cases of certain aliens whose deportation has been suspended (pursuant to section 244(a)(1) of the act) together with the statements of the reasons for such suspensions;

A report on certain aliens granted temporary admission into the United States under section 212(d)(3) of the Immigration and Nationality Act;

A report stating all the facts and pertinent provisions of law in the cases of certain aliens granted admission into the United States under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; and

A report on the adjustment of the status of certain aliens under section 13(c) of the Act of September 11, 1957, to the Committee on the Judiciary.

STUDY ON THE FEASIBILITY OF A SECURITY AGENCY WITHIN THE NUCLEAR REGULATORY COMMISSION

A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the results of a study to determine the feasibility of establishing a security agency within the Commission, to the Joint Committee on Atomic Energy.

EDUCATION REGULATIONS PRINTED IN THE FEDERAL REGISTER

A communication from the Director of the Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on certain published regulations regarding various aid to education programs administered by the Department of Health, Education, and Welfare, to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION CONCERNING SHORE DAMAGE ON THE GREAT LAKES

A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the operation of lake regulation control works under the jurisdiction of the Department of the Army in the St. Marys River at Sault Ste. Marie, Michigan, in the interest of minimizing damages to shore property on the Great Lakes during periods of high lake levels and for other purposes, to the Committee on Public Works.

REPORT ON ACTIONS TAKEN ON THE RECOMMENDATIONS CONTAINED IN THE REPORT OF THE CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

A communication from the Chairman of the Council on Environmental Quality, Executive Office of the President, transmitting, pursuant to law, a report on actions taken on recommendations contained in the 1975 Annual Report of the Citizens' Advisory Committee on Environmental Quality, to the Committee on Public Works.

REPORT ON THE BUILDING PROJECT SURVEY FOR JEFFERSON CITY, MISSOURI

A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of the building project survey for Jefferson City, Missouri, to the Committee on Public Works.

EXCHANGE OF MEDICAL INFORMATION AND SHARING OF MEDICAL INFORMATION PROGRAMS OF THE VETERANS' ADMINISTRATION

A communication from the Administrator of the Veterans' Administration, transmitting pursuant to law, a report on the Exchange of Medical Information and Sharing of Medical Resources programs of the Veterans' Administration for fiscal year 1976, to the Committee on Veterans' Affairs.

PETITIONS

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

A resolution relating to the religious situation in Czechoslovakia, adopted by the 41st International Eucharistic Congress, Czech Committee, Philadelphia, Pa.; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. Res. 532. An original resolution authorizing printing for the use of the Senate Committee on Foreign Relations 2,000 additional copies of a Committee print of the 94th Congress entitled "U.S. Military Sales to Iran." Referred to the Committee on Rules and Administration.

S. Res. 533. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3621 (Rept. No. 94-1208). Referred to the Committee on the Budget.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 2, 1976, he presented to the President of the United States the following enrolled bill:

S. 2145. An act to provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

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. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3792. A bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase

grants to communities to improve park and recreation facilities. Referred jointly, by unanimous consent, to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

By Mr. SCHWEIKER:

S. 3793. A bill for the relief of Rosalinda Flores Vaow. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3792. A bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase grants to communities to improve park and recreation facilities. Referred jointly, by unanimous consent, to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and the National Wildlife Refuge System areas and to increase grants to communities to improve park and recreation facilities.

Mr. President, this draft legislation was submitted and recommended by the President of the United States, and I ask unanimous consent that the Presidential message accompanying this proposal from the President be printed in the RECORD.

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

To the Congress of the United States:

I am today submitting to the Congress the Bicentennial Land Heritage Act. This proposal establishes a 10-year national commitment to double America's heritage of national parks, recreation areas, wildlife refuges, urban parks, and historic sites. The Bicentennial Land Heritage Act would authorize and appropriate funds for the acquisition, improvement, rehabilitation, and maintenance of the National Parks System and National Wildlife Refuge System and increase grants to communities to improve park recreation facilities.

Enactment of my proposal would establish a $1.5 billion program to:

—provide *$141 million* to be used to acquire lands for parks, wildlife refuges, and recreation areas, and historic sites.

—provide *$700 million* to develop new and existing parklands and refuges into recreation and conservation resources ready to serve the public.

—provide *$459 million* for upgrading and increased staffing for the national parks and wildlife refuges systems.

—provide *$200 million* for grants to cities to upgrade present park areas in disrepair.

This bill also contains a supplemental budget request for appropriations totaling $1.32 billion for fiscal year 1977, $1.30 billion to remain available for obligation until 1986.

The Bicentennial Land Heritage Program will significantly influence the future of the 31-million acre National Park System. The System, with its 287 areas, contains outstanding natural features and historical sites. These areas often suffer from overuse or deficient maintenance, and areas with high recreation potential often lack adequate access roads and visitor facilities.

Many of the nationally significant historical and archeological sites are deteriorating from lack of proper protection and suitable resource management planning and execution. The addition of lands to the System, coupled with effective resource management, will increase opportunities for outdoor recreation, as well as insure the protection and perpetuation of these resources for future generations. Their inclusion would also help to alleviate overcrowding problems at areas currently in the System, where sharply accelerated visitation during recent years has seriously impacted park resources.

The Bicentennial Land Heritage Program will also be important to the National Wildlife Refuge System. The 378 National Wildlife Refuges, which encompass 32 million acres, provide habitat for a wide variety of the Nation's fish and wildlife. The Refuge System, like the National Park System, has deteriorated seriously. In the last two decades, the System has doubled in size, and public visitation has quadrupled to 30 million visitors a year. Yet, staffing has not been increased in the last ten years. Many facilities such as roads, buildings, and water management structures have deteriorated for lack of maintenance. Of even more concern is the daily destruction of the Nation's essential wildlife habitat which is being bought, developed, polluted, or otherwise altered.

To assist in improving community parks and recreation facilities the Program would also authorize funds, pursuant to the Housing and Community Development Act of 1974, in the amount of $200 million to be available for communities to use in their recreation programs.

As part of the Bicentennial Land Heritage Program, I again urge the Congress to act expeditiously and to enact the proposed Alaska Conservation Act which was first proposed in December 1973 and resubmitted in March 1975. I am disappointed that the 94th Congress has failed to take action on this initiative. My hope is that the Congress will take positive action on this important conservation measure, which would add more than 64 million acres of land to the National Park System and the National Wildlife Refuge System and thus double the size of both of these systems.

The program I now present to the Congress will reaffirm our Nation's commitment to preserve the best of our vast and beautiful country and the wildlife inhabiting it. It will be a sound investment in America which will pay off handsomely by permanently insuring and enriching the natural treasures to be inherited by future generations. All Americans must stand committed to conserve and cherish our incomparable natural heritage—our wildlife, our air, our water resources and our land itself. As our nation begins its third century, we must renew our commitment to save this great natural heritage for the enjoyment of future generations of Americans.

Accordingly, I strongly urge the Congress to enact the proposed "Bicentennial Land Heritage Act of 1976", which establishes a program designed to insure the fulfillment of this national commitment.

GERALD R. FORD.

THE WHITE HOUSE, *August 31, 1976.*

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Washington (Mr. JACKSON) for himself and Mr. FANNIN, be referred jointly to the Committees on Appropriations, Banking, Housing and Urban Affairs, Commerce, and Interior and Insular Affairs.

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

ADDITIONAL COSPONSORS

S. 2001

At the request of Mr. EAGLETON, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2001, to amend title II of the Social Security Act.

S. 3468

At the request of Mr. GARY HART, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 3468, to provide for payments to local governments for certain public lands.

SENATE RESOLUTION 524

At the request of Mr. JAVITS, the Senator from Florida (Mr. STONE), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Resolution 524, relating to terrorism.

AMENDMENT NO. 2219

At the request of Mr. MUSKIE, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Amendment No. 2219, intended to be proposed to H.R. 14846, the military construction authorization bill.

AMENDMENT NO. 2245

At the request of Mr. HUGH SCOTT, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Amendment No. 2245, intended to be proposed to H.R. 13367, the revenue sharing bill.

AMENDMENTS NOS. 2245 AND 2246

At the request of Mr. HUGH SCOTT, the Senator from South Dakota (Mr. McGOVERN), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Amendments Nos. 2245 and 2246, intended to be proposed to H.R. 13367, the revenue sharing bill.

SENATE RESOLUTION 531—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE submitted the following resolution:

S. RES. 531

Resolved, That there be printed for the use of the Committee on Agriculture and Forestry one thousand four hundred additional copies of its committee print of the current session entitled "Farm and Food Policy—1977."

SENATE RESOLUTON 532—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 532

Resolved, That pursuant to section 402(c)

Resolved, That there be printed for the use of the Senate Committee on Foreign Relations two thousand additional copies of a Committee print of the 94th Congress entitled "U.S. Military Sales to Iran."

SENATE RESOLUTION 533—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 3621

(Referred to the Committee on the Budget.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 533

of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3621, a bill to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic. Such waiver is necessary because Sec. 611 of S. 3621 authorizes the appropriations of such sums as may be necessary to enable the Foreign Claims Settlement Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions in connection with the East German claims program. The Administration expects to request $1.7 million to cover its administrative expenses for the four-year period necessary to complete the program.

AMENDMENTS SUBMITTED FOR PRINTING

DUTY-FREE IMPORTATION OF GLASS PRISMS—H.R. 8656

AMENDMENT NO. 2274

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8656) to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets.

FLAVORS USED ON BONDED WINE CELLAR PREMISES—H.R. 8283

AMENDMENT NO. 2275

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 8283) to amend the Internal Revenue Code of 1954 with respect to the type of flavors which may be used on bonded wine cellar premises in the production of special natural wines.

COMMON TRUST FUND PROVISIONS—H.R. 5071

AMENDMENT NO. 2276

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

JOINT ECONOMIC COMMITTEE TO HOLD HEARING ON YOUTH UNEMPLOYMENT

Mr. HUMPHREY. Mr. President, the Joint Economic Committee will hold a 1-day hearing on youth unemployment on Thursday, September 9.

The purpose of this hearing will be to examine the causes and effects of high unemployment among youths and the problems youths face in the transition from school to work. Specifically, we will look for programs and policies that might be undertaken at the Federal, State, and local levels, using both the private and public sectors, to improve the job counseling and job placement services available to our Nation's young people and to provide the millions of useful and productive jobs that our young people need to take their rightful places in our economy and our society.

The Joint Economic Committee is holding this hearing now, even though we are only 3 weeks away from adjournment, because high unemployment among youths has been one of our most pressing economic problems and remains a problem despite the economic recovery.

According to last Friday's "Employment Situation" release from the Bureau of Labor Statistics, there were 3.5 million youths under the age of 25 who were unemployed in August. Of these, 1.8 million were aged 16 to 19, and 1.7 million were aged 20 to 24. These young people comprised almost half the total number of American workers who were jobless last month.

The discouraging job situation among young people is reflected in the high unemployment rates they suffer. For example, in August, the unemployment rate for teenagers 16 to 17 years old was 22.5 percent, for 18 and 19 year olds, it was 18 percent, and for youths 20 to 24 years old it was 11.8 percent.

For black teenagers, the situation is even worse. Their unemployment rate in August was 40.2 percent, the highest for any labor market group. In addition, black teenagers have experienced a declining rate of participation in the labor force for the past 20 years, so that their official unemployment rate greatly understates the effect of joblessness among black youths.

This high incidence of unemployment among our Nation's youths means that our economy is denying more than 3.5 million young people the opportunity to work, the opportunity to develop job skills, the opportunity to learn the ins and outs of the job market, and the opportunity to become productive members of our economy and our society.

This is a hostile environment for our young people entering the job market today.

The Federal Government does provide some help to young people who are entering the job market—including job training programs under title I of the Comprehensive Employment and Training Act, some public service jobs under titles II and VI of CETA, the Job Corps, the Youth Conservation Corps, and the Summer Jobs program—but these reach only one-fourth to one-third of the youths who need job help each year.

We must do more, and we must start doing it soon. I hope this hearing will provide some new ideas for programs and policies to help alleviate the job market woes of our Nation's youths.

The hearing will begin at 9:30 a.m. on September 9 in room 1318 Dirksen Senate Office Building.

The witnesses will be: Congressman ANDREW YOUNG of Georgia; Mayor Pete Flaherty of Pittsburgh; Jesse Jackson, Operation PUSH; Mr. Howard Samuel, vice-president of the Amalgamated Clothing and Textile Workers Union; Dr. Beatrice Reubens, professor of economics at Columbia University; Dr. Bernard Anderson, professor of economics at the Wharton School, University of Pennsylvania; and Mr. Paul Barton, executive director of the National Manpower Institute.

In addition, because of the importance of this problem and the limited amount of time available to explore it, statements for the hearing record from individuals and groups concerned about youth unemployment will be welcome. These statements will be most useful if they focus on solutions to the problem, and may be submitted by contacting JEC staff economist William Buechner at the committee office before September 30.

NOTICE OF HEARINGS AND BUSINESS MEETINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 3 weeks:

September 8. Full committee, 10 a.m., room 3110, business meeting, pending calendar business.

September 15. House-Senate conference, 2 p.m., room S-407, Capitol, S. 507, Federal Land Policy and Management Act of 1976.

September 21. Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing on west coast oil supply.

September 22. Full committee and national fuels and energy policy study, 10 a.m., room 3110, hearing, S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

ADDITIONAL STATEMENTS

NATIONAL AVIATION DAY CELEBRATED THROUGHOUT THE UNITED STATES—FAA ADMINISTRATOR JOHN McLUCAS URGES VIGOROUS COMMITMENT

Mr. RANDOLPH. Mr. President, on August 19, National Aviation Day was celebrated throughout the United States. The accomplishments of aviation since that first flight by Orville Wright on December 17, 1903, have been extraordinary. Man has set foot on another

planet and airliners now fly faster than the speed of a bullet.

It was in 1939 that President Franklin D. Roosevelt signed into law a bill authored by Senator CLAUDE PEPPER, Democrat of Florida, and this Senator, then a Member of the U.S. House of Representatives, designating August 19 of each year—the birthdate of Orville Wright—as National Aviation Day.

Scheduled airlines today are carrying more than one-half million passengers daily on 12,088 scheduled flights. Commercial carriers, together with general aviation, provide exceptionally convenient, safe and reliable means of travel.

In this our Bicentennial Year, it is especially important that we call attention to the beneficial impact of aviation in our society. Accordingly, during the week of August 16, hundreds of communities across the Nation sponsored events commemorating the role flight has exercised in the growth of America.

In West Virginia, several communities participated in activities associated with National Aviation Day. Parkersburg's Gill Robb Wilson Field, under the direction of Airport Manager Dick Allen, displayed exhibits during a week-long recognition.

Significant in the course of events which have occurred this year was the opening of the National Air and Space Museum. More than 2.7 million persons have entered the doors of this monumental tribute to aviation since its opening on July 4. It is especially gratifying to witness this tremendous response since I am the author of the original legislation which brought the museum into being.

The over 200 million passengers who fly on airliners portray only a part of the story of the phenomenon we call aviation. More than that number fly annually in corporate and private aircraft to conduct business and for recreational opportunities. Products and foods we consume almost daily—as well as 35 percent of our first-class mail—are transported by air.

One of the basic foundations of our national defense is air power. Our combat readiness is enhanced by air superiority which serves as a deterrent to armed aggression. Air power helps to preserve peace throughout the world.

John L. McLucas, Administrator of the Federal Aviation Administration, noted in a recent informative letter to me that the U.S. aviation industry—its aerospace manufacturing and air transportation elements combined—is the Nation's largest employer. He stressed that aerospace manufacturing in 1975 recorded total sales of $28 billion, including exports of $6.5 billion. Dr. McLucas indicated the export of aeronautical products is exceeded only by the U.S. export of agricultural products. This bolsters our favorable international trade balance.

Mr. President, Dr. McLucas' comments on aviation should be shared with colleagues and readers of the CONGRESSIONAL RECORD. I ask unanimous consent that his letter, dated August 11, 1976, be printed in the RECORD.

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

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., August 11, 1976.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Through your good efforts and those of Congressman Claude Pepper, the birthdate of Orville Wright—August 19, 1871—was proclaimed by President Roosevelt in 1939 to be National Aviation Day.

In this Bicentennial year, as we approach the 38th annual observance of National Aviation Day, we have a special incentive for celebrating the progress of the past and for being thankful that we live in a country where progress has been and still is possible. Air transportation is a field where our continental dimensions and our sense of adventure have combined since the turn of the century to produce some dramatic developments.

In the pioneering days of aviation, the best planes of the air transport companies—open cockpit DH-4's, the Lincoln-Pages and so forth—were hard put to carry as many as two passengers. Later, the "giant" Ford Trimotors could carry ten passengers and a little cargo at speeds approaching 135 miles per hour. Then, it was the redoubtable and legendary DC-3 . . . . Today, the luster of those aeronautical achievements has been dulled and overshadowed by the spectacular performance of American jet transports capable of carrying upwards of 300 passengers in luxurious comfort and safety at velocities nudging the speed of sound.

Air transportation provides almost unlimited mobility to hundreds of millions of people all over the world. Many of the most distant and hitherto inaccessible regions of the globe are easily reached by air, a fact of immense importance to industry and national economies. For example, the tremendously important activity resulting from oil discoveries on the north slope of Alaska has been heavily dependent on the airplane and helicopter. And Hawaii relies primarily on air transportation to deliver the tourists which are the major source of income for our 50th state.

The United States aviation industry—its aerospace manufacturing and air transportation elements combined—is by far the nation's largest employer. Aerospace manufacture in 1975 recorded total sales of $28 billion, including exports of $6.5 billion. The export of aeronautical products is exceeded only by the U. S. export of agricultural products, and significantly bolsters this nation's international trade balance. In fact, 90 percent of the world's general aviation fleet and upwards of 75 percent of the world's jet liners are the proud products of this country's industrial prowess.

The cultivation and regulation of this nation's highly complex air transportation industry are the responsibility of the Federal Aviation Administration, the largest operating administration of the Department of Transportation. Specifically, the agency has been charged by the Congress to provide for the orderly development of U.S. aviation; to develop and maintain a dependable air traffic control and air navigation system for the nearly three-quarters of a million pilots who use the nation's airways; to certify the safety and reliability of the nation's aeronautical products and the capability of the U.S. pilots and crewmen who use them; and to provide for the flight safety of all those who use American airspace or who, to some degree, depend upon air transportation for their economic, social and cultural well being. These directives also are the operational tenets by which the 56,000 employees of the agency conduct their daily professional routines.

Contributing to the phenomenal growth of the aviation industry in America has been the steady, unstintingly encouragement received from the Congress. The entire aviation community, I'm confident, is aware of this. Looking toward the future, it is obvious that air transportation is to play a dominant role. If we are to maintain a healthy aviation industry, keep our world trade position, we must all exhibit new dedication and vision. The time has come for a vigorous national commitment to continuous and aggressive advancement of this vital industry.

The 38th annual observance of National Aviation Day must not pass unheralded. The rich heritage of the Wright brothers—their endowment in America's future—deserves the rededication of us all.

Sincerely,

JOHN L. MCLUCAS,
Administrator.

SUNSHINE CONFERENCE REPORT (S. 5)

Mr. JAVITS. Mr. President, I am pleased to be associated with the final version of S. 5, the Government in the Sunshine Act, as it is brought to the floor for consideration of the conference report. It is a product better than either of the original bills which achieved this status through the bipartisan efforts of both Senate and House Members.

I particularly commend the efforts of Senator CHILES, without whom this bill would never have worked its way to final passage and probable enactment. It is on his commitment and inspiration, powered by the example set in his home State of Florida, that moved first the Government Operations Committee and then the entire Senate unanimously to embrace these concepts and procedures in the conduct of our Government meetings and proceedings.

The Sunshine concept will be another principal tool in the continuing effort to make the Federal Government the most open and responsive to citizen needs in the entire world. When combined with the Freedom of Information Act, it provides Americans with the ability to see firsthand the processes and procedures of government, and therefore to be able to petition their Government more effectively to achieve their goals. I am confident that Sunshine will provide the beginning, rather than the end, of currently unimaginable reforms to shape the processes of government so that they respond quickly and fairly to the needs of all Americans. There can be no harm, but there can be great benefit, from operating in full public view.

The bill is carefully constructed to protect the rights of individuals and other entities from disclosure of sensitive or private information. When necessary in the public interest, procedures exist for the closing of meetings to protect persons and to insure that the contemplated agency action is not undermined. But I am sure that these closed meetings will be the exception, and that a large majority of our executive branch agency meetings—just as the overwhelming percentage of our Senate committee meetings—will be open to the public.

We have had a great amount of cooperation from the administration and from various independent agencies on the bill, and I believe the legislation is a far better product for their input.

I am confident that the mood of open-

ness and candor that has been so important a part of the President's administration will now permeate even further into the executive branch and independent agencies of the Government. With the President's support and encouragement, which will surely be forthcoming, this bill will guarantee in law the open Government concept that the President so deeply believes in.

I am pleased to have been a part of this effort and I remind my colleagues that the effort does not end with enactment of this bill. It now becomes even more incumbent upon us to closely follow the actions of our Government agencies and use this new oversight tool effectively and continuously to safeguard the interests of all Americans.

TRIBUTE TO WILLIAM J. FOOTE

Mr. RIBICOFF. Mr. President, it is with a sense of deep personal sorrow and loss that I call to our colleagues' attention the death of William J. Foote of West Hartford, Conn.

Formerly editorial page editor and managing editor of the Hartford Courant, Mr. Foote's career spanned four decades with this historical publication. He was a newspaperman's newspaperman and, as the Courant so aptly observed in this morning's editorial, he "combined keen perception, wise judgment and tough moral fiber with that other all-tempering ingredient—humbleness arising from true worth."

Bill Foote's many activities reached far beyond the newsroom. He served as a director of the Connecticut Child and Family Services, a Pulitzer Prize juror and chairman of the Associated Press Managing Editors Association which drafted the famous AP style book. During his distinguished career, Mr. Foote became an integral part of the Courant and helped it grow and expand. He had a particular fondness for Long Island Sound and his yearly columns on the sea, sailing and the season's last voyage were particularly nostalgic and poignant.

I was honored to know Bill Foote throughout my public career in Connecticut and I will certainly miss his wisdom, his counsel and his guidance. Mrs. Ribicoff and I extend our deepest sympathies to his family.

I ask unanimous consent to have printed in the RECORD an article and editorial appearing in this morning's Hartford Courant on William Foote's life and valuable contributions to his community and State.

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

WILLIAM J. FOOTE DIES; RETIRED COURANT EDITOR

(By Joel Lang)

William Jenkins Foote, former editorial page editor and former managing editor of The Courant, whose Yankee blood was mixed with printers' ink and seawater, died of cancer Monday morning at Hughes Convalescent Home in West Hartford.

He was 71 and lived at 114 Steele Road in West Hartford and at a family compound on Long Island Sound in Branford, where a succession of wooden sailboats, the last named "Gungee," was moored.

Foote started as an editorial columnist for The Courant in 1930, after brief stints as a reporter with the former New York Herald Tribune and Fortune magazine.

By the time he retired on Jan. 1, 1974, Foote had seen bodies carried from the ashes of the 1944 Hartford circus fire, glamorous Zsa Zsa Gabor cry in his office over the poor notice given her appearance in Hartford, and The Courant itself transformed from "The Old Lady of State Street" to a newspaper of modern design with the largest circulation in the state.

Foote's first stories were set by slow and clanky Linotype machines and his last by superfast and nearly silent computers.

But only at the first and last did his byline appear at all. Most of his career was spent behind the scenes, managing the news operation or writing unsigned editorials.

He was managing editor in August 1955 when hurricane flood waters cut electrical power to The Courant. Reporters typed stories by flashlight. Copy was rushed to The Hartford Times where a 12-page edition was printed, keeping alive The Courant's two-century-old record of continuous publication.

In 1950, Foote supervised the move from State Street to the present plant on Broad Street. There he redesigned the cramped vertical layout of The Courant to a more modern appearance. A few years later, the new design won a national award for typography and makeup.

Despite his artful writing and his Ivy League education, Foote reveled in the practical and often hectic aspects of newspaper work. At his retirement he said:

"Really the most interesting thing is the organization of a newspaper—the simple miracle of a tremendous production like a newspaper getting out every damn day of the year without a break. The floods come, the ice storms come, but without a break."

He was assistant managing editor from 1941 to late 1949 when he became managing editor. He became editorial page editor in 1966.

In those years his name appeared more often in the paper as a newsmaker than as a writer. He was director of Child and Family Services of Connecticut and was a leader in the successful effort to reform the state's child welfare laws.

He was a Pultizer Prize juror and a trustee or director of many organizations including the Wadsworth Atheneum and Hillyer College, the forerunner of the University of Hartford. He chaired the committee of the Associated Press Managing Editors Association that drafted the style book used by the AP and many newspapers.

Foote also was a strong proponent of freedom of information laws. In 1956, the city fathers of Rockville voted in secret session to create a separate school district for then rural Vernon. They wanted to delay announcement of the decision, but The Courant obtained a copy and Foote ordered it pubilshed immediately.

The Rockville mayor called Foote's action "highly irregular" and a "violation of journalistic ethics.

Foote responded that the transaction of public business in private was "highly improper and probably illegal."

Foote was born April 27, 1905 in New Haven. His father was Sterling Professor of Chemistry at Yale University and served as naturalist on the 1911 expedition to Peru that discovered Machu Picchu, the lost city of the Incas. His mother ran a private school.

He spent his childhood on a farm in Salem, where he remembered shooting chickens for Sunday dinner during World War I, and in New Haven, where his family had the first car on the block.

For a time he attended an "open air" school in New Haven based on the latest education concept that fresh air was good for children. The school was a tent and the floor, wooden planks. The sides were kept rolled up even during winter. On some days the ink froze in the desk wells and the children danced to keep warm. Foote remembered.

One of his classmates was Dr. Benjamin Spock. Foote attributed their poor penmanship to learning to write while wearing mittens.

As a young man, his contacts with relatives and other acquaintances expanded. He tramped the Northumberland moors with the English historian George Macaulay Trevelyan and crossed the Atlantic with Leo Stein, the art critic who was Gertrude Stein's brother.

Foote went to secondary school at Phillips Academy in Andover, Mass., and was graduated from Yale University's Sheffield School of Engineering.

Though he spent a summer working 14-hour shifts in a steel mill, Foote on gradution in 1927 took a job with the Tribune. At the time, Morse code operators still worked at the paper to receive messages too urgent for the newer, but slower teletype machines.

For a time he covered the art beat. Among his assignments was the auction of the tin bath tub in which Charlotte Corday was said to have stabbed Jean Paul Marat to death.

Later he worked on prototype editions of Fortune magazine. But soon after the stock market crashed. Foote came to The Courant.

To escape the pressures of newspapering over the years. Foote most often retreated to Long Island Sound and his sailboat.

He wrote of the sea and sailing frequently in the columns he began after he became editorial page editor. In simple words they conveyed a reverence for the sea and nature.

Each year in the fall he wrote columns about the last voyage of the season and putting his boat in drydock for the winter. Usually those columns had a tender quality, that looked back with pleasure to the summer just ended and forward to the summer to come.

The tone changed dramatically in the fall of 1974. That spring Foote had been seriously ill. By summer he was well enough to sail again. After the last voyage, he wrote in a column.

"But when she is stripped and heading under power for the shipyard, the boat no longer talks. Unmuffled by the half ton or so of living gear that has been stripped from her cabin, she merely chatters and rattles without sense or purpose.

"Lockers slide and floorboards Vibrate, Hooks and other fittings rattle and new and alarming sounds pour from the engine, with the whole tumult thrown back and forth and up and down like a brass band playing under a tight canopy. She isn't fit to live with and, when she talks that way, it is, indeed, time to leave her."

He leaves his wife, Mrs. Dorothy Bennett Foote; three sons, Christopher S. Foote of Los Angeles, Calif., Edward J. Foote of West Hartford and William J. Foote, Jr. of Boston, a daughter, Mrs. Mary Rounsavall of Louisville, Ky.; a sister, Mrs. Margaret Oppenheimer of Washington, D.C., and Cornwall and five grandchildren.

The funeral is Thursday at 1:30 p.m. at St. John's Episcopal Church, West Hartford. Burial will be in the Ward family cemetery in the Nut Plains section of Guilford. There will be no calling hours. The James T. Pratt Funeral Home, 71 Farmington Ave., is in charge of arrangements.

Memorial donations may be made to the Wadsworth Atheneum or to the American Cancer Society.

WILLIAM J. FOOTE

William Jenkins Foote had a quality without which no newspaper can become and remain great. Mr. Foote, whose career at The Courant spanned more than four decades, combined keen perception, wise judgment

and tough moral fiber with that other all-tempering ingredient—humbleness arising from true worth.

Mr. Foote, scholarly, well informed, proud but not boastful of his deep family roots in Connecticut, was respected as a man and this respect accrued to the newspaper he represented. His humbleness was not subserviency, it was more self-effacement when to be otherwise would be pretentious and unnecessary. He performed quietly and managed unabrasively to have his paper hew to the high standards of the craft, both as managing editor and editor of the editorial page.

Mr. Foote saw high calling in the work of a newspaper, he was of a school and background that never sought to turn stones over just to see what squirmed beneath, but would spare no effort if he believed or was shown those stones were disruptive to others or impeded important social progress.

The life and career of Mr. Foote is broadly outlined in today's notice of his death, and the telling conveys much of the caliber of the man. However, only those who have known him, personally and intimately, his family, his close friends, his older colleagues, can be fully and more gratefully aware of the sensitivities, the shy but constant immersion in life and events, the genuine concerns, the active responses that were intrinsically his.

A man's epitaph is but chapter headings of his life. A eulogy is but an attempt to describe what can best be articulated inwardly and silently by those who knew him well. Receptive and gently firm, Mr. Foote touched many lives and in many more ways than could ever be totally recalled and adequately related—nor would he want it any different for those in that wide circle to be better for having known him is the best legacy he could have left his family, his friends and the newspaper which was his working life.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of September 1, 1976, reached 215,861,167. This represents an increase of 1,450,153 since September 1 of last year. It also represents an increase of 82,052 since August 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to more than fill the combined cities of Des Moines, Iowa; San Jose, Calif.; and Cleveland, Ohio. And in 1 month our population has grown enough to more than fill the city of Evanston, Ill.

DEATH OF HARVEY OLSON

Mr. RIBICOFF. Mr. President, it is with deep regret that I note the death yesterday of Harvey H. Olson of Wethersfield, Conn.

Long involved with the radio and television industry, Harvey Olson served as the public relations consultant for the Connecticut Education Association and had previously served as the executive director of the State board of education. Formerly associated with the University of Hartford, Mr. Olson was active in numerous charitable organizations in Connecticut.

Mrs. Ribicoff and I extend to Mr. Olson's wife, Phillis, and family our deepest sympathies on this great loss, not only to them but to the community at large as well.

I ask unanimous consent to have printed in the RECORD an article from this morning's Hartford Courant on Mr. Olson's career.

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

H. H. OLSON DIES; WAS ANNOUNCER

Harvey H. Olson, 64, of 25 Garden St., Wethersfield, an area radio announcer for many years and the public relations consultant for the Connecticut Education Association, died Monday at his home.

Born in New York City, he lived in the area more than 40 years.

In 1935 he joined the staff of WDRC radio as an announcer. He was named program manager for the station in 1945. He was named vice-president of public relations for WDRC in 1958, the same year he resigned from the station.

In 1959 he was named the first Alumni Secretary for the University of Hartford. Mr. Olson's connection with the school went back to 1941 when he began teaching a course in radio and platform speaking at Hillyer College which later merged and became part of the University of Hartford. He had been a part-time teacher at the university for many years.

In 1960 he joined WHNB–TV 30 as the news director. He became program manager for the station in 1965, and left TV–30 that same year.

He was named executive director of the State Board of Education in 1966 and he stayed in that position until he became public relations consultant for the Connecticut Education Association.

Before his radio career, Olson was active in the theater. He appeared in the 1932 Broadway production of "The Great Magoo." He was involved with many theaters throughout New England.

He was active in the Easter Seal Movement, and he aided in TB societies. He also was active in the Prevention of Blindness campaigns for many years.

He leaves his wife, Mrs. Phillis V. Olson, three sons, H. Erik Olson of Newington, Rolf H. Olson of Wethersfield, and Maj. Neil H. Olson, M.D., Hanscom Field, Bedford, Mass.; his father, A. H. Olson of N. Dartmouth, Mass., and five grandchildren.

The funeral and burial will be private. There are no calling hours. James T. Pratt Funeral Home has charge of arrangements. Donations may be sent to the Heublien Oncology Center at Hartford Hospital.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, there has been evidence over the past few months of increasing interest in welfare reform. This is a complex issue not easily discussed during an election. It is an issue complicated both in theory and implementation. I believe that it will be an important issue in the next Congress.

This spring I participated in a roundtable discussion of welfare reform sponsored by the American Enterprise Institute. Other participants were Congressman CONABLE, Wilbur Cohen, former Secretary of HEW and Paul W. MacAvoy of the President's Council of Economic Advisors.

The transcript of this discussion has just been published by the American Enterprise Institute. I believe it is worth examining because of the different approaches taken to the issue of welfare reform. I believe my colleagues will be interested to read Dr. MacAvoy's defense of the current welfare system—a position rarely taken today. I myself am committed to phasing in or piloting out any massive reworking of the welfare system.

Today I would like to share with my colleagues the transcript of this discussion. Tomorrow I will call their attention to the wider discussion which we had with the audience.

I ask unanimous consent that the first half of the transcript of the welfare reform roundtable be printed in the RECORD.

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

ROBERT H. BORK, solicitor general of the United States and moderator of the Round Table. This Round Table, which is jointly presented by the American Enterprise Institute and the Hoover Institution, will consider the issue of welfare reform.

The welfare issue appears to have become a permanent feature of the American political landscape. The problem has always been with us and, as we become increasingly egalitarian, is likely to remain with us. Our dilemma is that we want the poor to have better lives, but we seem also to be unhappy about the results of our attempts to achieve that goal. Federal spending on income security has risen more than $100 billion since 1964 when President Lyndon Johnson called on his countrymen to wage a war on poverty. Yet, more than 20 million Americans still live below the officially defined poverty level. The public perception, whether accurate or not, is that something is very wrong.

To begin our discussion, let me turn first to Senator Abraham Ribicoff, a former secretary of health, education, and welfare. Why, senator, do you think there is so much criticism of the nation's welfare program?

ABRAHAM A. RIBICOFF, United States Senate (Democrat, Connecticut). I think, first, because politicians, from the President of the United States down, have found it politically profitable to play the demagogue with respect to the poor and the black. Second, the criticism reflects a guilty conscience of the American middle class because American society has failed to solve its problems.

Our annual welfare bill, some $40 billion, is high. But, when you compare that with our gross national product of $1.4 trillion, you find that less than 3 percent of GNP represents the overhead of American society for its failure.

Beyond these reasons, I believe the dissatisfaction arises because political leaders really don't have the guts to face up to the problem.

Mr. BORK. Congressman Conable, as a senior Republican member of the House Ways and Means Committee, can you tell us why welfare costs have skyrocketed in recent years?

BARBER B. CONABLE, United States House of Representatives (Republican, New York). Well, it is a very expensive program. The $40 billion the senator mentioned is the cost of only the three largest programs—cash payments, food stamps, and Medicaid. There are lots of other programs, as well as severe costs, because of an administrative hodgepodge.

Also, costs have gone up sharply in recent years primarily because more people now, a total of about 29 million, are participating in these major welfare programs. Welfare is a needs program, and the poor are hit hardest in an inflation as the value of the dollar goes down. Obviously, needs will go up and welfare costs will increase in these circum-

stances. Third, administration is expensive. It costs over $3 billion a year to administer our welfare program at this point—8 percent of the total cost.

All these things have combined to make welfare not just a highly visible part of our government system, as the senator mentioned, but a controversial and increasingly expensive part.

Mr. BORK. Dean Cohen, as a former secretary of HEW, do you think our present welfare system is the most efficient way of helping the poor?

WILBUR J. COHEN, dean, School of Education, University of Michigan. No. The present system is not only inadequate, but it has been built up over the years in such a way that it fails to benefit all the poor equitably. There are better ways of helping the poor, but all of them involve more cost and more problems, economic, political, administrative, and otherwise. Part of the reason why we don't have a better welfare system, or a substitute system, is because it is difficult, in a country as large as ours, to agree on what an adequate standard is for, say, both New York and Mississippi, and because of various other complex decisions which are necessary to administer a system in a country as big and diverse as the United States.

If one were to attempt to develop a better system to meet the needs of the poor, one wouldn't start with the current system.

Mr. BORK. Dr. MacAvoy, you now serve as a member of the President's Council of Economic Advisers. How well do you think our present welfare programs are meeting their objective of helping the poor?

PAUL W. MACAVOY, member, Council of Economic Advisers. Robert, I'm intimidated by the prestige and seniority of the other members of this panel. As the youngest member of the panel, it's not my position to judge these distinguished gentlemen, who all played some role in the development of the existing institution. [Laughter.] I might add that they have done that job very well themselves. Their remarks were severely critical of where we now are—in other words, they're tearing down their own edifice. So perhaps I should be in the position of building it up a bit. As I understand the original intent of these programs, it was to help persons who are in no position to help themselves to obtain the necessities of life—food, clothing, shelter, the minimum of transportation, and other goods and services. These persons may have been ill; they may, for one reason or the other, be incapacitated for various periods. The programs have attempted to help them as part of the American dedication to equality. In good part, the programs have done that.

The criticism that I could make, as an economist, of present operations is that they have gone beyond their original intent by helping many individuals who may not qualify under these standards. If we were to take the expenditures that Representative Conable mentioned and distribute them only to those who meet the original qualifications, we would provide 130 percent of the poverty level of income; that is, we are spending more than enough to bring above the poverty line every member of the population who is considered poor. That poverty still exists indicates that others who do not meet the original qualifications must be receiving substantial amounts of income through the programs for one reason or the other.

We also have an extensive federal and state bureaucracy administering the programs—so intricate that it is extremely difficult to find out how much we spend on them. Members of my staff, back in the Executive Office Building, are tracing these expenditures now, trying to find out how much goes to which part of which program. They will be late for the session this evening. [Laughter.] But when I left to come to this meeting, they had found well over $2 billion of annual outlay for salaries and other operating expenditures for overlapping federal, state, and local programs. It might be a very good idea to redesign programs, not to achieve perfect government, but to reduce costs by reducing the specificity of the programs, the extreme detail, the opportunities for legalisms to determine who qualifies and who does not that add up to a lawyer's and bureaucrat's dream.

Mr. BORK. I am going to object: we don't use *legalism* as a pejorative term here this evening. [Laughter.]

Dr. MACAVOY. You were brought on to this panel to prevent violence from breaking out, not to create it. [Laughter.]

Mr. BORK. I thought I heard a murmuring on my left. Senator Ribicoff?

Senator RIBICOFF. Well, I think Barber and Professor MacAvoy make a good point—that the administrative costs are high. The reason is that there are some 1,150 separate agencies throughout the United States, administering every conceivable type of welfare program. It makes no rhyme or reason.

I think the professor makes another good point. I too am convinced that we could take this pot that we spend on welfare, simply divide it up—without any administration—and put checks through the computer, and we'd end up saving the American taxpayers billions of dollars. I think President Nixon tried to do that, to a certain extent, with his proposed family assistance plan, which was very well conceived, but, while the House did act—twice, in fact—the Senate couldn't agree; and then Mr. Haldeman and Mr. Ehrlichman finally did in the plan.

Dean COHEN. But does't that illustrate the problem? It's very easy to criticize the system—which I have done—but it's very difficult to find a solution that everybody will accept.

When welfare reform is discussed in any kind of a general situation, one person will go away and say, "Well, I'm for that because it will cut the welfare rolls in half." But the fact is that most of the working poor of the United States are not in the present welfare system, except for food stamps.

If we were to generalize the program in the way you just did, senator, we'd end up spending $15 billion to $25 billion a year more. That's the reason why the Nixon plan and the other proposals for a negative income tax have not passed both houses of Congress. The solution to the problem is to find a plan that includes an equitable level for the whole United States and an income disregard that will be a work incentive. I haven't yet seen a proposal that meets those criteria that cost less than $15 billion a year more than the present program. Now, is that what the American people mean when they talk about welfare reform?

Senator RIBICOFF. I think the problem is that no one in this country has the answer. I lived with it as secretary of HEW, before that I lived with it as governor, and now I live with it as a United States senator. I am convinced that there is no one solution, no one answer. And I think that we ought to realize that, before we put into action any particular program involving millions of people and billions of dollars, we should undertake a pilot effort.

I would like us to take some of the best ideas, and spend some money for four or five pilot programs to see if they work. As a matter of fact, one of the tragedies of President Nixon's family assistance plan is that when it was stalled in the Senate Finance Committee—and I had been able to obtain unanimous agreement for the expenditure of $500 million for a four-year experiment on pilot programs—the secretary of HEW and the President wanted all or nothing. So they ended up with nothing. I would hope that, when we approach welfare reform again, when some President has the courage to come up with a proposal, men like Barber in the Ways and Means Committee, myself, and others would try to test it out before we commit the country to a $40 billion program.

Congressman CONABLE. Senator, I have a different version of what happened to the family assistance plan. It was my understanding that the Senate Finance Committee was unwilling to accept the standards that were laid down in that plan because it felt they were too low. And because it couldn't get agreement on a higher level of benefits, the whole thing died.

Senator RIBICOFF. No, Barber. Before it got to that—

Congressman CONABLE. We sent you a bill in early 1970 that provided for an income floor of $2,400 a year, for a family of four.

Senator RIBICOFF. And then the so-called liberals wanted more, the conservatives wanted less. To break the impasse I suggested pilot programs. Then Senator Long, Senator Williams, everybody around the Finance Committee table—liberals, conservatives, the middle-of-the-roaders—agreed unanimously to go up to $500 million to try it out, to see if it worked. I thought that was a great idea.

But the Nixon administration wanted to go for broke, so nothing happened. Later on, in 1972, when Secretary of HEW Elliot Richardson and I had worked out a compromise for an income floor of $2,600, it collapsed because the secretary could not even get by Ehrlichman and Haldeman to talk to the President of the United States.

Mr. BORK. Well, let's try the future before we replay that loss.

Dean COHEN. I think that the problem that Senator Ribicoff just discussed is still here today. What amount could be agreed on as a proper minimum for the entire United States? At the present time the poverty yardstick for a family of four is around $5,500. Now, could you get Congress to approve, as a political compromise, a federal minimum that is close to $5,500? Obviously, I would say—and you gentlemen may correct me—the amount would have to be substantially lower than that. But the lower amount wouldn't satisfy many states, particularly the industrial ones; and you wouldn't be able to get a compromise, since there are two senators from every one of those states.

Dr. MACAVOY. You're not asking the right question. The question for us is not to determine a specific minimum level of income for everyone, but how we can best help those who are, in some way, unable to work within the economic system to raise their level of income.

There are many people who have temporarily low incomes, and they would be caught up, and rewarded, in any program that simply sent out checks to everyone whose income was below a certain level. But we're not really aiming at guaranteed incomes. As a first priority we seek to provide the opportunity to consume to those unable to generate their own assets and income.

Dean COHEN. Well, what income level would you propose?

Dr. MACAVOY. This is just the problem. We shouldn't propose a single level of income that would apply universally. We should propose a new program, one which can be so specific as to separate persons without income, wealth, or any opportunity to earn from those who have low levels of income or the capacity to earn a steady income, albeit a low one.

Dean COHEN. All right. I ask you again: for people who have no income, what level would you set?

Dr. MACAVOY. My next door neighbor is a medical student who has no income and who would qualify under a check-receiving program during this period when he's in school—before he begins to earn $20,000 or $75,000 or $150,000 a year.

Dean COHEN. Well, I'm perfectly willing to exclude all physicians and medical students, because they are going to have a lot of income.

Dr. MACAVOY. Ah, but then you have a special program, and there are lots of other exclusions that you must make, Mr. Cohen, as well.

Dean COHEN. Make all the exclusions you want, and tell me what is the income level that you would propose for a minimum?

Dr. MACAVOY. Now we're back to the present program.

Mr. BORK. No. We're not back to the present program.

Dr. MACAVOY. Yes, we are. We're back to 1,100 programs.

Senator RIBICOFF. What bothers me with Professor MacAvoy's points—and this is the problem every time you look for welfare reform—is that everybody talks in generalities. You're one of the President's economic advisers, professor. Give me a specific program that you would advise President Ford to submit to the Congress of the United States.

Dr. MACAVOY. Mr. Ribicoff, I have that program in hand.

Senator RIBICOFF. Good. Let's hear it. [Laughter.]

Dr. MACAVOY. You keep tearing down your building, and I keep trying to patch it back together again.

Mr. BORK. This is a historic moment, I think. [Laughter.]

Dr. MACAVOY. Our existing welfare programs can be improved. They can be made more efficient by introducing more advanced government-operation techniques and by removing from these 1,100 programs those that we all agree are clearly redundant—

Dean COHEN. The computers broke down on the SSI program [Supplementary Security Income].

Dr. MACAVOY. —and that suggestion differs from Mr. Cohen's, which is to tear the current system down and start issuing checks.

Congressman CONABLE. Can we agree on this, gentlemen—that we're not likely to achieve the millennium overnight, and shouldn't expect to? Can we agree that we should be taking concrete steps toward a more rational welfare system, through a process of consolidating some programs, cashing out others, building a federal floor under benefit levels in order to reduce the disparity between the high- and low-welfare states, and so forth?

Senator RIBICOFF. Barber, would you go for national standards and for the federal government's assuming the entire welfare load? Those two changes would begin to eliminate the disparities, and would also eliminate the tragedy of New York City, the only city in the United States that has an annual tax bill of $1 billion for welfare. If New York City were like practically every other city of the United States and did not have to pay for welfare, its budget would show a surplus instead of a deficit.

Congressman CONABLE. Senator, that's the point. We can't have a single national standard because it's politically unachievable. But we can move in that direction. We could start building a floor under the existing structure.

Senator RIBICOFF. I believe we could have regional standards reflecting the different standards of living throughout the United States. Certainly, it doesn't cost as much to live in, say, Mississippi as in New York City. There could be one standard for New York City, Chicago, the other industrial parts of the United States; another for rural areas; another for farm states; and another for the deep South. I think we could have national standards built on a regional basis.

In other words, what I am arguing for is not a uniform program for this country—that just couldn't be done—but for a common sense approach, for pilot programs that are developed cooperatively by the legislative and the executive branch. Before we spend $40 billion we should first spend $500 million over three or four years to find out what works. Then we can adopt those that do and junk those that don't.

Mr. BORK. We've heard remarks that the welfare system is terribly complicated—it's balkanized, it has 1,150 different agencies, and so forth—and that must be part of the problem. Yet Dr. MacAvoy says he doesn't want a check-writing program because it would necessarily include all kinds of people we don't wish to include. What would be wrong with combining all of these programs—in fact, doing away with individual programs like social security, aid to the disabled, aid to the blind—and simply using a check program? Wouldn't that eliminate a large portion of bureaucracy, a lot of overlap?

Congressman CONABLE. We supposedly took that step with SSI. We combined three programs—

Dr. MACAVOY. But you took another step in that case, congressman. Once you cashed the programs out, you started adding benefits on top. And that may be the real problem—the Congress just can't keep from adding a few more goodies.

Congressman CONABLE. Part of the difficulty there is that everybody wants a piece of the action. There are eleven House committees, ten Senate committees, and nine executive agencies all participating in welfare, and they operate on a competitive basis. The minute you cash out, say, the food stamp program as part of any cash welfare program, you'll find the agriculture committees fighting to create some new type of food stamp program in order to get a piece of that action for the jurisdictional benefits it will give them in getting through their agricultural bills.

Mr. BORK. Are you telling the American public, tonight, that the welfare problem is entirely a jurisdictional problem?

Congressman CONABLE. Oh, I didn't say entirely. All I'm saying is that that's a serious complicating factor; and the competition among participating agencies and committees is unseemingly.

Dean COHEN. Could I join my colleagues in agreeing on two points that have been made here? One, I think it is possible to improve the present welfare system without having a millennial program. Two things could be done. First, we could remedy—as we have tried to do for many years—the exclusion of the working poor, who are not covered, for the most part at least by Aid to Families for Dependent Children [AFDC]. Of course, broadening the program to include the working poor would require an increase in cost, and that presents a difficulty. But I think that the discriminatory treatment that now exists, where a man or woman who tries to keep the family intact cannot, except in some states and localities, get on welfare, embodies a wrong philosophy. It gives the head of the family an incentive to desert the family, and it ought to be corrected.

Second, I think that Barber's suggestion for minimizing interstate disparities is a good one. It would not preclude having a different system later on if we moved now to set some kind of minimum and then raised that over a period of five years, so that when we did get an opportunity for more comprehensive welfare reform, the disparities wouldn't be as large as they now are. It's my understanding that one of the major reasons why the famiy assistance plan couldn't be enacted was the size of the disparities.

Congressman CONABLE. Wilbur, it's always entertaining to see people advocating the federalization of welfare when, I think, almost half the welfare passed out in the country is passed out through three states—California, New York, and Massachusetts. Thus, the federal representatives of the other forty-seven states would have to pay a substantial fiscal dividend to those three states, a politically unlikely vote under the circumstances.

Senator RIBICOFF. That's unfair, Barber. The Supreme Court has eliminated the residency requirement. Keep in mind that New York City, for example, has been the magnet for the blacks from the South and for the Puerto Ricans, who have a right, as citizens, to move there; and New York has been defenseless. Welfare is a national problem, the obligation of the whole country. And if New York is defenseless against poor immigrant U.S. citizens, why should the people of New York—or Connecticut, or Massachusetts, or Washington—suffer the burden alone?

Congressman CONABLE. Senator, I wish I could agree with you. I agree that that's an unfair condition, but nothing is a national issue that is not recognized as such by the national legislators. And I think it's still unlikely that the federal representatives of forty-seven states will give a major fiscal dividend to the representatives of three, no matter how equitable the latter's claims.

Senator RIBICOFF. Well, once we lifted the welfare burden from their states and counties, they might do it. Because, don't forget, in that event they too would not have the bills to pay.

This is why I don't believe, gentlemen, that we are ever going to have welfare reform until we have a courageous, farsighted President who is willing to go to the American people to explain it, and go to the Congress to fight for it. The problem is so complex that none of us, as individuals, can galvanize public opinion and public understanding to do this job. The opportunity can only come with a President who is concerned and is willing to take his lumps. But, having been a cabinet secretary and a senator, I have seen that most Presidents are unwilling to do that. As I mentioned today, the reason we have had so many secretaries of HEW is that no President is willing to go as far as a secretary of HEW must go in order to try to solve the problems facing the country. Politically, a President finds that unacceptable.

Congressman CONABLE. I think we've had a good many more lumpy Presidents lately than we've had congressmen. [Laughter.]

Mr. BORK. I have a feeling that some member of the executive branch should have a right to answer that, but I'll pass it by.

I really want to know whether you think that, at the national level, there is anything to be gained by moving towards a check system, a negative income tax, or a family assistance plan, and by doing so eliminating the large bureaucracies that give specific programs.

Dean COHEN. I agree that it's entirely desirable to have what you call a check-writing system, whether you call it a negative income tax or a family assistance plan—which is really a basic payment plus an income disregard as a work-incentive provision. But I think that it shouldn't be established until the computers are able to handle that problem. Judging from experience with existing programs, I don't think we've done so much better with the computers than we did with individualized treatment. Therefore, I am very skeptical about computerization without adequate attention to the human side of the equation—to making it possible for these people to get their checks and their eligibility in their local community.

Mr. BORK. I understand that. But are there savings to be gained—and in this company I hesitate to say it—by the abolition of bureaucracies like HEW and HUD—savings large enough to make a check system viable?

Senator RIBICOFF. I never thought I'd disagree with my friend Wilbur on anything when it comes to welfare. But I think eventually that's where we must go. It makes the most sense. It's the simplest way, and we must face up to it. Why are people poor? It's

very simple: they don't have money. When we face up to the simple fact, we'll start to understand how to solve the problem. But all the social workers and all the welfare bureaucracies certainly compound the problem. I think, too, that HEW should have been split up into its three basic components—health, education, and welfare—a long time ago. I thought so back when I was secretary of the department, and I still do.

I also think that eventually we'll have to take the Milton Friedman approach, the negative income tax approach.

Dr. MACAVOY. Robert, let me provide a somewhat different view. It appears to me that some people are poor because they have low incomes at present, but that those same people might have much higher incomes in the future. My daughter is in that class: she's thirteen. Then there are other people who are poor because they have low incomes even though they have considerable wealth. That's my grandfather: he's eighty-six. Finally, there are of course the people who are truly poor because they have little or no income, wealth, or earning power.

This third class is the one, I think, that we seek to aid in welfare programs. At this time it is not possible with our information systems to differentiate among those three classes with a check-writing program that provides negative income taxes.

Mr. BORK. You mean, suppose you had to fill out a questionnaire like an income tax return?

Dr. MACAVOY. Yes. Put it to the IRS officer to compare the IBM salesman, who fills out a tax return in which he pays taxes on an income of $85,000 a year, with a welfare mother, who pays taxes on the basis of negative income. Now, the first has assets, a pattern of expenditure, previous income levels, and the names, addresses, and birth certificates of his children. But the second may have none of these. In the second case all of the indicators that an IRS officer would use to determine the level of income and wealth, and to determine how wealth has been generated in the last year or two, are not there. So the problem of ascertaining whether one qualifies is compounded enormously. That's what Mr. Cohen is saying.

Mr. BORK. You mean an audit system wouldn't do it?

Dr. MACAVOY. Mr. Cohen is saying that the computer systems would not do that well. And, even though I criticize the level of expenditure on bureaucracies now, it's my judgment that the savings on staff and the like in HEW would be more than cancelled out by increased expenditures in the IRS, plus the additional cost of payments to persons who would receive checks even though they would not qualify under the original intent of the program. Mr. Cohen is saying that it would cost $15 billion more under a check-writing, negative income tax program because that approach is so general that it cannot get at only the people one wants to help. And, therefore, we would have to spray the landscape with that much more expenditure.

Mr. BORK. And you would say that even if we could eliminate programs like subsidies to housing, subsidies to agriculture, and all of those bureaucracies?

Dr. MACAVOY. I would eliminate subsidies to housing, which I consider among the redundant programs. There are serious problems of excess coverage in the food stamp program; those are now being dealt with administratively. I believe there are other programs where there is a specific record of waste.

Mr. BORK. But you're telling us that the elimination would not free enough funds to finance a negative income tax program?

Dr. MACAVOY. I don't think we need that program when we can reform the present system, program by program, and have a structure of half-a-dozen specific programs that get at what we're trying to do—which is to provide necessities to those who have no income and no wealth.

Mr. BORK. It sounds like the welfare mess is a mess without a cure.

Senator RIBICOFF. I think that the professor's comparisons are so invidious that we're never going to solve the problem if we take his explanation. How can he put his thirteen-year-old daughter in the same category of not having any money with someone without education, without a skill, without a job, without a house, without clothes, without a piece of bread for his belly, for heaven sakes? I think Wilbur is wrong too. The two professors are wrong.

Mr. BORK. Not unlikely, not unlikely. [Laughter.]

Senator RIBICOFF. I don't think this country is so incompetent that we can't devise a form, or a system, to take care of the person who's really poor, and hungry, and homeless, and uneducated.

Dr. MACAVOY. But that's not the question. We are doing that, senator; but we're also taking care of a number more. Not my thirteen-year-old daughter; that was an exaggeration, of course.

Senator RIBICOFF. Well, you were the one that brought it up.

Dr. MACAVOY. I'm sorry I did that. I made a mistake which gave you an opening that you didn't deserve. What I'm saying is that a check-writing program will not be able to distinguish, as the current programs do, between the wealth and earnings power of those who should be covered and the wealth and earnings power of those who should not.

Mr. BORK. Let's suppose we institute a program to provide income up to a fairly substantial level. I'd like to hear the congressman's views on whether work incentives would be so reduced that we'd really be paying for leisure, and be supplied with leisure?

Congressman CONABLE. The problem is that our present system gives very little work incentive. As Wilbur mentioned, a large number of people on welfare are absolutely disqualified for it if they accept work. Although they have marginal skills, they get on welfare because, that way, they can take home as much as, or more than, they could if they went to work. Working costs them money.

This is one of the reasons why we've got to move toward the sort of thing the senator is talking about. Perhaps we won't be able to achieve it with today's technology. But we certainly aren't going to achieve it unless we have a plan, unless we start working toward consolidating food stamps with a cash program in order to reduce administrative complexity.

Now, I don't think we're going to save a lot of money this way. And I think we'll continue to have abuses, because in a democracy everybody is entitled to try to find his own rip-off, apparently. [Laughter.] But I do think that we can gradually improve the system; and it's terribly important that the system be conceptually sound and based on a long-range plan. The problem, right now, is that we seem to be "piece-mealing" everything. Somebody says, "Oh, that's a terrible problem, we ought to have a program for it." So we pile a new program right on top of all the others, making things so much more complicated that ultimately we throw up our hands in despair, and say, "What are we going to do? We've got to take care of the poor."

Of course, we don't want to brutalize society, to ignore the poor. In a competitive society, we have to accept the fact that some people are going to lose, and that they, too, are part of the society and have to be maintained in some way. But we've got to have a plan; and we must be sure that the concept we're working toward involves incentives, not disincentives as is true in the present hodgepodge.

Dean COHEN. Can I rise to the defense of professors? [Laughter.]

Mr. BORK. It's a losing fight, but—

Dean COHEN. Professor MacAvoy has drawn attention to a fundamental question. No negative income tax proposal that I have seen deals with the question of assets. I think what we are both trying to say is that, inevitably, the matter of assets would come into play, even though Milton Friedman and other proponents of the negative income tax fail to recognize it in their plans. Once you include assets, you're right back to the same problem the present system poses of individualized analysis of assets in relation to a person's lack of income from work.

Mr. BORK. Well, wouldn't that be easier than having 1,100 programs—giving food stamps, giving medicine, giving——

Dean COHEN. Well, in the first place, there aren't 1,100 programs.

Mr. BORK. I heard that number from an expert a moment ago.

Senator RIBICOFF. There are 1,150 separate federal, state, county, and city units administering welfare throughout the United States.

Dean COHEN. But that's a gross exaggeration, senator. When you take the fundamental component of the welfare system, AFDC, which has 11 million recipients, you'll find only fifty states administer that program. It is under the complete control of the fifty states and the federal government.

There's no reason why we couldn't broaden AFDC to include the working poor and to provide a minimum. Doing that would solve about 75 percent of our current problems. It wouldn't be a perfect program, but it would meet two of the greatest unfulfilled needs. Then, after we'd done that, we could undertake your experimental and pilot programs on the work incentive to see what works best. Then, we might be able to select a better program than what we now have. But until we analyze and deal with this matter of assets, we're not going to solve the problem, because I don't think IRS could do it.

Senator RIBICOFF. Well, Wilbur, do you mean to say that Barber Conable and Abe Ribicoff couldn't take the asset factor into account in writing a welfare bill? Certainly, if a man has $50,000 in the bank, he shouldn't be given $5,000 a year on a negative income tax check.

Mr. BORK. What have been the results of the pilot programs on negative income tax?

Dr. MACAVOY. Pilot programs were run in Seattle, Denver, and New Jersey. The New Jersey set of experiments came first; they were quite detailed and, incidentally, have been the subject of great controversy related to the construction of the sample and to the meaningfulness of the results given the short time frame of the experiment.

Mr. BORK. Did we learn anything about the administrative costs of dealing with assets, with the young, and so forth?

Dr. MACAVOY. No. The programs looked centrally at the question of whether work incentives were reduced as a result of receiving income through a negative income tax.

Dean COHEN. But those were artificial programs. I don't think they really prove anything—

Dr. MACAVOY. They got better, Mr. Cohen, as the program design was improved. The later of the pilot programs, those in Seattle and Denver, indicate that there are significant work disincentives under a negative income tax scheme.

Mr. BORK. When you say "significant," do you mean that if the program were applied nationally, we'd have a serious problem of buying leisure for the population?

Dr. MACAVOY. Many individuals with low income, male workers as well as women with children, would decide—for short- or medium-term periods, perhaps—not to go into

the labor market, but to stay on the negative income tax instead.

Mr. BORK. So that program is not a panacea in that sense either?

Dean COHEN. I want to emphasize that those particular experiments were artificial and unreal, because they were short term and because the people who participated in them knew that.

Dr. MACAVOY. That's true of the New Jersey experiment, but not the Seattle and Denver experiments.

Dean COHEN. Well, the Seattle and Denver experiments are so limited and so small, and not necessarily representative of the wide range of income, racial, and family mixes, that—while I happen to agree with your general observation about the work incentive—I would not take them as the ultimate test.

What the senator and I are proposing is to allow several states—say, Delaware, Rhode Island, and Arizona, so that we would have both urban and rural states—to convert their present AFDC programs plus SSI and the food stamp program, into a new program—say, a negative income tax, applied statewide. Then we would see if the work incentive, at different rates of income disregard and under very different but real conditions, would work. I think that's what the senator has in mind.

Senator RIBICOFF. That's exactly what I have in mind, because my feeling is that the last thirty years have proven that social programs don't always work out. [Laughter.] Everything looks good on paper, but when you're dealing with human beings, it's altogether different. I, personally, am convinced that I'll never vote to commit the nation to a multi-million dollar social program, unless it has first been tested and found to work.

Mr. BORK. How would you conduct the state-by-state experiment?

Senator RIBICOFF. We'd take varied states—a small state, an industrial state—

Mr. BORK. No. No. You let the state decide whether it wants to do it.

Senator RIBICOFF. That's right. We're not telling them. Never. In the first place, a state couldn't afford to do it.

Mr. BORK. But you'd help them do it.

Senator RIBICOFF. Yes. We'd find a state that would be willing, because it couldn't be done without the cooperation of the federal government and the state.

Dr. MACAVOY. Have any states come forward, senator?

Mr. BORK. There's nothing to volunteer for, yet.

Dean COHEN. There are two deficiencies now. There's no financial incentive for a state to do it, and it's not legal for them to do it under the present law.

Dr. MACAVOY. Have you gone around and asked the states, Mr. Cohen, "At what price would you do it?"

Dean COHEN. Well, they would do it if the federal government paid the additional cost for programs beyond what the states are doing now.

Dr. MACAVOY. Have you tried auctioning it off to see who would do it for the least?

Dean COHEN. If you recommend to the President that we auction it off, I'll be glad to help find the states.

Congressman CONABLE. I think we're making a mistake here in overemphasizing the value of work incentives, because the assumption is that the great proportion of people on welfare can work if only they wanted to, if only they had adequate incentives to do so. I suspect that there are a great many people—I'm sure Wilbur would know the statistics—who are going on welfare indefinitely—during their childhood, anyway—because they simply don't have the skills to work, or to get a job at all, whether or not they have the incentive.

Dean COHEN. Well, it's even more difficult, Barber, because such a large proportion of both the people who are poor in this country and the people who are on welfare are in families headed by a woman. If they do want to go to work—and I'm sure many of them do—we would have to finance a child care program. That is another reason why costs would balloon—

Mr. BORK. Well, now we're being told that work incentives aren't too important, because there aren't that many people in the welfare population who would respond to them.

Dean COHEN. No. We're not saying they're not important for some people, but there's a group among the poor for whom work incentives are inoperative because of sickness, disability, education, or the number of children in the family.

Mr. BORK. I was trying to find out whether if we established such a plan, we would be risking a major loss of national efficiency by paying people not to work, and I can't get any estimate of the size of that problem, or find out even if it exists.

Dr. MACAVOY. You can get different estimates from different members of the panel.

Mr. BORK. Dr. MacAvoy thinks that the problem is substantial, and I gather some of the others do not; and I guess we'll never find out until we try it on a statewide basis.

Dr. MACAVOY. But the results of the existing experiments are intimidating; they suggest that a statewide experiment could be extremely expensive. If you've got two or three good small-scale econometric studies, they can be sufficient to deter you from going to a statewide pilot program.

Dean COHEN. I don't think the work incentive is really as important as it's been made out to be for the whole group of the 25 million who are poor, because 40 percent of them are children of the worker, or of the woman, who's the head of the family.

The issue turns on your philosophic view about encouraging, either by incentive or compulsion, the woman who's the head of the family to go to work, leaving her children in child care. That underlies this whole problem. If your point is that every woman ought to go to work and not take care of her own children, then you come to a different kind of conclusion from the one that follows from saying that only a small proportion of them—those who choose to—should go to work. And that's the difficulty in dealing with the problem.

Mr. BORK. We're coming to the end of our time. I wonder, Congressman Conable, if you'd like to comment on this before we wrap up?

Mr. CONABLE. Oh, I'll go along with Wilbur on what he just said.

Dr. MACAVOY. Let me add a remark at this point. The AFDC program as now constructed appears to me, after some investigation, to be working well. The idea of making it over into a check-writing program applicable to the entire population and at the same time expecting strong work incentives to operate is absurd. The problem in designing a better approach rests with the additional people who would qualify under the low-income aspects of a comprehensive negative income tax scheme. They're not the working mothers without husbands who are already in the base load of our welfare system. We are talking about the addition of prospective beneficiaries who will alter their work status, or falsify it, to qualify for bigger benefits.

Dean COHEN. Well, AFDC is a check-writing program at the present time. But what you mean by a check-writing program, I assume, is the same amount for every person—

Dr. MACAVOY. Qualified only on self-reported income.

Dean COHEN. Well, then you get back to the asset question and to the problem of excluding, or including, various groups. Until that's decided, you can't have a program.

PRESERVATION OF THE HOUSATONIC RIVER

Mr. RIBICOFF. Mr. President, in August 1975 the Senate passed S. 10, a measure I authorized to add a segment of the scenic and historic Housatonic River in Connecticut to the list of rivers to be studied for inclusion in the National Wild and Scenic Rivers System. This is an important river which merits inclusion in the Wild and Scenic Rivers System, particularly as three State parks, a State forest and two State fish and game sites are located within the Housatonic corridor.

Last month the House Interior Subcommittee on National Parks and Recreation conducted hearings on S. 10 and similar legislation introduced by Representative MOFFETT and others. In supporting the enactment of this legislation, John W. Crutcher, Director of the Bureau of Outdoor Recreation, noted that a mid-1972 review of the segment of the Housatonic to be included in the national system "indicated it is a clean white-water route with significant esthetic, recreation, fishery and historical values." I was encouraged to learn that Mr. Crutcher further testified that priority would be given to the study of the Housatonic as a potential addition to the national system when the enabling legislation is enacted.

I understand that the Housatonic has been included in an omnibus bill introduced by the chairman of the House subcommittee last week. I urge the House to take prompt and favorable action on this measure so that affirmative steps can be taken to undertake a long overdue study of the Housatonic.

Mr. President, in order that our colleagues may know more about the outstanding qualities and importance of the Housatonic, I ask unanimous consent to have printed in the RECORD testimony presented at the House hearing on August 27.

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

STATEMENT OF WILMA FREY

Mr. Chairman and Members of the Committee:

My name is Wilma Frey, and I am representing the Northeast Region of the Sierra Club, comprising the states of Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, New York, and New Jersey. We would like to affirm our support for H.R. 5958 to include the Housatonic River for study under the Wild and Scenic Rivers Act. It is a beautiful stream, and highly deserving of such consideration. The populous Northeast too, deserves this consideration. The Northeast, with increasingly severe pressures for development and increasingly scarce land resources, needs more than ever to protect its scenic beauty and places of solitude and recreation. And yet there is so far only one river in the area designated part of the National Rivers System—the Allagash—and only one more currently under study—the Shepaug.

The proposal before you for the Housatonic, which would connect to the Shepaug study, could potentially result in a protected

open space corridor of significant dimensions. We have one additional suggestion however. The present bill would have the study area extend only as far north as the Massachusetts border. We would strongly urge that the Housatonic in Massachusetts be included in the study. The Housatonic in Massachusetts, particularly in its southern portion near Sheffield, Mass., is also a beautiful river. It loops in broad curves through a pastoral New England landscape of floodplain meadows, cornfields, woodlots and country roads. It embraces Bartholemew's Cobble, an unusual limestone hill formation, the Col. Ashley farm, one of the oldest in Massachusetts. These are both owned by the Trustees of Reservations, a private Massachusetts organization holding land for the public, the equivalent of the Nature Conservancy. The Housatonic in Massachusetts is deserving of study for protection also.

We thank you for this opportunity to present our views, and look forward to working with you on this matter in the future.

HFFA,
Hamden, Conn., August 25, 1976.

SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION,
U.S. House of Representatives,
Washington, D.C.

GENTLEMAN: Water flows downhill. The application of this basic law of physics soon makes a trout fisherman aware that the quality of his sport is totally dependent on and directly related to the quality of the watershed.

There has been and is now an excellent trout fishery in the upper Housatonic River. This fishery is almost totally dependent upon land and water quality and it cannot be protected or preserved without coordinated control of their development. The Wild and Scenic Rivers Bill appears to us to be the best available approach to guard the river against uncontrolled development.

The Housatonic Fly Fisherman's Association was organized in 1961. We currently have three hundred members from five states. One of our objectives is to preserve, protect and to improve the trout fishery in the Housatonic. Enclosed with this statement are letters, editorials, and magazine articles which tend to support our contention that the river has a regional following and a national reputation.

The prime trout habitat, stocked by the state, is approximately ten miles long from Falls Village downstream. Within this area is a three and one-half mile stretch designated for "fly fishing only". Downstream from the stocked area to the confluence with the Ten Mile River lies another ten mile long stretch. This run provides smallmouth bass fishing plus intermittent pockets of good trout water. Warm water fish predominate below the Ten Mile.

The Housatonic Fly Fisherman's Association does not own property on the river. Our improvements have always been made on the public, state stocked waters, and these have not been limited to the "fly only" waters. We do not limit our activities to the Housatonic, but this river and its trout have always been our primary concern.

We are currently working with the Connecticut Department of Environmental Protection (D.E.P.) on a three year survey to determine the hold-over potential of trout in the river. Our own club tagging and stocking program shows a 17% hold-over return for 1976, an improvement over the 1975 return of 13%. Our tagging program is also providing valuable information on stocking methods and on fish migration.

The river itself flows through the limestone region of Connecticut. This unique geological characteristic helps to make the Housatonic the most fertile river in our state. Fisheries biologists describe the Housatonic as having the best environment for fish growth of any waterway in Connecticut. The pH and the mineral content of the water and the great variety and quantity of aquatic life in the food supply are prime factors in this growth potential. The steep gradient of the riverbed assures the aeration necessary for fish survival during the warmer months.

Pollution control programs upstream have dramatically improved water quality. This improvement in water quality has made it possible for HFFA to successfully re-introduce the Green Drake (*E. guttulata*) to the river. This species, once a major part of the food supply, disappeared after the disastrous floods of 1955. Trout eggs will not survive in polluted waters. January 1977 will mark the third year that HFFA has used Vibert and Whitlock boxes to hatch trout fry in the Housatonic and its tributaries. 50,000 eggs will be given to us by D.E.P.

The river's scenic appeal can perhaps be best summed up by a view of the covered bridge in West Cornwall, the only one in the state still carrying traffic.

The river is bordered by State Forests and by large private holdings. These serve to protect the quality of the watershed. The state Chief of Wildlife considers the unbroken tracts of forest and woodland immediately adjacent to the river to be of utmost importance to the state program of restoring the wild turkey. These same woodlands attract scenic viewers, campers, hikers and other outdoor enthusiasts from throughout the Northeast. Canoeists have discovered that the river and its varied gradient offers opportunities ranging from a leisurely float trip on class 1 water to challenging class 4 runs, closed boat only.

The Housatonic Valley has an historical appeal as well. The United States iron industry had its start in the valley in 1734. The Appalachian Trail traverses the area, and other hiking trails border the river. Well used public campsites of excellent quality are also available.

The section of the Housatonic River currently under consideration is a relatively unspoiled area. Situated in the Northeast megalopolis, it has wide appeal as a scenic and a recreational attraction.

All of the varied recreational and aesthetic uses of the Housatonic River have grown tremendously over the past few years. So too has pressure grown to commercially exploit this public resource.

It is critical then that this truly unique section of the Housatonic Valley be evaluated on the basis of its regional importance. Steps must be taken now to save this area for the use and enjoyment of present and future generations and to prevent its destruction.

The Housatonic Fly Fisherman's Association therefore respectfully requests that H.R. 5958 be accepted.

Respectfully submitted,
EDWARD A. KLUCK,
President.

TESTIMONY OF THE HOUSATONIC VALLEY ASSOCIATION

Mr. Chairman and members of the Committee, the Housatonic Valley Association is most appreciative of this opportunity to present information about one of Southern New England's most valuable natural resources, the Upper Housatonic River.

The Housatonic Valley Association (HVA) is a tax-exempt, nonprofit corporation chartered under the laws of the State of Connecticut, first in 1954 under the name the Housatonic Valley Planning Association, and again in 1968 under its present name when planning had become an accepted fact. HVA is entirely supported by contributions from the more than 1300 individuals who have memberships. Since 1968 the Association has focussed its endeavors upon the preservation of the unique resources of the River Valley. Fourteen Towns are represented on the Board of the Association at the present time.

Passage of H.R. 5958 and H.R. 8436 would provide the absolutely necessary protection of the River from Federally funded or licensed projects which might have an adverse and irreversible impact on the River during the time the study is in process to determine whether the Stretch of River in question should be eventually included in the Federal River system. The Federal study would serve best to coordinate similar interests in an area jurisdictionally divided. Also the study should help to heighten public awareness of the River Valley's importance both as an ecosystem and a recreational resource. If these are not passed, there is little if any hope that the River and its immediate surroundings will be preserved.

Nine Towns border the River segment that would be studied. These Towns have a combined population of 38,773. 25,566 persons live in two of the three southernmost Towns. The largest of these experienced a growth rate of 175% in the last ten years. The next largest Town has grown 248% in the same period. Less than 5 miles (3.78) south from the confluence of the Housatonic with the Shepaug River, which is the southern terminus of the proposed study, Interstate Route 84 crosses the Housatonic River. The State of Connecticut is currently constructing a four-lane limited access highway north from I–84 along the Housatonic Valley. Although State plans do not currently call for extension of the highway north of New Milford, development is leap-frogging north in anticipation of such extension of Route 7, and without concern for the Valley's scenic preservation. There has recently developed a trend towards the resettlement of former New York City based corporations in the I–84 area. If this trend continues, development pressures along the Housatonic will increase even more drastically. Of the approximately 14,720 acres of land which constitute the Housatonic's "wild and scenic" corridor (46 mi. of River, ¼ mi. on each side) less than 1,000 acres are permanently protected through State ownership, less than 2,000 are protected by private land trusts. In short, that portion of the Housatonic River Valley in question represents precisely the situation for which the Federal Wild and Scenic Rivers Bill was designed, namely: the protection at the highest level of Government of a national resource.

If such protection is not provided an invaluable recreational resource and wildlife habitat must be lost. Last year the Housatonic River corridor north of Lake Lillinonah was used by 1,150 hunters. State parks along the corridor experienced an average yearly useage of 33,427 camper days from 1973–75. Each year the state stocks 18,000 trout into the Housatonic. This year's holdover trout population is being estimated at 9–15% of what was stocked last year. Approximately 2,500 fishermen fish for these trout from the river's banks. The Appalachian Trail in Connecticut runs along the Housatonic River for much of its length. Over 10,000 hikers traverse this trail and other trails in the study area. At least 8,000 white water canoe trips were made on the Housatonic last year. The Housatonic has lazy meanders which any canoeist can navigate as well as rapids which range from Class I through Class V. It is considered by some white water boaters to be the best white water river in the Northeast. Appendix A to these comments demonstrates that water quality in the area of the Housatonic suggested for study conforms to Connecticut's standards for class B waters (suitable for bathing or other recreational purposes, agricultural uses, industrial processes and cooling; excellent fish and wildlife habitat good aesthetic value). The only exception is in one area where the pH is .1 higher than that recommended. However it should be noted that because the Housatonic river bed is cut through marble for many miles (appendix B) it tends naturally towards alkalinity.

The study area lies within two hours

travel time (100 mi.) from the urban and suburban populations of greater New York City, Nassau and Westchester counties, and only a few miles further from greater Boston. It lies less than half that distance from Springfield, Mass. and Hartford, Conn. Yet even with the recent growth at the southern end of the study area, the Housatonic River from its confluence with the Shepaug north to its headwaters at Pittsfield, Mass., and the adjacent small New England Towns, have been miraculously preserved in almost a pristine state. There is no River Valley of comparable beauty even in Vermont and New Hampshire. 13.2% of the land in the upper River Towns is open-space. 66.2% of it is in agriculture or forest. Population density is 58.5 persons per 1 square mile. This compares with a State population density of 600 persons per square mile. Utilized for recreation by residents of many, many other States, it is a small but irreplaceable vestige of New England's rapidly vanishing heritage.

The Board of Directors of the Housatonic Valley Association resolved unanimously on March 10, 1975 approval of amending section 5a of P.L. 90-542, to include the Housatonic River. The Department of the Interior can anticipate the fullest co-operation from HVA in developing information, immediately following passage of H.R. 5958 and H.R. 8436 and implementation of the study called for.

Respectfully submitted,

MONTGOMERY HARE,
Vice President.

APPENDIX A

	State water classification standards			Housatonic River data, July 1974 to June 1975, mean value (percent)		
	A (drinkable)	B (swimable)	C (boatable)	North Canaan	New Milford	Lake Lillinonah
DO percent	75 percent (16 hr per day)	75 percent (16 hr per day)	No percent minimum	98.0	103.0	89.0
DO mgl	5 mgl (24 hr per day)	5 mgl (24 hr per day)	5 mgl for 6 hr, 4 mgl for 24 hr	11.7	12.0	10.2
Sludge	Natural origin	Small amounts from treatment facilities	Small amounts from treatment facilities	(1)	(1)	(1)
Silt and sand	Natural origin and normal activity	Normal activity, or natural origin	Natural origin or normal activity	(1)	(1)	(1)
Color and turbidity	do	Secci visibility at 1 meter	25 JTU	(1)	(1)	(1)
Coliform per 100 ml	Median 100, normal 500 in 10 percent of samples.	Median of 1,000 normal 2,400 in 20 percent, of samples.	30 day maximum of 5,000, normal 5,000 in 20 percent of samples.	379.0	149.0	19.0
pH	As natural	6.5 to 8	6.5 to 8	7.6	8.1	7.6

[1] Not measured.

FORD ADMINISTRATION'S RECORD ON ENVIRONMENTAL ISSUES

Mr. BUMPERS. Mr. President, the Ford administration has had a record on environmental issues which is worse than the Nixon administration. That should be all that needs to be said, but I will elaborate.

Look at the administration's attitude towards parks, forests, fish and wildlife refuges, and natural resources in general. The record demonstrates a policy of deterioration of the environment in our national parks and national forests. The neglect that has characterized the President's attitude toward our national parks can hardly be called benign.

But last week we were told of the "Bicentennial Land Heritage Program," which will be introduced into the Congress with only 23 days left in the legislative session, and only a day or two before the Senate is to consider the second, and binding, concurrent resolution on the budget. This bill would seemingly substantially alter the administration's attitude toward our national parks and environment.

I applaud the President's change of heart, if it is genuine. But I fear that this is election-year rhetoric, and the people of this country will suffer while our national parks continue to deteriorate.

In order to evaluate this apparent change in direction by the administration, let us do as Al Smith said, and look at the record:

First. Both Houses have overwhelmingly passed the Land and Water Conservation Fund Act Amendments, S. 327, which would boost Federal funding levels for expanding and developing the Nation's parks and recreation system. The conference report on this bill was filed just last Thursday in the House. The administration has consistently threatened to veto the bill unless spending levels are substantially reduced.

Second. The National Park Service has about a $3 billion backlog in maintenance and repair needs and new construction projects. The administration has consistently opposed appropriations that would meet these needs.

Third. The national parks are woefully understaffed. The Appropriations Committee has provided funds for 942 additional staff for the Park Service over the last 2 years, only 395 of which have been filled. For fiscal year 1977, the Senate Interior Committee requested 1,000 additional people over the 395. The administration requested only 400 positions including the 395. Now, after the appropriations bill for the National Park Service has passed and the budget process is almost completed, the administration, which blocked the original request for 1,000 people, comes forward and asks for the same level of funding that it opposed.

Fourth. The Interior Committee recommended increasing the authorization for many national parks and recreation areas several weeks ago, and the Senate has passed H.R. 13713 for that purpose. A considerable portion of the amount used to cover inflated land prices would not have been necessary if the administration had been supportive of the programs in which they now claim to be interested. The administration has been hostile to several parts of this bill. For example, in hearings before the Senate Interior Committee on a request for an authorization increase of $2.2 million for Arkansas Post National Memorial—originally introduced as S. 1516, the Office of Management and Budget resisted the increase on general budgetary grounds. Fortunately, the committee disregarded this attempt at obstruction.

Fifth. The clue to the administration's bill is that the President will request an immediate appropriation of $141 million from the Land and Water Conservation Fund to remain available for 10 years. Why is there a 10-year figure? If the money is not going to be spent now, why appropriate it? Why will he not tell us what he wants to do with the money for the next 10 years?

Sixth. The President's request for an appropriation of an additional $141 million from the Land and Water Conservation Fund is the most drastic change in the administration's position. In the appropriations for the Land and Water Conservation Fund, Congress appropriated $97 million more than the President had requested. Now, in the heat of the fall campaign and with Congress preparing for adjournment, the administration decides that Congress was correct in the first place. This money which is already authorized could have been appropriated 2 months ago.

This is not a complete listing of the administration's obstructionism. This new "initiative" should also be examined in light of several other major legislative issues now pending in the Congress.

If the President has finally recognized the error of his ways and wants to demonstrate his support for our national parks, he should promptly sign the Land and Water Conservation Act Amendments of 1976, S. 327, as well as the omnibus parks bill, H.R. 13713, when we complete action on them. Several other important bills will probably be presented to him in September, and we will know if his apparent change in attitude toward environmental issues is real when we know the answers to the following:

Will the President sign the Clean Air Act amendments, S. 3219?

Will the President sign the Outer Continental Shelf Lands Act, S. 521?

Will the President veto a strip mine bill a third time?

Our goal is to provide adequate funding for our national parks and recreation areas in order to provide a better quality of life for the people of this country. This objective is too important to become a pawn in Presidential politics.

Three excellent articles reviewing the President's program to aid the national park system have appeared in the September 1 edition of the Washington Post, the September 2 edition of the New York Times. and the September 5 edition of the Washington Star. I ask unanimous

consent that each of the editorials be printed in the RECORD.

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

[From the New York Times, Sept. 2, 1976]

DISCOVERING THE PARKS

Public opinion polls consistently report that conditions in the national parks—and conservation issues generally—are of concern to a wide spectrum of voters. It is not surprising, therefore, that as President Ford seeks to win election in his own right, he should manifest a sudden enthusiasm for the national parks.

The parks, including Yellowstone which Mr. Ford visited this week, have experienced the bad as well as the good effects of the tourism explosion. Overcrowding, crime, vandalism, polluted air—the very conditions that city people journey to the national parks to escape—have become common in the more accessible and better-known sections of the park system.

The National Park Service of the U.S. Department of the Interior in recent years has repeatedly petitioned the Office of Management and Budget and the White House for additional funds to cope with these new pressures. Unfortunately, neither the O.M.B. nor the White House has been responsive to these requests. In both of the budgets he has submitted, President Ford asked for substantially less money for staffing, maintenance and land acquisittion than the Park Service has sought and than conservation organizations regarded as necessary.

In fiscal 1976, for example, the Park Service asked for $397 million, the President budgeted $304 million and Congress—over Administration objections—raised that figure to $312 million. Again, in the new fiscal year beginning October 1, the President asked for $337 million, substantially less than the Park Service had requested, and Congress raised it to $355 million.

The Fish and Wildlife Service has a special fund to buy wetlands for migratory birds. Last year, Congress appropriated $7.5 million for the fund and this year $4 million. In both years, the Ford Administration asked that nothing be appropriated for this purpose.

Against this background, the President's discovery that the parks and wildlife refuge system need additional money for land acquisition seems to have more to do with Mr. Ford's political needs than with the needs of the parks, which have not changed much since January when his last budget was submitted. The same is true of his decision that the understaffed Park Service requires 1,500 more employees now than he thought then.

President Ford initially generated confusion when he asserted that his recommendations would more than double the number of acres in the parks and wildlife refuges: the sum he mentioned for land acquisition would fall far short of that target. Interior Department officials subsequently explained that Mr. Ford was merely referring to the 32 million acres in Alaska that have been reserved for parks and refugees under the Alaskan Native Claims Act of 1971 but not yet actually established. A program authorized five years ago hardly constitutes a new initiative. It is also unclear how the President relates his land acquisition program to the far more ambitious bill now nearing enactment in Congress.

An eleventh-hour conversion is better than none at all. But President Ford's pledge would carry more conviction had he shown by word and deed in the last two years that he really cared about national parks and wildlife refuges.

[From the Washington Post, Sept. 1, 1976]

OLD FAITHFUL PRESIDENTIAL POLITICS

Out at Yellowstone National Park, Old Faithful erupted on schedule on Sunday—right in the middle of President Ford's speech proposing a 10-year, $1.5 billion "Bicentennial land heritage program." Mr. Ford no doubt viewed the geyser as a perfect prop, epitomizing all the natural treasures that he seeks to save. And that is certainly one image that could reasonably be evoked by Old Faithful on this occasion. It is, after all, a splendid spectacle, beauteous to behold and well worth preserving in its natural state. But it is also vaporous and transitory, a spasmodic, passing thing of no great substance. And now that we have carefully studied the ingredients of the President's grand-sounding plan for the national parks, Old Faithful seems to us to have been the perfect prop for this occasion in a way quite different from that intended by the President's advance-men. For what, when you think about it, is older and more faithful than the time-honored tradition that impels candidates for President (and above all incumbent candidates) to spout campaign promises that dance in the sunlight and delight the multitudes—and then, predictably, evaporate into thin air? As it is with Old Faithful, so, alas, it is with the President's "new" aid program for the national parks: there may have been quite a lot of steam behind it for a brief moment or two, but the suggestion of substance is largely illusory. There is really not much there that hasn't been there all along, or that Mr. Ford couldn't have put there long before now.

So we think that in this case, at least, Jimmy Carter was entitled to let off a little steam of his own. Jody Powell, Mr. Carter's press secretary, interrupted a softball game in Plains to accuse the President of "a calculated election-year flip-flop" intended "to cover up eight years of Republic mismanagement of our nation's park system." There is considerable basis for this charge. The national parks and wildlife refuges have been sadly neglected for much of the past decade. Budgets have not kept pace with rising costs and great increases in public use. Established parks have been allowed to deteriorate for want of proper maintenance and care. New areas have been authorized but not fully acquired or adequately staffed. Although Congress must bear part of the responsibility for this, the major barrier has been the Office of Management and Budget, which has insisted on pinching pennies for several years—while allowing a billion-dollar backlog of park problems to build up.

Mr. Ford has indeed flip-flopped. His new attitude was first evident some months ago when, under growing pressure from Congress, he overrode OMB and insisted that the National Park Service's personnel ceilings be raised. His new proposals go much farther along the same constructive line: he wants more funds to carry out commitments that the federal government has already made. The $1.5 billion in supplemental funds would be spent over the next decade primarily to develop and rehabilitate existing parks and wildlife refuges, to provide more adequate staffing, and to buy some of the nearly half-million acres already designated for inclusion in various parks and refuges. The plan amounts to a declaration that the penny-pinching has to stop, and that a much larger, continuing investment must be made to protect these priceless resources against decay.

In theory, then, Mr. Ford's proposal is very sound. But in practice it is suspect in two ways. The first is timing: the plan comes very late for legislative purposes, however useful its proferring may be for the fall campaign. The second problem is the packaging. Besides attaching a superfluous and irrelevant "Bicentennial" label to the plan, the White House declared that it would "double America's heritage" of parks, refuges and historic sites. That suggests a vast expansion of acreage, a claim that is supported by the numbers only if you include almost 64 million acres in Alaska, which the administration proposed to set aside for parks and refuges almost three years ago. Such dubious arithmetic only detracts from the real merits of the new spending requests—and gives Mr. Carter another target. It also perpetuates the notion that expanding the store of parklands is more important than enhancing what we have. Doubling the acreage may sound more appealing. But the greater need is for a redoubling of efforts to safeguard and improve existing national preserves. Mr. Ford has now recognized that need, which is good news. It would have been much better news—and more persuasive, as well—if it had come to us in a proposal to Congress at the beginning of his two years in office, rather than in a stagey ceremony at the beginning of his presidential campaign.

[From the Washington Star, Sept. 5, 1976]

AH, WILDERNESS

Calling President Ford's $1.5 billion National Park and Wildlife Refuge program a "Bicentennial birthday present to future generations" gives it an aura of lavishness that seems almost frivolous. A billion dollars worth of bird sanctuaries and campgrounds sounds like a lot of bird sanctuaries and campgrounds.

Until it's matched against the dimensions of need and possibility, it does.

The fact is that we have been using our parks—all of them, national, state and local—at a rate that nullifies everything parks are supposed to mean. Looking at a great mountain or lake over a sea of tents and house-trailers isn't exactly reliving Thoreau at Walden Pond. Neither is moving bumper-to-bumper through a redwood forest, however grand the trees.

Furthermore, congestion in public parks is killing more than the quality of the wilderness experience. Many of the most famous and naturally beautiful parks have become places of trampled wildflowers, exhaust-choked air and despoiled animal breeding grounds as well as of litter and violated stillness, simply because so many people want to enjoy them.

In a report issued last June, the House Government Operations Committee noted that the last 15 years have raised the number of park service installations from 185 to 285 while visitor days have jumped from 71 million to 239 million. No wonder the authors called their report "The Degradation of the National Parks."

Even with so large a clientele for parks and wilderness areas, Congress has tended to be tight-fisted about putting money into them. When appropriation votes come up, the parks always seem like good places to economize. Locally, in the last few years, Regional Park Authorities have managed to keep in operation but not to buy new properties.

There have been small-scale successes worth noting, however. The Interior Department's Bureau of Outdoor Recreation is a quiet model of ingenuity and achievement, bringing together public and private resources to acquire and develop recreation land and facilities on state and local levels.

The 16,000 projects assisted in the last 12 years have included such modest offerings as bike trails, sports fields, marinas and urban green space. The $1.2 billion channeled into them has come both from the matching of federal and local funds and from the encouragement of private donations.

Further funding of this program is part of the President's proposal and is warmly welcomed by park officials down the line from state governments to small communities. Hard as it has been to find any funds for such purposes, this degree of commitment from the Ford administration has been a source of celebration even among

environmentalists who think it should have been bigger.

There are many such. A Senate-House conference committee has just agreed on legislation that would set aside $1 billion for parkland acquisition over the next three years and $3 billion in the next decade—considerably more than the President's birthday package.

The key element in the whole picture is the Land and Water Conservation Fund, which is the treasury for new parkland purchases. It is filled from special federal revenues, including offshore oil royalties. Congress has now worked out a plan for enlarging these revenues. How well both the lawmakers and the administration follow through on it will decide how much of the Bicentennial birthday present is rhetorical and how much of it is real. It will also give or withhold some fundamental physical and spiritual satisfactions for a good many people.

NUCLEAR WASTE DISPOSAL

Mr. DOMENICI. Mr. President, one of the most critical problems facing the burgeoning nuclear power industry today is the establishment of an effective nuclear waste disposal system. A significant step toward the solution of this problem took place last month with the dedication of the Energy Research and Development Administration's new radioactive waste treatment development facility—TDF—at the Los Alamos Scientific Laboratory in New Mexico. As the first ERDA facility dedicated solely to nuclear waste management research, the TDF will be used to study various methods of treating low-level contaminated waste from plutonium processing facilities. An excellent description of the TDF and of plans for its extensive utilization appeared in the El Paso Times on August 8, 1976.

Mr. President, I ask unanimous consent that the article, "Nuclear Waste Research Facility Planned for New Mexico" be printed in the RECORD.

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

NUCLEAR WASTE RESEARCH FACILITY PLANNED FOR NEW MEXICO

LOS ALAMOS, N. MEX.—Nuclear waste, unlike conventional garbage, cannot be flushed down a kitchen sink disposal unit or hauled off to the municipal dump.

The classic dilemma posed by the disposal of radioactively contaminated waste material is therefore being tackled on an accelerating scale by the Energy Research and Development Administration (ERDA) through programs such as the broad waste management research effort at the University of California's Los Alamos (N.M.) Scientific Laboratory (LASL).

Funding for LASL's waste management program is expected to be boosted from the current $1 million in fiscal year 1976 to about $4 million in fiscal 1977, with part of the money earmarked for the operation of a new radioactive waste Treatment Development Facility (TDF) that will be dedicated in Los Alamos Aug. 19.

The new plant is the first ERDA facility dedicated soley to the study of waste management methods. It was constructed at a cost of $900,000 through ERDA's Division of Nuclear Fuel Cycle and Production. It's goals are to find safer, cheaper ways to reduce the volume and eliminate the combustibility of low-level contaminated waste from plutonium processing facilities.

Dr. Thomas K. Keenan, head of the LASL Waste Management Program, said the new facility will become the focal point of the Los Alamos program and will house a broad spectrum of waste handling research in its 10,600 square feet.

The search for suitable storage for high-level waste from nuclear reactors has been very well publicized. However, as Kennan points out, every item that is taken into a plutonium processing area must be regarded as contaminated and must be handled and disposed of accordingly.

"It is to this area that the new facility is dedicated," he says. "To look for the best and most economical ways of reducing the volume of low-level waste, stabilizing its chemical composition, and eliminating its combustibility."

In the last decade, ERDA's predecessor, the U.S. Atomic Energy Commission (AEC) mounted an intensive study of radioactive waste disposal methods. One result was a 1973 directive that established new criteria for disposal of low-level contaminated waste.

The AEC established an upper limit of 10 nanocuries per gram (a measure of specific radioactivity) for immediate burial of such contaminated waste, and directed that all material containing more than this amount of radioactivity should be stored for eventual retrieval.

LASL scientists, as part of their waste management research, developed new techniques for accurately measuring the amount of radioactivity in contaminated trash. In other parts of the waste management program they are testing materials to determine those that will be best for storing waste, identifying the residue of waste coming from processing areas and looking for ways to cut down on the amount generated, and, with construction of the new TDF, they will search for safer, cheaper ways to reduce the fire potential of buried waste and evaluate methods for reducing waste volume.

Lee Borduin, who will head the day-to-day operation of LASL's new facility, says one of the findings of an AEC task force appointed to study the waste disposal problem was that incineration promised to be the best way to achieve the major goals of low-level waste handling.

The new facility will employ a conventional incinerator such as is used in many municipal disposal programs. It will be modified, however, to confine radioactivity and protect workers from contamination.

Borduin says the facility will handle up to 100 pounds of waste per hour, in a program designed to provide an economic comparison of this method of volume reduction versus other methods. The TDF is strictly a research and development facility, he points out, and results of the "figure of merit" economic comparison will be passed on to industry.

Typical low-level-contaminated waste from LASL's plutonium processing areas includes rubber, paper, cardboard, wood, plastic, glass, ceramics, and metal.

Beginning in mid-1977, material generated in LASL plutonium operations will first be assayed for transuraic content (the amount of heavy elements, primarily plutonium, present in the trash), then shipped in sealed cartons to the new Treatment Development Facility.

Before being burned, it will again be counted for plutonium, scanned for metal objects with an x-ray machine such as is used on luggage of airports, then fed to the lower chamber of a dual-chamber incinerator by a ram feeder through a series of air locks.

Fired by natural gas burners, the lower incinerator chamber will reach a temperature of 1,500 degrees Fahrenheit. Small particles and hot combustion gases will rise to an upper chamber where the temperature will reach more than 2,000 degrees.

Material will be reduced in volume to perhaps 5 per cent of its initial bulk, Borduin says. The cooled ash will be vacuumed from the chamber and measured for plutonium content once more. Repeated measurements are necessary because all plutonium handlers must account to the government for every scrap of plutonium in their either retrievable storage or burial.

An intricate cleaning and cooling system has been designed for the "off-gas" section of the facility. Gases at temperatures over 2,000 degrees Fahrenheit will be quenched with water to 200 degrees, then "scrubbed" repeatedly to remove particles.

Hydrochloric acid (and other acids generated by the burning of certain materials) will be removed by water contact. Process cooling water will be circulated through an evaporative cooling tower to minimize the amount of liquid effluent discharged from the facility. Various neutralizing compounds will be added to scrubbing solutions in a pretreatment process before the water is discharged to LASL's nearby liquid waste treatment plant.

Air ultimately discharged to the atmosphere will be well below the air pollution standards set by Environmental Protection Agency.

One important long-range goal of the volume reduction search of LASL will be the study of the feasibility of recovering more valuable plutonium from incinerator ashes than is possible from solid waste. Kennan says recovery of plutonium from ash might be easier, and therefore, cheaper, than it is from bulky material.

SEATTLE B'NAI B'RITH CELEBRATES 75TH ANNIVERSARY

Mr. JACKSON. Mr. President, on September 19, the Jewish community of Seattle will celebrate the 75th anniversary of the founding of its B'nai B'rith Chapter. In those 75 years, the Seattle Chapter of B'nai B'rith has established itself as a strong force for social progress and improved human relations. I am especially pleased that Jack Spitzer, a distinguished Washingtonian, is playing a prominent role as the national chairman of B'nai B'rith's efforts on behalf of its youth agencies.

B'nai B'rith's record in support of fundamental human rights both at home and abroad has been especially outstanding. It embodies the best of America's democratic and humane tradition. It is a pleasure to salute the Seattle Chapter of B'nai B'rith on this important occasion.

I ask unanimous consent that a brief history of B'nai B'rith's activities in the Seattle area and in the State of Washington be printed in the RECORD.

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

HISTORY OF THE SEATTLE CHAPTER OF B'NAI B'RITH

On September 19, 1976 Seattle's Jewish Community commemorates the seventy-fifth anniversary of the establishment of the first B'nai B'rith lodge in Seattle, a date that precedes by only twenty-four days the one hundred thirty-third anniversary of the founding of the Order in New York City in 1843, making it the oldest service organization of any kind founded in the United States.

If the accomplishments of the Order since its institution in a room above Sinsheimer's Cafe in New York's east side were to be compiled and laid before us, we would stand in awe and amazement at the visionary foresight of the twelve founders of the Organi-

zation and the thousands upon thousands of Jews in many parts of the world who have in the past and who are today part of the movement that is B'nai B'rith.

While its original purpose was to be a unifying force of the American Jewish Community of that time and to integrate new immigrants into the mainstream of the young American nation, the preamble of its constitution is as applicable in our jet-age computer oriented society as it was when our nation was only sixty-seven years old.

"B'nai B'rith has taken upon itself the mission of uniting persons of the Jewish faith in the world of promoting their highest interests and those of humanity; of developing and elevating the mental and moral character of the people of our faith; of inculcating the purest principles of philanthropy, honor and patriotism; of supporting science and art; alleviating the wants of the poor and needy; visiting and caring for the sick; coming to the rescue of victims of persecution; providing for, protecting and assisting the aged, the widow and the orphan on the broadest principles of humanity."

When the first B'nai B'rith lodge was founded in Seattle, the city itself was only forty-nine years old with 80,000 residents and growing rapidly. The after effects of the Alaska Goldrush were still felt when the new lodge was chartered on October 28, 1900 with Herman Kessler as its first President. Over the decades many B'nai B'rith leaders have emerged as prominent business and community leaders who have significantly contributed to the growth and development of their city. Such names as Otto and Maurice Grunbum, Nathan Eckstein, Herbert and L. Kenneth Schoenfeld, Samuel Schwabacher, Louis Friedlander, Leo Weisfield, and Max Silver are only a few of the many whose names are remembered to this day for their contributions to Seattle's progress.

This new group of B'nai B'rith members from its very beginning to this day enthusiastically support the many national institutions and philanthropies of its Order such as The Bellefaire Institution, Cleveland, Ohio founded in 1868; The B'nai B'rith Home for the Aged, Yonkers, New York founded in 1881; The B'nai B'rith Home for the Aged, Memphis, Tennessee founded in 1927; The National Jewish Hospital, Denver, Colorado founded in 1899; and The Leo N. Levi Memorial Hospital, Hot Springs, Arkansas founded in 1914. All medical facilities are available to all who need them regardless of religion or ability to pay.

B'nai B'rith has aided disaster victims regardless of race, religion or nationality as early as during the Chicago Fire of 1871; the Johnson Flood of 1889; the Irish Famine of 1903; the San Francisco Earthquake of 1906; the Balkan Wars of 1923; floods in Winnipeg, Kansas, Missouri, the Netherlands, Belgium, and Great Britain; tornado victims in Worcester, Massachusetts; Waco, Texas; Flint, Michigan; Toronto, Canada; up to the recent earthquake in Guatemala when it adopted an entire town for rehabilitation.

The local membership over the years participated in the National B'nai B'rith efforts of $1,500,000 in direct aid to victims of the Nazi terror, in the collection and shipping of tons of clothing to post war China and Europe. B'nai B'rith adopted thousands of families in war ravaged countries after World War I, sending food and clothing. All this in addition to the ongoing programs such as summer camps for the under privileged children, free milk and lunch stations, play grounds, hospitals, among other projects.

On a local level Seattle B'nai B'rith lodges which had grown over the years to include Hildersheimer, Rainier, Seattle, Cascade, and Overlake lodges, initiated and espoused numerous projects and programs that served many segments of the human family.

Following World War I Seattle B'nai B'rith members "adopted" some one hundred European war orphans, contributing to their rehabilitation and support and provided the means to place them in foster homes in Western Europe; a project chaired by the late Herman Schocken.

While large numbers of Seattle B'nai B'rith members served in the armed forces during World War II, others engaged in home front projects such as the selling of more than $3,000,000 in United States war bonds. This effort, under the chairmanship of Joe Gluck, was recognized by our government by naming a Seattle built Boeing B–17 flying fortress "Seattle B'nai B'rith." Other lodge efforts were devoted to equipping military recreation establishments, providing entertainment and special aids to service men and women.

The Seattle Lodge "adopted" the 220 men of the destroyer escort U.S.S. Farquar while on convoy duty in the Atlantic by providing the complete recreational programs for her crew. The U.S.S. Farquar was the naval vessel that sunk the last enemy submarine in Atlantic waters during World War II.

Among the many volunteers to serve in the war and post war service were: Ed Brashen, Sol Esfeld, Lou Blackfield, Myer Cohen, Harry J. Cohn, Joe Feldman, Abe Goldman, Leo Steinhauer, Joe Hornstein, Herman Keisler, Rube Gross, P. Allen Rickels, Mendel Levin, Ben Z. Levin, Dr. Joseph Cohen, Harry Steiner, Irving C. Lewis, Rabbi Arthur Zuckerman, Jacob Lighter and Max Tobias.

In 1927 Seattle B'nai B'rith sponsored a radio program to assist in the fund raising efforts to construct the Elks convalescent home for crippled children. Appeals over the air waves by Dr. Samuel Koch and Sol Esfeld produced excellent results. During the depression era Seattle B'nai B'rith operated an employment service under the chairmanship of Leo Meltzer to find needed jobs for many unemployed. In 1936 an Americanization Program was initiated under Irving Levitin's leadership which assisted non-citizens in their naturalization efforts.

Nineteen hundred and thirty-seven saw the beginning of a massive adult education effort started by Barney Harvitz and in later years carried on by Jacob Rockov, Rabbi Arthur Jacobovitz, Cantor Joseph Frankel and Jack Cohen.

Community service programs included the March of Dimes and Heart Fund campaigns, blood donor drives, community children's parties, and the "Toy Project" which collected and repaired used toys throughout the year and distributed thousands of toys to under privileged families at Christmas time. This project grew to such large proportions that it is now carried on by public agencies. Essay contest such as "Abraham Lincoln" for Seattle area school children and "What the American free enterprise system means to me" for junior achievement participants were sponsored by local judges.

Prominent among the many participants in these projects were: David Lipman, Nathan Eckstein, Leon Greenman, Philip Tworoger, Mandel Nieder, Alvin Block, Jacob Rockov, Eddie and Sollie Barrat, Morris Steinberg and Jack Haleva.

The most recent addition to Seattle's B'nai B'rith community services programs is "Project Brotherhood" led by Arthur Siegal and Dalbert Rychter which enables many Seattle area Christians in service related jobs who would normally have to work on Christmas Day and Eve to spend the holiday with their families and attend religious services while members of the Puget Sound Jewish Community organized by B'nai B'rith fulfill their duties without compensation and loss of wages to them.

In 1923 B'nai B'rith founded the first Hillel Foundation, a Jewish Campus Organization, at the University of Illinois. Shortly before the outbreak of World War II, a Hillel unit took shape in Seattle with Rabbi Arthur Zuckman as its first director. Under the leadership of Jacob Lighter, Seattle B'nai B'rith initiated an effort to establish a Hillel Foundation at the University of Washington which culminated in the dedication of the first Hillel Foundation Building near the campus in 1948, at which time the former national Hillel Director, Dr. Abram Sachar, was the guest speaker, a function that he will fulfill at the seventy-fifth anniversary celebration on September 19, 1976.

It is the function of the Hillel Foundations, located in campuses throughout the free world, to strengthen the Jewish identity of students by such means as religious services, seminars, cultural programs consisting of lectures, panel discussions, films, and debates. Rabbi Arthur Jacobovitz, who has served as the local director since 1959, engages in personal and religious counseling. His outreach programs serve Jewish students in other institutions of higher learning throughout the state. The reference library on Judaica at the Seattle Hillel Foundation is considered the finest and most complete in this area and is available to the campus and general community for research and study. Such lay leaders as Meyer Cohen, Ernest Stiefel, Joe Woron, Howard Michel, Sol Halfon, and many others have made the Hillen Foundation at the University of Washington a potent force for Jewish youth.

One of the most widely known and most highly respected activities of B'nai B'rith throughout the free world is the Anti-Defamation League of B'nai B'rith. Brought into being in 1913, it addressed itself initially to combating anti-semitism and the race hatred inspired by a resurgence of the Ku Klux Klan. The ADL vigorously joined in the fight against prejudice, bigotry, and racism long before it became popular and fashionable.

The local ADL office was established on a part-time basis at the outbreak of World War II by P. Allen Rickels, attorney and community leader, followed by Sam Holcenberg. In April of 1947 the work of the local office had grown to such proportions that it became a full-time operation that fought the seeds of anti-semitism sewn by Nazi and German Bund efforts before World War II. Stanley Jacobs and Seattle attorney Leonard Shroeter served as directors when Seymour Kaplan assumed directorship in 1955 until his untimely death in 1974. Under his devoted leadership, ADL addressed itself not only to the vices of anti-semitism but bigotry in all its forms and became a potent force in civic and equal rights for all Americans. Prominent contributions were made in the field of education that fostered a better understanding of teachers and students alike of the different ethnic and religious groups that comprise the American nation.

Many ADL lay leaders have made significant contributions to make the Puget Sound area a better place to live for all its citizens. Among them are Merle Cohn, Melville Oseran, Judge Solie Ringold, Murray Guterson, Robert Miller, Henry Wolf, Arthur Siegal, and many others who now continue their work under the guidance of the current director, David Stahl.

The B'nai B'rith Youth Organization founded in 1924 in Omaha, Nebraska has as its objective the training of leaders of tomorrow; to enable them to make their own individual contributions of distinctive Jewish values to the mosaic of our country's culture; to offer young people group life experiences which give them an understanding of and loyalty to our democratic heritage; to provide supervised leisure time activities and learning experience whereby young people become ethical and altruistic in human relationships, devoted and competent in the fulfillment of family and community responsibilities.

The first local BBYO unit, the seventy-third in the nation, was established in 1927 followed by others in the ensuing years involving youth leaders like Bert Klatzker, Sam Stusser, Richard Aronson, Harry Ash,

Leo Levine, and Myron Rosenthal among many dedicated men and women.

In 1922 Seattle B'nai B'rith became actively involved in the scout movement under the guidance of Sol G. Levy who, until his death, had been a national scouting personality and Rubin Raport. Over the years Seattle lodges have sponsored many scout and Sea scout troops and afforded countless youngsters from disadvantaged families the opportunity to be part of this character building program. Sol Sharin, Bob Adler, and Walter Oppenheimer are some of the many B'nai B'rith scout leaders that have organized scouting units throughout the Puget Sound area.

Since 1865 B'nai B'rith has maintained an active program of support for their brethren in Palestine and later the State of Israel. In 1865 American B'nai B'rith launched a massive fund raising campaign to aid the cholera plague victims, Jews and Arabs alike. At the turn of the century the young Seattle B'nai B'rith lodge participated in a national effort of direct support for the Hebrew National Library in Jerusalem and the Haifa Technicum. After World War II both the scope and the nature of assistance to the Jewish homeland expanded to establish housing for new immigrants, scholarships in support of the newly established Hebrew University on Mount Scopus. Later B'nai B'rith contributed to aid the victims of the 1929 Arab riots and the Tiberias Flood of 1933. The men, women, and youth of B'nai B'rith in Seattle and throughout our nation assisted the Jewish National Fund in raising the monies to purchase land from the mid-thirties to 1941 to settle the increasing number of immigrants. Since the establishment of the State of Israel in 1948, B'nai B'rith in Seattle and around the free world has initiated many programs to buy and sell Israel Development Bonds, plant forests to solidify the soil and give employment to new immigrants to support the tremendous industrial and commercial developments of Israel that are carried on in spite of the military burden of self-defense.

Seattle's B'nai B'rith Israel programs under Joseph L. Woolfe, Max Silver, Ben Maslan, Albert Youngman and many others have a proud history of service to their people.

THE NEED FOR A MARITIME AFFAIRS COORDINATOR

Mr. TAFT. Mr. President, on August 24 I sent a letter to the Members of the Senate asking them to cosponsor S. 3581, a bill to create an Office of Maritime Affairs Coordinator. It would be the job of the Coordinator to make sure this country uses all of its maritime assets, especially its merchant marine, to serve the needs of national security.

A recent article in the Christian Science Monitor discusses the way the Soviet Union does use all of its maritime resources for national security. The Soviet merchant marine, the Soviet fishing fleet, and Soviet oceanography all serve Soviet state policy.

I do not believe we can continue to waste much of our total maritime effort through lack of coordination. The Soviet naval challenge is too serious for us to ignore in any of its aspects.

Mr. President, I ask unanimous consent that this article, "Soviet Navy Runs Fishing Fleet," be printed in the RECORD. I hope it will serve to encourage my colleagues to give study to S. 3581.

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

SOVIET NAVY RUNS FISHING FLEET

(By Paul Wohl)

The Soviet Union has gone on record that its far-flung fishing fleet is, indeed, under Navy supervision.

The West has long suspected that Soviet fishing vessels served naval purposes. Confirmation came during the Soviet observation of Navy Day in mid-July.

Adm. Sergei G. Gorshkov, the Navy's commander in chief, stated in an interview with Pravda, the Communist Party newspaper, on July 25, that "maritime transportation, fishing, and scientific research on the sea are part of the Soviet Union's naval might."

It was the first time that the Soviet Union had acknowledged that these apparently peaceful activities of the world's largest and most modern fishing fleet are under Admiral Gorshkov's jurisdiction.

Admiral Gorshkov also proclaimed that "our fleet has scaled new heights in improving the material and technical foundations of armed strength at sea, . . . enhancing our state's naval might still further."

In his recent book, "The State's Sea Power," Admiral Gorshkov highlighted the Navy as an implement of world socialism. He cited "the ability of the Soviet state to make effective use of the world ocean in the defense of socialism against imperialist aggression."

Rejuvenation of the officers' corps also was stressed by Admiral Gorshkov in the Pravda interview. "People born since the Great Patriotic War [World War II] now are commanding our warships," he said.

All the major Navy Day speakers emphasized "the nonaggressive nature" of the Navy.

But Admiral V. V. Mikhaylin, deputy commander in chief, at the same time mentioned the growing importance of nuclear submarines and missile-carrying naval aircraft. "Nuclear missile-carying submarines armed with long-range ballistic missiles and homing torpedoes are the embodiment of bold, creative thought and the pride of our native shipbuilding," he said.

In Krasnaya Zvezda, the daily of the Defense Ministry, Admiral of the Fleet N. Smirnov, first deputy commander in chief of the Navy, wrote, "The potential of our [four] fleets has increased many times over."

Adm. Vasily M. Grishanov, chief political officer of the Navy, also spoke glowingly of the "supersonic missile-carrying maritime aviation."

"The motherland—a great continental and maritime power—needs a powerful fleet," he said. "The length of our sea borders exceeds 24,000 miles."

CURBING PALM OIL IMPORTS

Mr. HUMPHREY. Mr. President, I was pleased to see that the Department of Agriculture at long last has taken steps to recognize the threat which unbridled palm oil imports hold for our soybean and cottonseed producers in the United States.

Beginning late in 1975, I repeatedly called this matter to the attention of the Department of Agriculture.

At that time a number of our railroads had requested a reduction in freight rates on palm oil entering the entering the United States through the west coast, but the Interstate Commerce Commission rejected this proposal.

However, the tide of palm oil imports has continued, and the executive branch has not been willing to do much more than study the matter. Domestic use of palm oil in this country has risen from 124 million pounds in 1970 to 870 million pounds in 1975.

The Senate earlier in Senate Resolution 444 instructed the International Bank for Reconstruction and Development to direct its loan activities to underdeveloped countries to the production of food and fiber needed internally to prevent starvation and to upgrade the diets of all their citizens, and to cease further encouragement of palm oil production for export as long as the United States remains the only entirely open major import market for palm oil.

The Senate on July 19, 1976 passed my bill, Senate Resolution 487, which first requests the President to initiate negotiations with nations exporting palm oil to the United States in order to limit such exports voluntarily; second, requests the International Bank for Reconstruction and Development and other development agencies to review the impact of their assistance for increasing agricultural production in developing countries on agricultural adjustment in other nations; and third, calls for assistance for agricultural development in developing countries to be directed primarily at the relief of hunger and malnutrition.

While the administration has not yet taken steps to limit the imports of palm oil, a recent news release by the Department of Agriculture indicates that it at least has begun to recognize the source of the problem and has begun to take action to deal with this problem.

Mr. President, I ask unanimous consent that the release along with a copy of the report accompanying Senate Resolution 487 be printed in the RECORD.

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

U.S. TO STOP FUNDS FOR PALM OIL DEVELOPMENT

WASHINGTON, July 29.—Assistant Secretary of Agriculture Richard E. Bell said today the U.S. government no longer will support loans by international money-lending institutions to develop more palm oil production for international export trade purposes.

This firms up an interim policy position tentatively established last March. Mr. Bell believes the U.S. position will effectively dry up funding from lending institutions which the U.S. supports. This will cut the amount of palm oil that would be produced in absence of the U.S. action. No exact estimates of the cut have been made.

Palm oil imports into the U.S. are slowing, may total about a billion pounds this year. Government officials believe a tariff or direct limitations on palm oil imports would encourage palm oil producers to compete with U.S. soybean producers in the big European market. Such limitations would thereby be self-defeating, according to such views.

NEGOTIATION OF VOLUNTARY RESTRAINTS ON PALM OIL IMPORTS

The Committee on Agriculture and Forestry, reports an original resolution (S. Res. 487) relating to the negotiation of voluntary restraints on palm oil imports into the United States, and recommends that the resolution do pass.

PURPOSES

The purposes of this resolution are (1) to request the President to initiate negotiations with nations exporting palm oil to the United States in order to limit such ex-

ports voluntarily; (2) to request the International Bank for Reconstruction and Development and other development agencies to review the impact of their assistance for increasing agricultural production in developing countries on agricultural adjustment in other nations; and (3) to insure that assistance for agricultural development in developing countries is directed primarily at the relief of hunger and malnutrition.

BACKGROUND

I.

American oilseed production represents an important and strong component of our farm economy. Production of vegetable oil in the United States is mostly from soybeans and cottonseed. Vegetable oil accounts for nearly 75 percent of our total production of fats and oils. Over 10 percent of the total United States farm income is earned from the production of oilseeds, and about 15 percent of the total United States cropland is devoted to the production of oilseeds. Clearly, the strength of our oilseed economy is essential to the health of our overall economy.

American oilseeds, particularly soybeans, directly compete with imported palm oil for the domestic vegetable oil market.

World palm oil production has increased dramatically over recent years. Total world palm oil production rose from 1.7 million metric tons in 1970 to an estimated 3.2 million metric tons in 1976. During this period, palm oil has increased its share of the world market for fats and oils from 4.3 percent in 1970 to 6.3 percent in 1975.

II.

Palm oil is produced in Malaysia, Indonesia, Zaire, Nigeria, Ivory Coast, Dahomey, and Cameroon. More than 50 percent of palm oil production is accounted for by Malaysia.

Over 60 percent of palm oil production moves in world trade. The United States represents the largest importer of palm oil, with 25 percent of total world imports. The next largest importer is West Germany with 12 percent of world imports, followed by the United Kingdom, the Netherlands, and Pakistan. For calendar year 1975, palm oil imports into the United States are expected to total approximately 400,000 metric tons or more than double the volume of the previous year. This means that the United States will absorb almost three-fifths of the increase in palm oil exports.

Domestic use of palm oil in the United States has risen sharply—from 124 million pounds in 1970 to 870 million pounds in 1975. Eighty-five to 90 percent of these imports go into shortening. Though still relatively small, use is up also in margarine and in cooking oil manufacture.

The major advantage that palm oil has enjoyed in world oilseed markets stems almost entirely from price. During the 1974/75 crop year, palm oil prices averaged 22.9 cents per pound against an average soybean oil price of 30.7 cents per pound. Converting palm oil products to value based upon 1971–75 average prices, the value per acre for oil palms was $665 compared with $162 for United States soybeans.

III.

A substantial share of the expansion of world palm oil production is the result of international development assistance programs. The International Bank for Reconstruction and Development (World Bank) has loaned $272 million for palm oil projects in nine countries. The combined output of palm oil as a result of these projects is expected to be 430,000 metric tons for 1980 and 610,000 metric tons for 1985. About 75 percent of the palm oil from World Bank supported projects moves into world trade. Other international lending institutions have also financed the production of palm oil, most of which is for export from the producing nations.

The United States is the only entirely open major import market for palm oil, where no quotas or customs duties are imposed. The expansion of palm oil production is projected to be 2.6 million tons by 1985, of which 2.3 million tons will be exported. And if present trends continue, the United States will continue to absorb a disproportionate share of increases in world palm oil exports, and palm oil may displace 10 percent or more of the potential growth of soybean and cottonseed oil markets in the United States.

IV.

On May 6, 1976, the Senate Committee on Agriculture and Forestry reported S. Res. 444. The resolution instructed the International Bank for Reconstruction and Development to (1) direct its loan activities in underdeveloped countries to the production of food and fiber needed internally to prevent starvation and to upgrade the diets of all their citizens, and (2) cease further encouragement of palm oil production for export so long as the United States remains the only entirely open major import market for palm oil. On May 11, 1976, the Senate passed S. Res. 444.

This resolution goes further to request Presidential action on the negotiation of voluntary restraint agreement with exporting nations; to request the International Bank for Reconstruction and Development and other development agencies to review their policies in regard to agricultural production assistance; and to insure that assistance for agricultural development in the developing countries is directed primarily at the relief of hunger and malnutrition.

V.

The Committee on Agriculture and Forestry believes that the potential impact of further increases in palm oil imports would be detrimental to American oilseed production and to the American economy generally. Therefore, the Committee believes that the only way to insure that palm oil imports do not lead to such consequences is to negotiate voluntary agreements with the exporting nations to restrain such imports. To prevent the pattern of the problems created by palm oil imports on the domestic economy from recurring with regard to other commodities, the Committee believes that the World Bank and other development agencies should review all of their lending activities with respect to agricultural production assistance. Assistance by the United States and multilateral development agencies for agricultural development in developing countries should be directed primarily at the relief of hunger and malnutrition.

SENATOR WILLIAM L. SCOTT REPORTS

Mr. WILLIAM L. SCOTT. Mr. President, our office is in the process of sending our periodic newsletter to constituents, and I ask unanimous consent that the September newsletter be printed in the RECORD for the information of colleagues.

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

YOUR SENATOR, BILL SCOTT REPORTS,
SEPTEMBER 1976

BLUE RIDGE POWER PROJECT

A few days ago the Senate approved a measure previously passed by the House to make a portion of the New River in North Carolina a part of the National Wild and Scenic River System. It was argued that this river was one of the oldest in the world and must be preserved. However, the real purpose of the measure was to prevent the Appalachian Power Company from constructing a major hydroelectric power project in Grayson County, Virginia.

The power company filed an application with the Federal Power Commission to construct a two-dam hydroelectric and pumped storage project in 1965. Various individual states and government agencies intervened over the years and 7500 pages of testimony were taken, resulting in the issuance of a license by the Commission to construct the dam on June 14, 1974 by unanimous vote, later unanimously approved by a Federal Court of Appeals.

As you may know, only 5 miles of the main stem of New River are in North Carolina before it branches into two forks. The south fork would be a part of the Scenic River System but the north fork would not as there already is some industry located on it. It should be noted, however, that the remainder of the river, consisting of more than 250 miles, is in Virginia and West Virginia. Nevertheless, the Senate overwhelmingly voted to reverse the Federal Power Commission and the Circuit Court in approving the bill and, at least for the time being, killing the Blue Ridge hydroelectric power project.

Moreover, it appeared with all construction being in Virginia and two-thirds of the lake created by the dam being in our State, with both Senators, the Governor and Attorney General favoring the construction of the project, Virginia had a much greater interest than North Carolina. There is also a serious legal question as to whether the Federal Government will have to pay the power company for the cancellation by the Congress of the license after its issuance by the Federal Power Commission.

I opposed the measure for a number of reasons: 1) the project would provide much needed energy without damage to the environment; 2) there would be no cost to the taxpayer as the $845 million project would be privately financed; 3) 1500–2000 jobs would be provided in a high unemployment area; 4) several dams are already in existence along the river in Virginia and West Virginia; 5) a license to construct the dam in Virginia had already been granted after exhaustive adversary proceedings lasting more than nine years and approved by the Circuit Court.

Should you desire a copy of my detailed comments while the bill was under consideration in the Senate, please let us know.

DEEP SEA MINING

Recent advances in our marine technology have made it possible for man to recover from the ocean floor important minerals such as cobalt, nickel, manganese, and copper, and many American mining companies have expressed an interest in minerals from the ocean bottom. The United States must now obtain many minerals from foreign sources. While experts believe that American firms may well dominate this new industry in the future, overseas mining concerns fear that competition from U.S. deep sea mining will lower the price of minerals they now produce.

Since 1967, a permanent standing committee of the United Nations has been attempting to conclude a Law of the Sea Treaty which, among other things, will include regulation of sea mining. American firms, fearful of overregulation, have been reluctant to begin mining.

The Deep Seabed Hard Minerals Bill, now on the Senate Calendar, which has been considered by a number of Committees, including Armed Services, requires the Department of Interior to license and regulate American firms choosing to mine the ocean floor, rather than waiting for an international treaty. Although this measure does not prevent the President from signing an international

agreement, it does encourage American firms to begin recovering important minerals and insures them against potential economic losses from international organizations.

DEFAMATION OF CHARACTER

In recent years, public officials have had little recourse to recover damages for slander and libel against them. Various court cases have held that the First Amendment protection of free speech and press is almost absolute, particularly with regard to defamation of character of public officials. In recent weeks, eleven Senators have joined me in co-sponsoring legislation that would provide Federal officials with reasonable opportunity to recover damages for malicious, false and defamatory communications.

Of course constituents and the media should have the right to criticize the performance of any government official. But, it would also appear that there should be a balance between the right of the public to know and to comment fairly on various activities of officials, and the desire to encourage competent persons to offer themselves for elective office and to be permitted to perform their official duties without being subjected to character assassination.

The bill's sponsors believe there is a responsibility on the part of Congress to see that Federal officials are afforded reasonable recourse against malicious attacks. Under this measure the news media and citizens generally could be held responsible for circulating false, defamatory information knowing it to be false or without making a reasonable effort to determine whether it is true or false. While the bill, now before the Judiciary Committee, cannot be acted upon this year, it was co-sponsored by both the Chairman and senior Republican member of the Committee and hopefully can be considered in the new Congress. Copies of the measure and my comments are available for distribution.

RICHMOND VISIT

We will be making our periodic visit to the Richmond office on Friday, September 24. The office is located in the Federal Building, 400 North 8th Street, and you are welcome to visit and discuss any matter of concern.

Of course our principal office and most of our staff are in Washington, and you are welcome to visit there at any time. Our Richmond office has a full-time manager, and you may desire to contact her by calling 804/649-0049.

FOREIGN ASSISTANCE

In the next few weeks, the Senate will again be asked to approve an appropriation for direct economic and military assistance to foreign nations—this year $5.4 billion. Since the end of World War II, foreign aid of this kind has cost our taxpayers $219 billion, an amount including interest that is somewhat greater than the national debt accrued during this period. Thus, our country has spent nearly $500 billion during the period on foreign aid, overseas military operations, and interest on the resulting debt, not including our contributions to N.A.T.O., the U.N., and various international banks.

Frequently such aid is requested to assist underdeveloped nations and to help allies resist totalitarian expansion. For example, during the past thirty years, we have given $23.6 billion to West Germany, South Korea, and the Republic of China. However, during those same thirty years, we have also provided $32 billion directly to nations which are now Communist, and this year alone we will be asked to provide $157 million simply to aid refugees from countries which have fallen to dictatorships.

Although consideration of the needs of fellow human beings on an individual nation basis is highly desirable, I have reservations against broad brush foreign aid, regardless of the government or whether the recipient is friendly or unfriendly to the United States.

MILITARY CONSTRUCTION

Congress recently passed but the President vetoed legislation authorizing numerous military construction projects throughout the country for Fiscal Year 1977. Since the Senate sustained the veto, a new military construction bill has been proposed; and final action on the revised bill is expected soon.

While the President found the previously approved legislation generally acceptable, he did object to one provision which would have restricted his authority regarding the closing of military bases. The revised bill eliminates this section but retains authorization for various construction projects nationwide, including those previously recommended for Virginia.

The measure authorizes the Army, Navy, Marine Corps and Defense Supply Agency more than $100 million for military construction in our state. It is my understanding that Radford Army Ammunition Plant would receive the largest authorization, totaling over $25 million; but other significant construction is proposed for Norfolk, Oceana, Portsmouth and Richmond, as well as installations at Forts Belvoir, Eustis, and Lee.

POSTAL SERVICE

A bill to amend the Postal Reorganization Act has passed the Senate and awaits House acceptance of the conference report. The bill authorizes the appropriation of an additional $1 billion subsidy in two installments to be applied against the Postal Service's accumulated operating deficit. Otherwise, the Postal Service would end fiscal year 1977 with an accumulated deficit of approximately $4.5 billion. The bill also temporarily freezes service cuts, post office closings and rate increases.

The measure requires the Postal Service to submit its budget request to the Congress annually and to testify before the House and Senate Post Office and Civil Service Committees. The legislation also creates a commission to study various problems of the Postal Service and to report back to the Congress not later than March 15, 1977. In view of the failure of the postal reorganization legislation of 1970 to result in a fiscally sound postal service, a return of legislative oversight to the Congress and administrative responsibility for the operation of the post office to the executive branch of the government may be warranted.

VETERANS CEMETERY

The Armed Services Committees of both Houses of Congress have approved without objection the transfer by the Navy Department of 726 acres at the Quantico Marine Corps Base to the Veterans Administration under existing law.

The General Services Administration is the coordinating agency for the land transfer. Although our bill to establish a National Cemetery on this land was referred to the Senate Committee on Veterans Affairs, the Veterans Administration expressed a preference for creating the cemetery by use of its present authority. It is hoped that this additional property can soon relieve the acute shortage for burial of veterans now existing at Arlington National Cemetery.

TAX REFORM

The Senate passed the proposed Tax Reform Act of 1976, after taking action on many amendments during six weeks of floor debate. It is now before a joint Senate-House conference committee to reconcile differences between the Senate's version and the House of Representatives' original bill. Included in this huge bills' numerous provisions are an extension of last year's increases in personal exemptions, individual income tax credits, special credits for lower income families, and retention of the 50 percent maximum rate on earned income.

In addition, the bill includes an extension of the benefits of individual retirement accounts to homemakers, increased deductions for child care services and for the care of incapacitated dependents, and estate tax relief. Closing of tax loopholes will result in over $1 billion of additional revenue. It is anticipated that the Senate and House differences will be resolved in time to send the bill to the President for consideration before Congress adjourns.

LAND USE RESTRICTIONS

As you may know, the Senate has passed and the House of Representatives is considering legislation that would expand Federal regulation of air pollution control requirements. It would also have the effect of granting Federal officials new authority to challenge land use decisions which previously have been reserved to the States and localities. During floor debate, a number of us argued against establishing new non-degradation standards for certain regions of the country beyond those now required to protect public health and welfare throughout the country.

We offered separate amendments eliminating the non-degradation concept entirely from Federal law and preventing the Environmental Protection Agency from enforcing such a far-reaching policy by regulation during a proposed study period but they did not prevail. Copies of my detailed floor remarks regarding the clean air amendments are available upon request.

LORTON STATUS

The Judiciary Committee has issued a report of hearings on the bill to transfer the location of the Lorton Penal Institutions now in Fairfax County to a site within the District of Columbia, and we will be glad to forward a copy to you should you desire one.

Inasmuch as the Congress will only be in session for about one more month this year and many measures are already on the calendar for consideration, there is little chance that a Lorton bill will be reported but the Subcommittee Chairman has assured me that serious consideration will be given this proposal when we reconvene in January. Suggestions made by witnesses before our Subcommittee will be considered in a revised bill at that time.

We are advised that the Lorton facilities are the only non-Federal prisons located outside jurisdictions which operate them; and Fairfax officials, among others, have been concerned with the manner in which the penitentiary is supervised. In fact, the County brought suit in a Federal District Court, and after hearings, the judge ruled that Lorton is a public nuisance and gave the District of Columbia 90 days to devise a plan to improve it.

SOMETHING TO PONDER

The punishment of wise men who refuse to take part in the affairs of government is to live under the government of unwise men.—PLATO.

GOODWILL GESTURE OR SUPREME INSULT?

Mr. DOMENICI. Mr. President, the Vietnamese Government yesterday, September 6, 1976, announced the names of 12 U.S. servicemen described as having been killed during the Vietnam war. In what must be the supreme insult to the families of up to 1,300 servicemen still unaccounted for Southeast Asia, the Vietnamese Government, in self-serving fashion typically classified this tardy and incomplete list as a "goodwill gesture."

Far from having such a noble purpose, this is simply another incredibly audacious demonstration of cruelty and total disregard of humanitarian principles.

I do not know, Mr. President, what true objective the Vietnamese Government may be pursuing in releasing these few names, but we can safely eliminate the stated purpose of a goodwill gesture. The past track record of the North Vietnamese and their allies needs only to be recalled to place a tremendous burden of proof on any current Vietnamese claim to be trying to establish an atmosphere of goodwill. That burden is not discharged by simply revealing that 12 American airmen were killed while the fate of over 1,000 other U.S. servicemen continues to be withheld. Is that a gesture of goodwill? I think not, and I call upon our leaders who are dealing with the Vietnamese on this and related matters, to stand firm and demand a complete and accurate accounting of all our missing servicemen, some of whom we know at one time were alive and well in enemy prison camps.

When the total accounting has been accomplished, it may be time to speak of "goodwill," but until then, let us recognize this scheme for what it is—a supreme insult to the families of our missing servicemen and through them to all the people in the world who deplore the inhumane approach thus far followed by North Vietnam and its successor government.

ACCOUNTING FOR MIA'S

Mr. DOLE. Mr. President, the Senator from Kansas believes the announcement by the Vietnamese Government yesterday regarding MIA's, while encouraging points even more vividly to the lack of action by the authorities in Hanoi.

The release yesterday of the names of 12 American servicemen who died in Vietnam, by the government of Hanoi, is a source of some relief to the families of these men. For this, I am gratified. But they, along with the families of the 1,300 U.S. servicemen still unaccounted for, have lived with excruciating uncertainty about the fates of their loved ones for far too long. Now, the agonizing wait for these few families is ended, and I share in their sorrow.

SMALL ACTION

But the release of this information represents only a minuscule portion of Hanoi's commitment, under the terms of the 1973 peace agreement, to provide a full accounting of all missing American servicemen in Vietnam. The single act yesterday does not represent compliance, but only a preliminary step toward fulfillment of Hanoi's promise and responsibility under the terms of the peace accord.

The Vietnamese Communists apparenty expect that the United States will now rush to grant them their wishes regarding entry into the U.N. It is my hope that the American public will not be misled by this small step by Hanoi that could—and should—have been taken long ago.

There have been literally hundreds of actions taken in good faith by U.S. Government agencies, by the Congress, and by private parties. Essentially, our efforts have been ignored.

Hanoi officials have consistently scorned the resolutions which I, and other Members of Congress, have sponsored calling for full and detailed accounting for all MIA's and POW's in Southeast Asia. The actions by the Department of Defense and the State Department fill many pages. Their efforts have been rebuffed.

HOLD POSITION

I am pleased the President has recognized the Hanoi action for what it is and is holding firmly to his previous demands. Discussion of Vietnam's future—of U.S. recognition, of war reparations, of United Nations membership, or of any other "normalization" of relations—is out of the question unless, and until, the government of Hanoi fully meets the terms of the 1973 agreement. For only when the U.S. Government has been provided with a complete accounting, and when the families of missing U.S. servicemen have their questions resolved, can a basis for further negotiations be established.

This does not represent any new conditions on our part. Rather, it represents this administration's continuing commitment to honor the provisions of an accord executed in good faith by this Government almost 4 years ago. Hanoi's action yesterday indicates that they have the capability of fulfilling their pledge when faced with an incentive to do so. I believe our Government must stand fast in sustaining that important incentive.

The Vietnamese Communists are trying to barter, in the most despicable and selfish way, the sorrow and grief of thousands of Americans to obtain concessions from the United States. I urge my colleagues and all Americans to keep yesterday's small but welcome action in the perspective of the enormous record of our previous efforts and almost complete absence of any meaningful response from Hanoi. I hope we can stand strong and united on our present position until there is a full accounting of all our MIA's.

PARTY PLATFORMS ADDRESS NEEDS OF CHILDREN

Mr. HUMPHREY. Mr. President, it is important, in this vital election year, that the American people have a clear understanding of the choices that are theirs to make.

The American Parents Committee, Inc., has made an important contribution to this effort in its development of a comparison between the Democratic and Republican platforms as they relate to issues concerning children.

I call this item to the attention of my colleagues in the Congress, as well as the voters of America, in an effort to foster understanding of the issues which are at stake in this Bicentennial election year.

I ask unanimous consent, therefore, Mr. President, that this study be printed in the RECORD.

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

THE DEMOCRATIC AND REPUBLICAN PLATFORMS ON ISSUES FOR AND ABOUT CHILDREN

(Prepared by the APC in co-operation with the Child Welfare League of America, Inc.)

THE DEMOCRATIC PLATFORM	THE REPUBLICAN PLATFORM
Social Services: Social services should be extended to include treatment for alcoholism, mental retardation, child abuse and neglect, mental illness and day care services to low and middle income families. The social services ceiling, set at $2.5 billion in 1972, should be raised "to compensate for inflation and to encourage states and localities to expand social services to low and moderate income families."	Social Services: The Republican party platform states that "Block grant programs should be extended to replace many existing categorical health, child nutrition and social services programs."
Welfare: The Democrats believe "existing welfare programs encourage family instability" and propose to replace our present welfare system with a simplified system of income maintenance. This new system would be "substantially financed by the Federal government and include a requirement that those able to work (except mothers with dependent children) be provided with appropriate available jobs or job training opportunities." As an interim step, the platform supports gradual federalization of welfare costs. The proposed income maintenance system would incorporate these features:	Welfare: The platform emphasizes the need to prevent and end welfare fraud. It urges involvement of able-bodied individuals receiving welfare payments in "useful community work projects." The party does not favor federalization of the welfare system nor a guaranteed annual income maintenance program. The Republicans propose certain goals which they believe should be embodied in welfare reform:
(1) an income floor both for the working poor and the poor not in the labor market;	(1) adequate living standards for the truly needy;

THE DEMOCRATIC AND REPUBLICAN PLATFORMS ON ISSUES FOR AND ABOUT CHILDREN—Continued

(Prepared by the APC in co-operation with the Child Welfare League of America, Inc.)

THE DEMOCRATIC PLATFORM	THE REPUBLICAN PLATFORM
(2) equal treatment of stable and broken families; (3) simple schedule of work incentives which would guarantee equitable levels of assistance for the working poor.	(2) strengthen work requirements; (3) end welfare fraud; (4) provide educational and vocational incentives for self-support; (5) coordinate federal efforts with local and state social welfare agencies; (6) strengthen local and state administrative functions.
Education: The platform advocates "Federally financed, family centered developmental and educational child care programs—operated by the public schools or other local organizations, including both private and community—and that they be available to all who need and desire them." Expanded Federal support for education of the handicapped, bilingual education, and early childhood education—areas where public schools are not yet meeting all needs—is supported by the Democrats.	Education: The platform proposes "consolidating categorical grant programs into block grants and turning the money over to the States to use in accordance with their own needs and priorities and with minimum bureaucratic control." The platform also says "Total financial dependence on the Federal government inevitably leads to greater centralization of authority. We believe, therefore, that a study should be authorized concerning funding of elementary and secondary education, coupled with a study regarding return to the States of equivalent revenue to compensate for any loss in present levels of Federal funding." The platform does endorse continued funding for the handicapped, disadvantaged, and special Federal support for vocational education.
Juvenile Justice: The Democrats pledge funding and implementation of the Juvenile Justice and Delinquency Prevention Act which "has been ignored by the Republican Administration."	Juvenile Justice: The Republicans believe that the family has primary responsibility for raising children, instilling proper values, and thus preventing juvenile delinquency. However, when families fail, the local law enforcement agency must respond. The platform supports the use of law enforcement block grants to correct and prevent juvenile delinquency and additional Law Enforcement Assistance Administration (LEAA) research in the area of juvenile delinquency. They advocate prison reform urging the separation of youth and adult offenders and the provision of better counseling and "community-based alternatives."
Nutrition: The party supports continued Federal programs providing the basic nutritional needs of students.	Nutrition: The platform endorses consolidation of the existing 15 child nutrition programs and concentration on those children truly in need.
Health: The platform recommends an incremental approach to a "comprehensive national health insurance system with universal and mandatory coverage financed by a combination of employer-employee shared payroll taxes and general tax revenues. Until national health insurance is enacted, emphasis should be placed on (1) preventive medicine; (2) increased programs of screening, diagnosis and treatment of disease; (3) early detection of major cripplers and killers of the American people; (4) development of a responsive consumer-oriented health care delivery; (5) prepaid health plans.	Health: The Republicans oppose compulsory national health insurance but support extension of catastrophic illness protection to everyone who cannot obtain it. They claim that national health insurance "will increase Federal government spending by more than $70 billion in its first year and require a personal income tax increase of about 20%." The party proposes to contain rising health care costs by (1) eliminating wasteful duplication of medical services; (2) emphasizing out-of-hospital services; (3) developing healthier life styles through education. The Republicans encourage the development of a comprehensive approach to mental health which would include "all aspects of the interrelationships between emotional illness and other specific disabilities."
Unemployment: Observing that unemployment leads to "strained family relationships, deprivation of children and youth, alcoholism, drug abuse and crime," the Democrats support legislation to reduce unemployment to three percent over a four-year period. Youth development programs should be promoted according to the Democratic party platform.	Unemployment: The platform emphasizes that the number one destroyer of jobs is inflation. According to the Republican platform, "Inflation is the direct responsibility of a spendthrift Democrat-controlled Congress that has been unwilling to discipline itself to live within our means." They advocate sound job creation through the private sector of the economy. They do not mention the impact of unemployment, inflation and price instability on child welfare or the family. The American Family: The party pledges "support for child care assistance, part-time and flexible-time work that enables men and women to combine employment and family responsibilites." The Republicans advocate minimal governmental and institutional interference with the family. They charge that in the current epidemic of dissolving families, the party should be concerned with the government's control of the family. "It is imperaive that our government's programs, actions, officials, and social welfare institutions never be allowed to jeopardize the family. *We fear the government may be powerful enough to destroy our families; we know that it is not powerful enough to replace them.*"
Abortion: The Democratic platform opposes a constitutional amendment to ban abortion.	Abortion: The Republican platform supports the efforts of "those who seek enactment of a constitutional amendment" to prohibit abortion.
School Busing: The Democratic platform says: "Mandatory transportation of students beyond their neighborhoods for the purpose of desegregation remains a judicial tool of the last resort."	School Busing: The Republican platform says in part: "Segregated schools are morally wrong and unconstitutional," but "we oppose forced busing to achieve racial balances" and "favor consideration of an amendment to the Constitution forbidding the assignment of children to school on the basis of race."

CONTINUING RELIGIOUS PERSECUTION IN THE SOVIET UNION

Mr. DOMENICI. Mr. President, I am pleased to join with Senators CASE, HATFIELD, HUMPHREY, JACKSON, PASTORE, STEVENS, and TAFT in cosponsoring Senate Concurrent Resolution 118. I am aware that an identical resolution was introduced in the House by Mr. BUCHANAN and presently has 122 cosponsors. This resolution reflects the sense of Senate that the Government of the Soviet Union should allow Christians and other religious believers to worship freely according to their own conscience. This resolution restates the basic human freedoms ratified last August by the Soviet Union in the Helsinki Agreements.

However, the Soviet people have not gained the religious freedoms promised to them by the accords. Although some prominent dissidents have been allowed to emigrate, it is apparent that conditions for remaining prisoners and others attempting to practice religious freedoms have worsened. For example, Jewish emigration is far below that in 1973 and has not improved since Helsinki.

Conditions for Christians in the Soviet Union, as I discovered on my recent trip to Moscow, are not as we are led to believe. The case of Georgi Vins, secretary of the Council of Churches of the Evangelical Christians and Baptists, is one of many social injustices against the Soviet people and is well documented.

Vins is presently serving a 5-year sentence at hard labor for the alleged crime of administering to the congregation that elected him as their pastor. Persecution of Vins' family is longstanding. Both of his parents were imprisoned for their religious beliefs. His father, interestingly, was trained in the United States as a Baptist minister, died during his third prison sentence in a Far East Labor Camp. Vins' children have resolved to die alongside their father if he is not released.

Georgi Vins was a founder of the Council of Churches of Evangelical Christians and Baptists, a dissident Baptist movement that the Government says is illegal. Because of his involvement in the movement, Vins was arrested first in 1966 and was given a 3-year sentence at hard labor. In 1968, while Vins was serving this term, the Soviet Government ratified the International Covenant on Civil and Political Rights. The Covenant insures religious freedom by stating:

> No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

Soon after Vins' release, the Government initiated a new case against him. In February 1975, 6 months before the Soviets signed the Helsinki agreements, Vins was convicted by a court in Kiev of harming the interests of Soviet citizens under a pretext of carrying out religious activity. The Helsinki Accords include this provision:

> The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

Georgi Vins' imprisonment is in direct violation of the letter and spirit of these agreements. How many others are suffering similar plight in the Soviet Union? What was the true Soviet objective of signing the Helsinki document? According to a Washington Post article this month, Soviet publications brimmed with "self-congratulatory accounts of the Soviet accomplishment at Helsinki—where East and West met with contradictory objectives." I believe that our objectives for basic human freedoms for all peoples have not been met—certainly not in the case of Georgi Vins.

Let us demolish this facade of freedom and demand the release of Georgi Vins and the meaningful recognition of the principles for which he is imprisoned—religious freedom for all peoples throughout the world.

Mr. President, I ask unanimous consent that Senate Concurrent Resolution 118 be printed in the RECORD.

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

S. CON. RES. 118

Whereas Christians and other religious believers in the Soviet Union are being persecuted simply because they desire to worship God according to the dictates of their conscience and the precepts of their faith rather than according to the dictates of the state;

Whereas a symbol of the denial of basic human rights by the Soviet Union is the imprisonment for five years at hard labor of Georgi Vins, secretary for the Council for the Evangelical Christians and Baptists, for the alleged crime of administering to the congregation that elected him as their pastor, and the continuing persecution of the Vins family, which for three generations has suffered imprisonment and death in imprisonment for preaching the Baptist faith;

Whereas the continued denial of this fundamental human right in the Soviet Union could have adverse implications for the growth of amicable relations between our two countries; and

Whereas such Soviet policy contravens the spirit, if not the letter, of the Helsinki Agreement, and by so doing raises serious doubts as to the commitment of the Soviet Union to that agreement: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Soviet Union should immediately release Georgi Vins from imprisonment and allow him and all other Christians and other religious believers within its borders to worship God freely according to their own conscience, as the Soviet Union is committed to do by the provisions of its constitution and by the provisions of the United Nations Covenant on Civil and Political Rights which the Soviet Union has ratified.

DO THE DEMOCRATS HAVE AN ECONOMIC ISSUE?

Mr. HUMPHREY. Mr. President, I would like to call the attention of the Senate to an article which appeared in the Sunday, August 29, issue of the New York Times. Its title "Do the Democrats Have an Economic Issue?" gives ample indication of the questions it raises and deals with.

Do the Democrats have an economic issue? Consider the case of inflation; "in the 1968–76 period—about three-fourths of the dollar increase in GNP reflected nothing more than price increases." Consider industrial production, where three-fifths of the increase in physical volume between 1952 and the present occurred in the Democratic years 1960-68. Consider corporate profits, where "almost all the increase from 1968 through mid-1976 was in inflation dollars," or the stock market, where prices today are "just about the same as in December 1968," which, by the way, is an improvement over most of that period. Or on the other hand, one could compare the "extraordinarily high" budget deficits of the past 8 years with those compiled during the Democratic administrations. As the article states, it would appear that "the economic record of the past 7½ years is a vulnerable record, and the Democrats do have an economic issue."

Mr. President, this article by Frederick L. Deming, former Under Secretary of the Treasury, former president of the Minneapolis Federal Reserve Bank, and current president of the National City Bank Corp. of Minneapolis, clearly presents the facts on our Nation's economic performance in the Democratic sixties and the Republican seventies. It is, I believe, the clearest and most concise indictment of Republican economic mismanagement I have seen. Mr. Deming, a talented man and a good friend, has provided the people with vital facts as they prepare for the November elections. Therefore, I ask unanimous consent that this article be printed in the RECORD.

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

DO THE DEMOCRATS HAVE AN ECONOMIC ISSUE?

(By Frederick L. Deming)

Do the Democrats have an economic issue?

The public opinion polls indicate that economic problems head the list of voter concerns. At the same time they point to more interest on the part of voters in the character of the candidates than in their specific stands on issues or programs. Also, we are told that voters, particularly the younger voters and the liberal voters, perceive the economic questions not only to embrace growth, jobs and income but also to include urban problems, the environment and resource conservation. Finally, there are some indications that more austerity in public finance is becoming fashionable, especially among the liberal establishment.

Taking these points into consideration, it may make sense to view the American voter as the stockholder of a corporation, concerned more with results than with explanations. A vote contest—like a proxy contest—may not have to rest on a detailed plan by a contender for management to improve the country; it may rest primarily on the record of the current management as against the voter-stockholder perception of what it should have been and the perception of what the contender can and will do in terms of results.

What is suggested here is that the big economic issue for the coming election is the eight-year Nixon-Ford record in contrast to the previous eight-year Democratic record rather than any detailed Democratic economic program. The Democratic case is that results can be better; they were better in the 1960–68 period. In this case a detailed, specific program is less consequential than an expressed desire for and a will to produce a better result. The Kennedy statements that "we've got to get this country moving again"

and "a rising tide lifts all the boats" probably had more impact than the platform in 1960.

Operating from a base of fully-employed resources, the American economy should grow at an annual average rate of 4 percent in real terms. The labor force increases about 2 percent a year; the long-term rate of productivity gain seems to run about 2.5 to 3 percent a year. Adding these factors together and allowing for a little slippage yields the 4 percent real growth rate which should be attainable without any appreciable inflation. If the economy is operating at less than capacity, the real growth rate can be higher without inflation.

Take that 4 percent as the standard against which performance is measured (the standard for 1952–60 probably should be a bit lower, say 3.5 percent). The eight Nixon-Ford years, even assuming a 7 percent gain for 1976, will show five below-standard years and an average performance of 65 percent of standard—or about 2.6 percent annual average gain. The Eisenhower years, measured against a 3.5 percent standard, produced an almost identical record. In sharp contrast, the Kennedy-Johnson period showed six of eight years above 4 percent and the 4.8 percent average was 12 percent of standard. The Democratic case in simple form then is: Does a 65 percent record justify retaining the current management? We Democrats have done better in the past and we can do better in the future.

A likely Republican rebuttal would be that they inherited a lot of problems from the Democrats who escalated the Vietnam war, and with their guns-and-butter approach and costly social programs created big budget deficits and sowed the seeds of inflation, and that Democrats got a lot of help on unemployment and output from the war itself.

That case contains some truth but lacks overall credibility. After the Korean war, begun in the Democratic Truman Administration and ended in the Republican Eisenhower Administration, the armed forces dropped from 3.5 million to 2.5 million by the end of 1960 while unemployment rose by 3 million. By the end of 1968, the armed forces were back up to 3.5 million, but unemployment was 2 million less. By the end of 1975, the armed forces were down to 2.2 million while unemployment was up more than 5 million. Both real gross national product and industrial production averaged larger gains from the end of 1960 to the end of 1964 than in the next four years when Vietnam was building up rapidly, and then showed quite small gains in 1969 and 1970, while the war was still big.

It is true that failure to get a solid tax increase until late in the Johnson Administration led to budget deficits that were unhealthy and to upward price pressures. The consumer price index rose 4.8 percent in 1968 against only 1.3 percent in 1964, but it jumped 8.8 percent in 1973 and 12.2 percent in 1974. The Republicans undoubtedly did inherit some problems, but they got worse rather than better the longer they were in power, and only began to be reduced in the last few months.

One point needs to be kept in mind. The American economy at mid-1976 is a lot bigger than in 1952. There are 56 million more people and almost 28 million more jobs. In terms of actual dollars (with the inflation counted in) the G.N.P. is $1.3 trillion bigger; in constant 1972 dollars it is almost $650 billion bigger. Most of the inflation fluff is in the 1968–76 period where about three-fourths of the dollar increase in G.N.P. reflected nothing more than price increases. That same kind of picture is true in the key plant and equipment spending measure, which at mid-1976 was $95 billion more than in 1952. In real terms the gain was less than half of that, and in 1968–76 almost nine-tenths of the increase was in higher prices.

Industrial production, which is measured in physical volume, rose about 139 percent from 1952 through mid-1976. Three-fifths of that gain came between 1960 and 1968. Housing starts, also a physical volume measurement, is a good sample of what a bigger market produces. There actually were 1.2 million more housing starts in the past seven and one-half years than in the previous eight. Nevertheless the number of starts was significantly larger in 1968 than in 1960 but a little smaller at mid-1976 than in 1968.

The central point is that the bulk of the growth in the American economy came between 1960 and 1968. The Nixon-Ford years, even assuming a good 1976, will not show a much better growth record in absolute gains than the Eisenhower years despite the fact that the market base has been much larger.

Thus with respect to jobs, output and investment there would seem to be reason for the voter-stockholder to be less than satisfied.

Let's look at the gains of citizens and corporations.

Disposable income per capita is one key measure. It rose by more than $3,900 from 1952 to mid-1976 in actual dollars but less than half that in real dollars. Of the $1,050 gain in the Kennedy-Johnson years more than $800 came through as a real purchasing power gain. Of the $2,500 gain in actual dollars in the last seven and one-half years, less than $700 came through in real purchasing power. Consumer prices rose in each administration but more than seven-tenths of the total rise from 1952 through mid-1976 occurred in the last seven and one-half years.

Corporate profits after tax at mid-1976 were $62 billion more than in 1952 but again less than half that gain was in real dollars and almost all of the increase from 1968 through mid-1976 was in inflation dollars. Actually, the profit figures may well have been worse than that in the last seven and one-half years. The Commerce Department publishes figures on what is called "inventory valuation adjustment" which are used to adjust figures on profits before taxes. In both the Eisenhower and the Kennedy-Johnson years the inventory valuation adjustment averaged about $1 billion a year so that stated profits before tax were not much larger than profits after adjustment for value of inventories. In the last seven and one-half years the inventory valuation adjustment has averaged about $13 billion. In other words, stated corporate profits before tax were almost $13 billion more on the average than was really true even without any allowance for inflation except as related to inventories. The average corporation and its shareholders have not been very happy about profits in general over the last seven years and it is easy to understand why.

Both profits and general confidence have been factors in the malaise in the stock market. Today, prices are just about the same as in December 1968, and for most of the past seven and one-half years they have been below that figure.

The slow-growth, low-interest-rate, price-stable Eisenhower years were good years for investors in stocks. The high-growth economy of the Kennedy-Johnson Administrations had higher interest rates and less stable prices but apparently these were acceptable to investors for market prices also rose significantly. The low-growth, high-interest-rate, high-price economy of 1968–76 obviously has had little appeal for investors in the stock market.

Neither businessmen, farmers, consumers, house builders nor house buyers can be very happy about interest rates over the past few years. Those who loaned funds and received high rates still found that they had not obtained enough of an inflation premium. Those who borrowed paid extraordinarily high costs for their money and in many cases now are locked into those high money costs for a long time. Thus neither borrowers nor lenders should be ardent supporters of the current management.

Because of the weak economy in 1968–76 it might be expected that the Nixon-Ford budget deficits would be large. Nevertheless, the average growth rate in 1968–76 was not much different from that of 1952–60. Thus, even after adjustment for growth in size of the economy and the inflation, the average budget deficit of the past eight years seems extraordinarily high. And the general weakness of the balance of payments and the disappearance of the trade surplus, even allowing for the inflation, seems odd in the light of a weak economy and a sharp depreciation of the dollar against foreign currencies.

Viewed in perspective, the economic record of the past seven and one-half years is a vulnerable record and the Democrats do have an economic issue. If that issue is exploitable it would seem most likely to be so if the Democrats stick to their traditional economic approach. That approach need not be wasteful of resources nor of finance. It need not ignore the cities nor the environment. What it must have is conviction and the sense of will to accomplish more for all the people. That is the issue for the general electorate and probably also for those who claim to be issue-oriented.

URBAN HOMESTEADING: A SUCCESS

Mr. BIDEN. Mr. President, in 1973, I introduced the National Homestead Assistance Act whereby the Department of Housing and Urban Development would facilitate the implementation of urban homesteading programs by State and local governments. This act subsequently became law as part of the Housing and Community Development Act of 1974.

Under urban homesteading programs, HUD transfers vacant property it owns to State and local governments which then sell the homes at a nominal fee—usually $1—to a buyer who must agree to rehabilitate the home and to live in that home for several years. While no one advocated this program as the answer to the ills of the cities, homesteading programs, under the right kind of conditions, could be used to turn vacant, boarded-up homes into usable, livable homes, at little cost to the Government.

Quite naturally, there have been some problems with the homesteading program. Whether through redtape, unavailability of rehabilitation loan money, too ambitious a program, or legal problems, some homesteading programs have not met their expectations. Yet, for the most part, according to a Washington Post article, the homesteading program is working quite well.

As the article states:

Based on telephone interviews with homesteading coordinators in 12 of the 23 cities, HUD's national progress statistics, and a one-week tour of four demonstration cities . . . it appears that most cities and homesteaders are quite successful.

In conclusion, Mr. President, as I have mentioned before, homesteading cannot be viewed as a panacea for our urban housing problems, but it can be used as part of an overall program of urban rehabilitation. I think the article in the Washington Post points this out quite clearly. I ask unanimous consent that the article from the Washington Post be printed in the RECORD at this point.

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

[From the Washington Post, Sept. 7, 1976]

HOMESTEAD PLAN A HIT ACROSS UNITED STATES

(By Charles A. Krause)

INDIANAPOLIS.—"We plan to live like the Rockefellers," Shon Casey said as he proudly showed a visitor through the small, ranch-style home he and his wife, Jane, are remodeling here at a cost of more than $20,000.

"Ever since I heard mention of homesteading," Casey said recently, "I said I was going to get one of those homes for a dollar." Last Christmas Eve, Casey did. His name was picked out of a bowl by former Indianapolis Mayor Richard G. Lugar.

In South Bend, 120 miles north, nurse's aide Ruth Tilley already has moved into the three-bedroom 50-year-old house on Marine Street that she and her family applied for and won in that city's homestead lottery.

"We just never thought we'd own a home," she said, bouncing on a tattered sofa as she talked about how "terrific" she feels about her new home. "My mom kept saying she'd sell us her house when my dad dies—but, shoot, he might live another 25 years."

And in Chicago, Craig Martin has moved his mother out of a depressing, crime-ridden public housing project into a small, wood-frame house on West 104th Street, a house that had been vacant and boarded up for more than a year before the Martins moved in.

Martin, 23, plans to fix the place and live in it for three years with his mother and other members of his immediate family and then use the house either as collateral to start his own business or to buy a larger, better house for himself.

"I didn't have anything when I was coming up," he said last week. The home he plans to rehabilitate at a cost of almost $10,000 "will give me a financial boost in the future," he said.

The Caseys, Tilleys and Martins are among 500 families in 23 cities now participating in the Department of Housing and Urban Development's urban homesteading program. The $5 million experiment has met an unusually cordial reception from cities in which it is being tried and from families making it go.

"The program really has a lot of hope," said Michael A. Carroll, deputy mayor of Indianapolis, during an interview about homesteading in his city. "The concept of the program is sound."

When urban homesteading was conceived several years ago in Wilmington, Del., and Philadelphia, the plan received a lot of attention because it seemed sensible and appealed to old-fashioned American values—give someone a piece of land, or in this case a vacant old house that nobody would buy, and let them use wits and hard labor to fashion their economic destiny.

The early homesteading programs ran into trouble, because homesteaders often were unable to do the complicated heating, plumbing and roofing work that was needed and were just as often unable to obtain financing to have the work done professionally. Many early homesteaders in Wilmington and Philadelphia simply gave up, although some notable success stories emerged.

In 1974, Congress enacted federal urban homesteading legislation and gave HUD money to start the program. Last year, after Carla A. Hills was appointed its secretary, HUD began planning and implementing a "demonstration" homesteading program in 23 cities of more than 60 cities that applied.

The program was attractive because it enabled HUD to rid itself of some of tens of thousands of homes it owned in cities across the country. The homes, boarded and vacant, had been foreclosed on by the Federal Housing Administration, part of HUD, which insured more than $1 billion worth of unsound mortgages under various programs in the late 1960s and early 1970s.

The cities were eager to participate because the homesteading program promised to put families back in HUD-owned homes, that often stood vacant for years while FHA tried to resell them.

The boarded-up homes often had a depressing and destabilizing effect on urban neighborhoods in which they were concentrated because the homes were fire hazards, eyesores, tempting magnets for juvenile crime and graphic reminders that the neighborhoods were decaying, often very seriously.

At the outset, neither HUD nor the cities had much to lose by implementing the proposed federal homesteading program by making a few HUD-owned homes available in hundreds of cities and waiting to see what might happen.

But, according to Sybil Phillips, who administers the program here for HUD, a series of tantalizing questions arose during a planning conference attended by HUD officials and representatives of more than 100 cities, in June, 1975:

Could something of lasting value be gained from the program beyond reducing the number of HUD-owned homes and finding families to live in them?

Could urban homesteading serve as a catalyst for reviving entire neighborhoods rather than simply resulting in a few rehabilitated houses scattered in neighborhoods and cities throughout the country?

If the houses chosen for the program were concentrated in "target neighborhoods," could enough other improvements be made in these areas to induce other homeowners to want to improve their homes and stay in marginal city neighborhoods rather than flee to the suburbs?

Could the program, by revitalizing one or two sections of a city, become a symbol of urban reresurgence that would attract middle- and upper-middle-class suburbanites back to the nation's core cities?

The federal homesteading demonstration program was designed to answer these questions. HUD decided that only a limited number of cities could participate in the initial program and that homesteading would be concentrated in certain neighborhoods within those cities.

"The demonstration design is based on the assumption that an urban homesteading program should not stand by itself but must be integrated into a program of neighborhood revitalization," HUD wrote in its official invitation to cities to apply for the program.

"HUD is interested in homesteading programs in cities that are willing to specify the neighborhoods in which they will coordinate conservation efforts and provide the public services and amenities commensurate with the need to arrest decline and encourage private investment," the invitation said.

In other words, HUD would give the selected cities 1,000 properties, and homesteaders would be eligible for $5 million in low interest federal rehabilitation loans. That was intended to remedy the problem faced by Philadelphia and Wilmington homesteaders who had trouble obtaining rehabilitation financing from private lenders.

The cities had to select target neighborhoods and promise to use federal community bloc grant money or other local funds to upgrade roads, schools, police and fire protection or other services in the homestead areas.

From a planning viewpoint, the goal was to achieve an immediate and positive impact on neighborhoods and cities selected to participate.

An obviously important side effect was to provide 1,000 families this year with a home for $1 plus whatever they spent to rehabilitate the home and meet housing code standards.

Last Oct. 10, HUD announced the 23 cities selected for the homesteading program. By last April, most had selected the federally-owned homes they wanted homesteaded, HUD had conveyed their titles to the cities and the cities began selecting homesteaders.

Most of the cities have held widely publicized local homestead drawings or lotteries after an initial screening process designed to eliminate applicants who were not at least 18 years of age or did not have the financial resources to pay for rehabilitating the homes, utilities and taxes.

Some cities, such as New York, Atlanta, Wilmington, Boston and Gary, Ind., are moving at a relatively slow pace. The reasons include poor local administration of the program, legal problems associated with selling property for less than its appraised worth, slow HUD processing of rehabilitation loan applications and refusal by some lending institutions to provide interim or long-term financing for homesteaders.

Some cities attempted to rely on local private lenders rather than the federal loan program because they initially thought private financing could be obtained more quickly.

Based on telephone interviews with homesteading coordinators in 12 of the 23 cities, HUD's national progress statistics and a one-week tour of four demonstration cities—Indianapolis, South Bend, Gary and Chicago—it appears that most cities and homesteaders are quite successful.

"It is just one of the very, very best programs we could have," said Warren C. Ditch, who administers the homestead plan for the Minneapolis Housing and Redevelopment Authority.

Minneapolis has awarded 34 of the 52 homes in its federal homesteading program. Fourteen of the 34 will cost between $15,000 and $17,000 to rehabilitate and already are occupied. Ditch said his office has received an average of 150 applications for each of the 34 homes.

"Young people are going into these neighborhoods, taking the boards off these houses and becoming part of the community," Ditch said with an enthusiasm typical of most city officials and homesteaders interviewed.

In Dallas, all 77 homes have been awarded and 35 are occupied, according to Pink A. Voss, chief of field operations at the Dallas department of housing and urban rehabilitation.

Voss said Dallas deliberately sought homesteaders with the ability and desire to do much of the rehabilitation work themselves. That is an integral feature of the original homestead programs that has been discarded by many cities in the demonstration plan.

To help the homesteaders, Voss said the Dallas housing authority is providing counseling, a tool-lending program for homesteaders and various services.

Dallas also has created an innovative financing arrangement with seven local banks. In return for $66,000 in city funds deposited with the banks as security against defaults, the banks have agreed to make $500,000 worth of rehabilitation loans to the 77 homesteaders.

On the other hand, only a few homesteaders in Gary, Ind., have started working on their homes, and none has moved in. Richard Comer, director of the Gary Housing Development Corp., said that Gary banks have been reluctant to lend money in the city and that federal rehabilitation loans have taken months to process.

Without the loans, Comer said, homesteaders cannot hire contractors to do heating, plumbing and roofing that most houses need before homesteaders can move in.

Comer said that the knowledge that boarded-up homes in Gary's Horace Mann neighborhood will be rehabilitated soon and occupied, has given present Horace Mann homeowners "an enormous psychological lift."

There is a clear evidence that such homeowners are responding to prospective homesteading just as HUD had hoped. Neighborhood houses are being painted, new shrubbery is being planted, other improvements are being made, and Comer believes the neighborhood may have been saved from irreversible decay.

Gary's Horace Mann section is typical of neighborhoods in the homesteading program. It is similar to the Oak Cliff section of Dallas, the Park Heights section of Baltimore, the Wynnefield section of Philadelphia and the Forest Manor section of Indianapolis.

These neighborhoods have experienced rapid racial change over the past 5 to 10 years and are older, but still quite pleasant, city neighborhoods with single family homes on tree-shaded streets.

While the worst slums in most cities receive most attention from planners, the news media and politicians, it is moderate-income neighborhoods such as Horace Mann or Studebaker Park in South Bend with vacant and abandoned homes that many cities now see as the keys to their future.

If sections such as Horace Mann, which only a few years ago was a middle and upper middle income Jewish neighborhood, become irreversibly blighted, cities will lose what remains of their black and white middle class and their residential tax base. Homesteading is designed to preserve and stabilize such sections.

Most homesteaders are upwardly mobile young couples, black and white, who earn from $10,000 to $25,000 a year in family income, easily can afford the costs of home ownership but may have had trouble saving the down payment needed to buy a home with a conventional mortgage.

Martin Orlowski, 22, seems typical. A South Bend fireman, he earns $8,250 a year and plans to be married this month. He and his fiancee, Michelle Boosi, 19, have worked together on the two-bedroom home Orlowski won in the South Bend drawing last February.

They have spent more than $5,000 for a new bathroom, electrical system, furnace, roof and aluminum siding—to meet building code regulations. Today, it is almost impossible to believe that the home was a boarded-up wreck only six months ago.

Located in South Bend's integrated Belleville section, the home will belong to the Orlowski's in three years if they stay in it, and they say they will. HUD has imposed a three-year residency requirement for all homesteaders to discourage speculators from taking advantage of the program.

Orlowski's fiancee said she loves the house. "We never could have bought a house. Homesteading gives people a chance," she said.

AFFIDAVITS RELATING TO WEST POINT CADETS

Mr. NUNN. One of the attorneys for West Point cadets involved in the current cheating scandal has offered to turn over, on a confidential basis, affidavits alleging additional violations of the Honor Code. The subcommittee refused this offer because of the conditions attached.

It is already clear from the large numbers of cadets who have been implicated and convicted in this cheating scandal and from the testimony before the subcommittee, that cheating at West Point has been widespread. New allegations of more cheating do not alter this conclusion. Two things are important now. One is to resolve all, including any new allegations of honor violations in a just and equitable way. The other is to make whatever changes in the honor system are necessary to make it a living and credible force among cadets.

I believe that an open and unfettered inquiry is essential to the attainment of both goals. Acceptance of these affidavits on a confidential basis would mean continued secrecy, with all its attendant rumors and suspicions. It would also continue to impede the vigorous and fair investigations of these allegations. It has always been my view that any and all allegations of cheating and other honor violations be thoroughly investigated, and where warranted, adjudicated to final conclusion. To accept these affidavits under the condition imposed by defense counsel would make the subcommittee party to an ongoing attempt to limit the scope of the Army's inquiry into the extent of cheating at the Military Academy. The extent of the cheating at West Point must be thoroughly exposed and dealt with if a viable honor system, commanding the full support and respect of the Corps of Cadets, is to be restored.

WILLIAM H. EDWARDS

Mr. PELL. Mr. President, William H. Edwards, a truly great citizen of our State of Rhode Island, died peacefully on Wednesday, September 1, 1976.

Bill Edwards was educated at Moses Brown School and Brown and Howard Universities. He then entered the distinguished law firm of Edwards and Angell, founded by his father, and has always enjoyed the respect, regard, and affection of all his fellow citizens. Throughout the past half century he has immersed himself in a tremendously wide range of activities, but all with one goal, that of helping his fellow citizens. His was truly a life richly and well spent.

These activities are well described and related in an obituary which appeared in the Providence Journal on Thursday, September 2, 1976, and in an editorial which appeared in the Providence Evening Bulletin of the following day, both of which I ask unanimous consent to print following my remarks.

My own personal regard for Bill Edwards is immense. I well recall his tremendous help to me as my campaign vice chairman and also the support he was to my wife for the several years that it took for our constitutional convention of 1965–68 to run its course.

I extend all my sympathy and condolences to his widow, Mrs. Mary Edwards, to his son, Knight Edwards and to his daughter, Mrs. Louise Saul.

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

[From the Evening Bulletin, Sept. 3, 1976]

WILLIAM H. EDWARDS

With the death of William H. Edwards, Rhode Island has lost one of her most distinguished citizens, a humanist in the classical sense, a man of broad interests and substantial achievements, who left an indelible and shining mark on almost every educational, charitable, and artistic institution in this state.

A lawyer and a student of the law, he served his state with unflagging zeal, and in the closing years of his life, he worked indefatigably in the effort to modernize the state's Constitution. Aware of deep resistance to change, disappointed by the politicizing of the effort to effect change, he never ceased to urge change for the better.

In the humanist sense, his interests were broad and deep, centered on those institutions dedicated to the improvement of man's state, from the charitable work of the United Fund to the educational work of Brown University which he served for years as a trustee. He wore the honors that came to him with self-effacing modesty.

Mr. Edwards wrote occasionally for these newspapers, most notably perhaps in reviewing books, but also in writing commentary for the editorial page on aspects of the law, particularly federal constitutional law. His observations were pointed, reflecting a keen mind; he wrote with rare skill out of a deep affection for the English language.

To those who got to know him professionally or socially, Mr. Edwards displayed a wry wit that delighted in finding and uttering the right phrase or quotation. He was patient with ignorance; he was generous in explaining the arcane elements of the law; he was a memorable human being.

It would amuse him, perhaps, to have a quotation pointed at him, but there are a few lines from Chaucer's Canterbury Tales about the Knight that come to mind easily these days:

And though that he were worthy, he was wys,
And of his port as meke as is a maybe.
He never yet no vileinye ne sayde.
In al his lyf, un-to no matter wight.
He was a verry parfait gentil knight.

[From the Providence Journal, Sept. 2, 1976]

WILLIAM EDWARDS DIES, LAWYER, CIVIC LEADER

(By John Kiffney)

PROVIDENCE.—William H. Edwards, retired attorney who was long a leader in the civic, charitable, cultural and scholarly life of Providence, died yesterday afternoon at the Hattie Ide Chaffee Home in East Providence at the age of 77. He suffered a stroke in June.

Mr. Edwards retired Jan. 1, 1969, from the law firm of Edwards & Angell, announcing his intention in typical ironical fashion by passing out a typewritten quote from an English bishop's letter of resignation to King George III:

"Sir, every wise man would at the latter end of his life wish to have an interval between the Fatigue of Business and Eternity."

The irony compounded itself when, within weeks, at the behest of then Gov. Frank Licht, he was working on a commission studying the problems of the state prison system.

That was one of many ventures on behalf of human rights and liberal causes, particularly equal housing opportunities, which led to his being presented brotherhood awards from the National Conference of Christians and Jews and the Rhode Island Jewish War Veterans.

He also had a long and influential association with the United Fund, Women and Infants Hospital, the Rhode Island School of Design, and many other civic organizations.

Likewise, he tried to have an imprint on state government, heading in the early 1960s the first commission ever to recommend revisions to the state Constitution. His far-reaching proposals were watered down in the constitutional convention which followed.

Mr. Edwards lived at 154 Arlington Ave. with his wife, Mary R. (McGinn) Edwards. His first wife, the former Mabel Potter, died in 1969.

He was born in Providence, Dec. 5, 1898, a son of the late Seeber and Sarah Estella (Gurney) Edwards. His father was a founder of Edwards & Angell. He graduated from

Moses Brown School and Brown University and in 1921 received his law degree with distinction from Harvard University.

He began practicing law the next year with the family firm. In reminiscent interviews, he would ironically tell newspapermen that he wanted to be a journalist but law was a lot easier than writing news.

He said he found most cases dull, but loved courtroom work, using "the quiet approach."

He was once president of the Rhode Island Bar Association and served on the commission that sold state officials on the need for a Family Court system.

His hobby was reading, alone in his study and aloud to his family, and this flowed into his good-humored, zesty conversation, sprinkled with literary quotations ranging from the Greeks and the Romans to Ring Lardner's gibe: "I learned at my mother's knee always to tell the truth and never draw to an inside straight."

In a similar vein, his long months of revising the state Constitution at an end, he insisted that his commission's report go to the governor with the following quotation from Amy Lowell as she read a new poem to an audience:

"If you don't like this, hiss; if you do like it, applaud. But, for heaven's sakes, do something."

Until only a few months before his death, he reviewed books for the *Journal-Bulletin*, his preferences being American and legal history, constitutional law, and contemporary fiction. He donated his extensive library of books by and about United States Supreme Court justices to the Providence Public Library.

For years, he was a director of the Rhode Island affiliate of the American Civil Liberties Union and a member of Citizens for Fair Housing.

In a retirement interview, he extolled the virtues of Providence—its universities, proximity to the sea, New England traditions—and concluded: "I think this community is great to live in. But not for the Negro and the poor."

When the Rhode Island Urban Coalition formed in 1969 in an attempt to channel some of the resources of business and industry into solving the state's social problems, Mr. Edwards and a local black leader shared the podium at the opening convocation.

In politics, he broke from past family tradition, and was a Democrat, although he never ran for public office. He liked to joke that the Democrats didn't believe he was one of them because of his East Side associations. He traced his political beliefs to the Republican scuttling of President Woodrow Wilson's hopes for American participation in the League of Nations.

He was the first president of the United Fund, for more than 40 years was secretary of the Rhode Island School of Design, for almost 30 years a trustee of Providence Lying-In Hospital, now Women and Infants, and for many years was a trustee of Brown University, where he was an active alumnus.

He was director of a half-dozen business corporations and was formerly associated with the national board of the National Municipal League, the national board of Planned Parenthood, the English Speaking Union, Rhode Island Alpha of Phi Beta Kappa, the Foreign Policy Association, the National Conference of Christians and Jews, and the boards of trustees of Vassar College, the Lincoln School and Moses Brown School.

From 1940 to 1942, he was chairman of the appeal board of the state Selective Service System. He resigned to accept a Naval Reserve commission. He left the military after three years' service in Boston with the rank of lieuteant commander. He served in the Army in World War I.

Most recently, he was appointed by Governor Noel to be chairman of the state Advisory Commission on Aging.

Mr. Edwards held honorary degrees from Brown, the University of Rhode Island, and Providence College. His 1965 Brown citation commended him for "serving nearly every educational, charitable and artistic institution in this area as the very archetype of the interlocking director."

His memberships included the University Club, Hope Club, Agawam Hunt, Providence Art Club, and Turks Head Club in Rhode Island, Harvard Club and Century Association in New York, and Army and Navy Club in Washington.

He also leaves a son, Knight Edwards, an attorney with Edwards & Angell; a daughter Mrs. Louise Saul, and six grandchildren.

The funeral arrangements were incomplete last night.

LOAN GUARANTEES SHOULD BE INCLUDED IN THE BUDGET

Mr. GARY HART. Mr. President, during the past 2 years, I have been a vocal critic of proposals in Congress to provide loan guarantees for the development of a commercial synthetic fuel industry. Most recently I stood in opposition to a synthetic fuel loan guarantee program attached to the Senate version of the ERDA authorization.

I stated at that time that this type of financial incentive was inappropriate for the Federal Government to be making in light of the questionable economics of synthetic fuel development. Currently, however, there are several proposals in the House which confirm the same features I objected to in the Senate progam H.R. 12112, as reported by the House Science and Technology Committee is one such measure.

It authorizes loan guarantees or direct grants for a modular sized plant, and once proven, loan guarantees for commerical development. The version by the House Banking Committee goes even further by authorizing price supports as well as loan guarantees for oil shale modular and commercial size plants, alike.

Such multiple Federal subsidies will never make shale oil or other synthetic fuels "economically feasible" and will likely result in the taxpayers being burdened by several white elephants.

My concern about H.R. 12112 is heightened by the findings of an August 30 staff report entitled "Federal Energy Financing" and prepared by the Senate Task Force on Energy, chaired by Senator FRANK E. MOSS of the Committee on the Budget. While not making any recommendations supporting or opposing this legislation, the report is helpful in providing greater insight into the impact of loan guarantees of this magnitude and financial commitments of this nature on our economy. This is particularly important in light of the long-term economic incentives proposed in H.R. 12112.

One passage in the report is of particular importance in this regard. It states:

Federal loan guarantees do more than simply change calculations of risk. By assuring investors that the full faith and credit of the Government stands behind a loan, guarantees tend to weaken the process by which proposed activity is elevated. Loan guarantees, do little to ensure that the disciplines of the private market will come to bear on selected projects.

The Energy Task Force report goes on to stress that in light of the impact of H.R. 12112 on "national priorities and the budget," "careful attention" should be paid to this legislation by the Senate.

I ask unanimous consent that this report be printed in the RECORD at this point for my colleagues to read and also a brief statement from the General Accounting Office Report, "An Evaluation of Proposed Federal Assistance for Financing Commercialization of Emerging Energy Technologies," August 24, 1976, which concludes that these guarantees be "on-the-budget" in full.

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

FEDERAL ENERGY FINANCING—FINANCIAL AND BUDGETARY IMPLICATIONS OF GOVERNMENT GUARANTEES

LETTER OF TRANSMITTAL
UNITED STATES SENATE,
TASK FORCE ON ENERGY,
COMMITTEE ON THE BUDGET,
Washington, D.C. August 30, 1976.

HON. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate.

DEAR SENATOR MUSKIE: The President's budget for fiscal year 1977 included proposals for "off-budget" energy funding that far exceeded those on-budget proposals of the Administration. The Budget Committee did not have adequate information on the appropriate budgetary treatment of these "off-budget" proposals and their relationship to other energy spending at the time the First Concurrent Resolution was being developed last spring. Accordingly, the Resolution the Committee recommended and the Congress approved in May accorded a high priority to on-budget energy proposals with the understanding that the "off-budget" proposals would be reviewed in light of the Budget Resolution and later information.

Major energy legislation now before the Congress is designed to assist in financing energy production and developing new energy technologies. Two key bills under consideration concern uranium enrichment and synthetic fuels. The Federal financial incentives included in these proposals are basically Government guarantees to help private ventures borrow in capital markets by sharing with the private sector the risk of project failure. These incentives which include loan, price, and project guarantees constitute contingent liabilities of the Federal Government that must be honored. However, the Administration proposes that they appear only partially on-budget or not at all.

Such contingent liabilities tend to reorder priorities, may have an impact on our economy and may require considerable future expenditure of the public's money. Thus, it is important to understand the financial commitments that will be required to carry out such programs if the Congress decides to approve them. Toward this end, this staff report, prepared at the request of the Committee's Energy Task Force and based in part upon the Task Force hearings on Financing Energy Development held on July 26 and 27, examines the above mentioned Federal financial incentives, reviews their financial and budgetary implications, and presents options to serve as a basis for the Budget Committee's actions in developing the Second Concurrent Resolution which the Congress must adopt in September.

Along with thanking the Task Force, I also want to express special appreciation to: Terence Finn, Arnold Packer, Dan Twomey, Donald Campbell, Charles McQuillen, and

Heather Ross of the Budget Committee staff; and to Nicolai Timenes, David Montgomery and Richard Dowd of the Congressional Budget Office without whose efforts this report would not have been possible.

Nothing in this study should be interpreted as representing the views or recommendations of the Budget Committee or any individual member thereof.

Sincerely,

FRANK E. MOSS,
Chairman.

SUMMARY

Increasingly, the Federal Government is being asked to assist in the financing of energy development projects. This assistance is rendered primarily through various guarantee mechanisms, most notably loan guarantees, price guarantees, and project guarantees.

The Budget Committee is concerned with the growing use of these guarantees for energy and other activities. While Federal guarantees appear to be cost free, they in fact can be costly tools of public policy. Guarantees may reallocate capital from one economic sector to another and in turn drive interest rates up in sectors which lose capital. Should defaults occur, they can have a major impact on budget totals. In addition, loan, price, and project guarantees can affect national priorities by influencing the allocation of investment funds.

The Budget Committee is also concerned with the budgetary treatment of these guarantee programs. How these programs are scored—there seems to be no uniform pattern—can affect not only the budgetary totals but also the decision to establish such guarantees.

Financing energy development

Underlying the increasing use of guarantees in the energy area is the need to finance new sources of energy. So far, the private sector has for the most part been hesitant to develop new energy sources such as synthetic fuels, the sun, and geothermal heat. The obstacles to private investment are the scale of the capital required, the uncertainty of future prices for petroleum energy, technological uncertainty, and regulatory policy. By making use of guarantee mechanisms, the Government enters the private financial market in such a way as to reduce or remove the risks associated with these obstacles thereby allowing the private sector to proceed with the capital investment.

When the Government uses such guarantees, private participants in a selected venture are protected from some or all of the effect of its economic failure. By employing such guarantees direct Federal expenditures appear to be avoided and a major private role is assured. At the same time, the Government assumes most of the risks associated with the enterprise. These risks must be considerable because the investment community has chosen not to provide the capital.

Federal guarantee mechanisms as incentives

Although the Budget Committee's Energy Task Force has focused on guarantees proposed to finance energy development, guarantees were also considered in general as tools to carry out public policy.

The private market allocates resources according to calculations of the risks and the potential returns attributed to alternative projects. Because these calculations focus on the flow of funds to private investors, outcomes of market decisions may not conform with perceptions of the national interest. Public policy often promotes the allocation of resources based on calculations of costs and benefits to the economy as a whole. Private investors evaluate a project more narrowly than would be appropriate for Government. Projects that are in the national interest but have an unfavorable risk/return ratio are not ordinarily undertaken by private industry.

If Government is effectively to stimulate private investment in a desired project the Government must first analyze the role expected profits and risks have played in hindering that investment. Government action to reduce uncertainty will not stimulate investment if a project is unattractive primarily because its expected profits are too low. On the other hand Government action which increases a project's expected profits may still not make it attractive to investors if the risks of failure are too great.

Unlike tax incentives, for example, which are available to all investments that satisfy stated criteria, these guarantees are made available only to selected projects. Thus, they are appropriate to remedy specific obstacles to investment, rather than obstacles arising from general economic conditions.

LOAN GUARANTEES: A SPECIAL PROBLEM

Because loan guarantees are a mechanism that is increasingly popular—net new loans guaranteed now average $48 billion each year—and because new proposals are believed to have a different impact on the budget and on the economy than earlier guarantee programs, they deserve special consideration. From the perspective of their budgetary impact, there are three types of loan guarantees, those designated to:

(1) *Correct Imperfections in the Capital Markets.*—The earliest guarantee programs were created because lenders were unable to estimate the risks attached to important types of relatively small loans.

(2) *Allocate Credit to Classes of Marginal Borrowers.*—Federal guarantees have also been used to help extend credit to small borrowers who are demonstrably greater than ordinary risks.

(3) *Finance Discrete Ventures by Allocating Credit.*—More recent programs have made use of loan guarantees in order to allocate private credit to specific projects favored by public policy.

In type 3 loan guarantees the loans are often large loans to one or a few borrowers who may face common risks. This category includes the loan guarantees for energy development. For this type of guarantee it may be impossible to anticipate the magnitude and timing of outlays. Moreover, deciding the proper budgetary treatment of these guarantees is especially difficult. Many of the reasons for concern inherent in type 3 loan guarantees are found as well in project guarantees such as those proposed in the Nuclear Fuel Assurance Act, an $8 billion measure that has passed the House and is pending before the Senate.

Federal loan guarantees do more than simply change calculations of risk. By assuring investors that the full faith and credit of the Government stands behind a loan, guarantees tend to weaken the process by which proposed activity is elevated. Loan guarantees, and for that matter, price and project guarantees, do little to ensure that the disciplines of the private market will come to bear on selected projects.

Federal Financing Bank

Guaranteed obligations may be purchased by the Federal Financing Bank (FFB) which was created in 1974 to coordinate the impact of Federal agency debt issues on the capital markets. The FFB is now the primary investor in guaranteed loans. By using the FFB a Federal agency can finance large loans more cheaply and easily than if funds had come from private lenders. When the Federal Financing Bank purchases a guaranteed obligation the Government is no longer just a guarantor but the direct lender. The FFB can buy all of an obligation which may only be guaranteed in part. Since the FFB finances its investments by issuing obligations to the Treasury, Treasury borrowing increases by the full amount of the loan. This undercuts the argument that partial guarantees force the private sector to bear some risks inherent in a proposed project.

Loan guarantees have consequences for both Government decision making and the private sector. Such guarantees may result in Federal outlays although neither the timing nor the magnitude of these outlays can be forecast. Another Governmental consequence, stemming from the mistaken belief that loan guarantees do not have an impact on the budget, is that a proposal may get inadequate review with resulting distortions in the allocation of public resources. Consequences for the private sector may include increasing the probability of default and of premature shutdowns and higher interest rates for borrowers who do not benefit from the guarantees.

Major energy financing proposals

Two major energy financing proposals may soon be before the Senate. They are the Nuclear Fuel Assurance Act (H.R. 8401) and the Synthetic Fuels Commercialization Program (H.R. 12112). These bills provide for loan guarantees and project guarantees. Many observers believe that the latter bill will require price guarantees as well. Because of the legislation's impact on national priorities and on the budget, as well as the issues they raise regarding budgetary treatment, the Energy Task Force believes that the bills require the Senate's careful consideration.

Budgetary treatment of guarantee mechanisms

Because the budget is a decisionmaking tool, it is important that the full scope of Federal activity be reflected, including the nature and extent of the Government's liabilities.

Loan guarantees are specifically excluded from the definition of "budget authority" provided in Section 401(c)(2)(C) of the Congressional Budget Act of 1974. This "off-budget" characteristic of loan guarantees has meant that guarantee programs tend not to compete with regular spending programs for scarce Federal dollars. This has contributed to the growth in number of guarantee programs, a growth which James L. Mitchell, an Associate Director of OMB, termed "astonishing."

Now that net new loans guaranteed annually average $48 billion, a problem is how best to include potential cost to the taxpayers in budget decisions. Placing loan guarantees "on budget" facilitates the control of public policy through the budget but provides a seriously exaggerated picture of the size of the budget.

An alternative for treating loan guarantees in the budget is to estimate each year the amount of Federal payments likely to result from loan guarantees and have that estimated amount appear in the budget as budget authority, accompanied by the associated estimate of outlays. The full exposure of the guarantees would not be reflected in the budget, only the amount of expected expenditures. This is the treatment being accorded the proposed synthetic fuels bill. For 1977, H.R. 12112 (as reported by the Committee on Science and Technology), if enacted, would show on-budget $515 million in budget authority and $15 million in outlays for a $2 billion exposure through guarantees of Federal funds in the first year.

Price guarantees do not pose too great a problem in terms of budgetary treatment. Authority to implement a price guarantee program is requested through the normal authorization and appropriations process, funds from which would appear in the budgetary totals. The difficulty with price guarantees is not budgetary treatment but rather budgetary control. Price guarantees are entitlement programs. Once in place they can make demands upon the budget that must be honored.

Budgetary treatment of project guarantees

The budgetary treatment of project guarantees can best be discussed in terms of specific proposals. The $8 billion in project guarantees contemplated by the Nuclear Fuel

Assurance Act could be treated in several ways. One option would be to score the full $8 billion as budget authority, an approach akin to scoring the full exposure of a loan guarantee program. Another option would be to score the full value of each project as the guarantee is ratified. Still another option would be to score partial amounts, representing the actual Government liability year-by-year, as the liability grows. A different way of treating the bill would be to score some fraction of the $8 billion as budget authority based upon an estimated rate of default greater than zero. A final option would be to score nothing at all because the liabilities extended by the Nuclear Fuel Assurance Act are *contingent* liabilities. This final option is the one the Administration believes is appropriate. All the other options, of course, would affect the budget totals. Thus, if the bill were enacted and the Administration's position rejected, budget authority would be created and reflected in budget totals.

CHAPTER I. INTRODUCTION

Increasingly, the Federal Government is being asked to assist in the financing of energy development projects. This assistance is rendered primarily through various guarantee mechanisms, most notably loan guarantees, price guarantees, and project guarantees. Congress, for example, recently enacted a $2 billion loan guarantee program to finance energy conservation projects. The Administration is proposing an $8 billion uranium enrichment program that contemplates specific project guarantees, and some observers believe that the proposed synthetic fuels commercialization program will not be viable without price guarantees.

The Budget Committee is concerned with the increasing use of these guarantee mechanisms. Loan guarantees, price guarantees, and project guarantees are tools of Federal policymaking that at first glance appear to be cost free. When a guarantee is extended, the Government incurs no immediate expenditures and the possible future spending is not included in the budget totals. Moreover, unlike typical spending and tax proposals, guarantee mechanisms are neither displayed in one place nor reviewed in the context of competing programs. Even regulatory proposals are typically scrutinized by affected interest groups with a view to illuminating costs. But the costs of guarantee mechanisms are not readily apparent.

Costly policy tools

In fact, loan guarantees, price guarantees, and project guarantees can be costly policy tools. They may reallocate capital, and drive up interest rates in sectors which receive less capital. Some other projects—possibly worthwhile projects—may be unable to secure financing. They thus have an overall impact on the economy that should not be ignored. They also can have a major impact on budget totals, should a default occur or price support become necessary.

Certainly no economic activity of the Federal Government should go unchallenged nor should the potential for spending be free of critical examination. In fulfilling its responsibilities under the Congressional Budget and Impoundment Control Act of 1974 the Committee on the Budget can provide some of the necessary focus and review.

This responsibility extends also to questions of national spending priorities. The task mandated by Section 301(a) of the new Budget Act to set forth in the Concurrent Resolution an estimate of budget outlays and an appropriate level of new budget authority by the functional categories of the budget is in effect a setting of national priorities. This allocation of fiscal resources along functional lines allows the Senate and House to debate such priorities. The amounts contemplated for energy expenditures and the urgency underlying the development of energy supplies make Federal spending for energy—actual and potential, direct and indirect, current and future—a priority item to be considered in formulating the functional targets of the Budget Resolution.

Technical nature of guarantee mechanisms

The responsibility of the Budget Committee also extends to the more technical issues of budgetary treatment. How various forms of Federal spending such as guarantee mechanisms are scored in the budget can be a complex subject requiring knowledge of budget concepts and past budgetary procedures. For example, the most appropriate means to account in the budget for the $8 billion in project guarantees authorized under the pending Nuclear Fuel Assurance Act (H.R. 8401) is particularly complicated. Unfortunately, past practices offer no clear guide on how best to treat guarantee mechanisms. There is no "traditional way" to account for loan, price, and project guarantees in the budget totals. Yet how these guarantees are scored can influence not only budget totals but also the decision whether to establish such guarantees. The technical nature of guarantee mechanisms for financing energy and the importance of their budgetary treatment thus requires the Committee on the Budget to review the various mechanisms that are under consideration.

Purpose and organization of report

This staff paper reviews the budgetary impact of these mechanisms and examines their financial implications. The paper is intended to serve as background for the Senate Budget Committee's markup of the Fiscal Year 1977 Second Concurrent Resolution. It contains no recommendations but does present options that the Committee may wish to consider in developing the Resolution. The paper also is intended to contribute to the Committee's major study on the use of Federal financial guarantees. Such guarantees are by no means limited to the area of energy. They are an increasingly important element of public policymaking that deserves far more attention than is possible in this paper. By reviewing the impact on the economy and the effect on national priorities of these financial guarantees, the Committee's major study can focus on a dimension of public policy that has by and large escaped comprehensive public scrutiny.

The organization of this staff report is relatively simple. Chapter I has noted that guarantee mechanisms are increasingly being used to assist in the financing of energy development projects and that the Committee on the Budget has a responsibility to consider this activity. Chapter II discusses the reasons why these guarantee mechanisms are deemed necessary and lists several recent examples of Federal guarantees. Chapter III discusses how guarantee mechanisms serve as incentives for private investment. Because loan guarantees are a prevalent form of Federal guarantees. Chapter IV reviews how these guarantees operate and what different types of loan guarantees there are. Chapter V discusses two major energy financing proposals, synthetic fuels and the Nuclear Fuel Assurance Act, that may soon be before the Senate for consideration. Chapter VI reviews the budgetary treatment of guarantee mechanisms while Chapter VII, the final chapter, relates this treatment to the 1977 Second Concurrent Resolution.

CHAPTER II. FINANCING ENERGY DEVELOPMENT

Underlying the increasing use of guarantee mechanisms to assist in financing energy development is a desire to develop new sources of energy. These sources include synthetic fuels, the sun and geothermal heat. Together with an expansion of present nonpetroleum based energy sources such as nuclear power and coal, they can—if new technologies are developed and adequate funding is forthcoming—reduce our vulnerability to the petroleum exporting nations while providing increased domestic energy at reasonable cost to the American consumer.

The task of developing these energy sources will require considerable financial resources. Investments from both the private sector and the public sectors are necessary. Exactly where and how the two sectors interface is not yet clear. What is clear is that both must focus their attention and direct their resources to the common task of assuring that our energy needs will be met.

Obstacles to private investments

So far the private sector has been unwilling to finance many of the projects which seek to develop these new energy sources. Several obstacles to investment have emerged.

Capital requirements

The first obstacle is the scale of the capital required. The cost of commercially developing synthetic fuels, geothermal heat, nuclear power, coal and the almost limitless energy of the sum is substantial. The Congressional Budget Office estimates that the total investment in energy production needed to keep petroleum imports in 1985 at current levels is $560 billion. Individual projects are also costly. A single high Btu synthetic gas plant will cost approximately $1.0 billion. A single gas centrifuge plant to enrich uranium will cost over $3.0 billion. To place such costs in context, we must remember that in 1975 only 160 U.S. corporations had total assets in excess of $1.0 billion. While private industry has financed extremely large projects—the Trans-Alaskan pipeline was financed without Federal assistance at a cost of $7.7 billion—the scale of financing energy development will test the resources of America's capital markets.

Price uncertainty

A second obstacle to the private sector in financing the development of new energy is the uncertainty in the future price of petroleum energy. The semi-controlled nature of domestic oil and gas prices plus the leverage of OPEC in establishing the price of world oil creates a climate that hinders energy investment. Prudence requires that a reasonable rate of return on investment plus the amortization of debt be assured before committing risk capital. Investors will be reluctant to risk capital in new energy projects if external price policies can undercut their economic viability. For example, as long as OPEC can suddenly drop petroleum prices below what synthetic fuel plants must charge, the capital to finance these plants will not be forthcoming. The risk of failure is simply too great.

Technology uncertainty

The third obstacle is technological uncertainty. The technologies to derive sufficient energy at reasonable costs from synthetic fuels, geothermal heat, the sun and even some forms of nuclear power do not yet fully exist. While we can be confident that our research, development and demonstration programs will ultimately be successful, the outcome is not preordained. Advances in technology do not occur simply from spending money. Ingenuity, perseverance and luck are also necessary, and even then we may not achieve our goals. Moreover, the advances in energy technology that we need are substantial. In some instances, like synthetic fuels, quantum steps are necessary. Investors understand that risks are associated with technological advances. In the energy field they perceive these risks as another reason to exercise caution in exposing capital.

Regulatory policy

Another obstacle to financing energy development is regulatory policy. Like other areas of public policy, energy is beset by a wide array of regulatory agencies whose rules and regulations can mean the differ-

ence between failure and success. The Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the Nuclear Regulatory Commission, the Interstate Commerce Commission, the Occupational Health and Safety Administration and the Department of Justice are all Federal agencies whose responsibilities encompass the energy field. Their rules and regulations are supplemented by those of State and local agencies whose responsibilities are similar. These agencies generally perform a useful task in our society, but a side effect of this regulatory environment is a web of obstacles that hinders development. This web acts as an impediment to financing energy projects. Potential investors are aware of the many opportunities for delay. They are aware also that a seemingly arbitrary decision on the part of a regulatory agency can curtail a project, well after capital has been invested.

Government action to assure future energy supplies

Taken together these obstacles have inhibited the private sector from investing in the development of new energy sources. Given the priority that such energy development constitutes, the public sector—primarily the Federal Government—believes it must act to assure that future energy supplies are sufficient. One course of action would be for the Government to make the necessary investments directly. This presumably would ensure that energy development would occur but would severely tax the fiscal resources of the Federal Government. It might also unalterably revise the boundaries in this country between the private and public sectors.

Another course of action would be for the Government to make use of available mechanisms that enable the private sector to overcome the obstacles to investment. The Government would enter into the private financial market in such a way as to reduce or remove the risks to financing energy development. This would allow the private sector to proceed with the necessary capital investment.

Some financial mechanisms that allow the Government to so act are loan guarantees, price guarantees and project guarantees. By using such guarantees, the Government assures the ultimate financial viability of the particular enterprise to which the guarantee is extended. Moreover, by employing such guarantees, direct Federal expenditures appear to be avoided and a major private role is assured. At the same time, the Government assumes most of the risks associated with the enterprise. These risks must be considerable because the investment community has chosen not to provide the capital. (Were no risks involved, guarantees would not be needed.) If the enterprise does not succeed, the guarantees are invoked and the Government must absorb some of the loss. With energy development projects, these losses could entail substantial budgetary expenditures.

INCREASED USE OF FEDERAL GUARANTEES

Energy legislation utilizing these guarantee mechanisms is appearing with increasing frequency. In 1975 Congress enacted the Energy Policy and Conservation Act. Section 102 of this act established a $750 million loan guarantee program to develop new underground coal mines. The year before, Congress enacted the Geothermal Energy Research, Development and Demonstration Act which established a loan guarantee program for developing geothermal resources. This act placed no limit upon the extent of liabilities.

This year Congress has enacted the Energy Conservation and Production Act. This law, which extended the Federal Energy Administration until December 31, 1977, also established a $2 billion loan guarantee program for investments in energy conservation. Currently pending before Congress is a version of Administration's proposal for a Synthetic Fuels Commercial Demonstration Program (H.R. 12112). This program contemplates a $2 billion loan guarantee program as well as a program of price guarantees. Indeed, many observers believe that the price guarantees are essential to the program's success. Also pending is the Nuclear Fuel Assurance Act (H.R. 8401), a version of the Administration's proposal to extend $8 billion in project guarantees to private uranium enrichment plants. This act has passed the House and is now before the Senate.

CHAPTER III. FEDERAL GUARANTEE MECHANISMS AS INCENTIVES

Although the Task Force attention focused on proposals included in pending energy legislation, guarantees were also considered in general as tools to carry out public policy.

The private market allocates resources according to calculations of the risks and the potential returns attributed to alternative projects. Because these calculations focus on the flow of funds to private investors, outcomes of market decisions may not conform with perceptions of the national interest. Public policy often promotes the allocation of resources based on calculations of costs and benefits to the economy as a whole. Private investors evaluate a project more narrowly than would be appropriate for Government. Projects that are in the national interest but have an unfavorable risk/return ratio are not ordinarily undertaken by private industry. Three factors can lead to the private allocation of resources in a way which is not optimal for society as a whole:

1. A private investor cannot capture enough of the economic benefits associated with a project.

2. A project can have non-economic benefits accruing to the public.

3. Private firms may perceive risks differently than the Government such as the risk of adverse regulatory decisions.

By altering private risks and returns in specific projects the Government can play a powerful role in altering the outcomes of private market decisions. However, for public action effectively to stimulate private investment in a desired project, the Government must first analyze the role expected profits and risks have played in hindering that investment. Government action to reduce uncertainty will not stimulate investment if a project is unattractive primarily because its expected profits are too low. On the other hand, Government action which increases a project's expected profits may still not make it attractive to investors if the risks of failure are too great.

Incentives for specific ventures

Three mechanisms are now being proposed to provide incentives for investment in energy development: loan guarantees, price guarantees, and project guarantees. By their nature, the guarantees considered in this report are specific to an individual project or a class of projects. Unlike tax incentives, for example, which are available to all investments that satisfy stated criteria, these guarantees are made available only to selected projects. Thus, they are appropriate to remedy specific obstacles to investment, rather than obstacles arising from general economic conditions.

Loan guarantees

The Federal Government can increase the attractiveness of an investment to a lender by removing or reducing his risk of default with a guarantee that principal and interest will be paid. The attractiveness of an enterprise can be greatly increased also for stockholders or other owners by making use of "non-recourse" loan guarantees which provide that, in the event of default, the Federal Government will only be able to require payment from the assets of the guaranteed project itself and not from the general assets of the participating firms. The extent to which risks to stockholders are reduced depends on the fraction of total project investment eligible for loan guarantees.

If investors are confident of prompt payment in the event of a default, they will view guaranteed loans as near equivalents to obligations of the U.S. Government. Guaranteed loans, therefore, usually have interest rates lower than those normally required even of the highest quality private borrowings of comparable maturity and terms. Recipients of loan guarantees may be required to pay a fee to the Government for the risk it has assumed. Unless that fee is large enough to cover the expected cost of defaults, a loan guarantee constitutes a subsidy to the borrower.

Obstacles in the financial markets

Although loan guarantees can alter the perception of risk and return by both borrowers and lenders, they are most appropriately used when factors in the financial markets are the major obstacle to a desired investment.

H.R. 12112, now pending in the House would authorize loan guarantees for synthetic fuel production.

Price guarantees

In general, these guarantees replace an uncertain future in which a product must be sold at prices set by changing market forces and substitute a certain future in which the product can be sold at or above a price established before a project is undertaken. They can be used (1) to subsidize production when market prices are expected to be too low to cover costs plus an adequate profit; and (2) to shift the risks of changes in market prices from the private producer to the Government. Depending on its design, a price guarantee can have various effects on investment decisions and Government costs. For example, a guarantee may specify the price that a producer would receive, with the Government paying the difference if the market price is below the guarantee price and collecting the difference if the market price exceeds the guaranteed price. On the other hand, the guarantee may place a floor on prices, with the Government making up the difference if market price falls below the floor but the private producer retaining all profits if market prices exceed the floor.

The price guarantee also contains an element of subsidy unless two conditions are met:

1. The guaranteed price must equal or be less than the expected market price.

2. The Government must share in profits when unexpectedly high prices prevail to the same extent that it shares losses when low prices prevail. This could be done, for example, if the Government purchases the product in all events at the guaranteed price and resells it at market price.

Obstacles in the sales markets

Price guarantees at an appropriate level can be effective if a major hindrance to private investment is either uncertainty about the market in which products must be sold or certainty that market prices would be too low. Price guarantees do nothing to reduce uncertainty associated with the costs of production unless the guaranteed price is set on a cost-plus basis. If the guaranteed price is set by a formula that excludes costs of production, private investors bear all risks inherent in completing a plant that can achieve planned output on schedule and under budget.

Two versions of H.R. 12112 authorize price guarantees to synthetic fuel producers.

Project guarantees

The Government can also provide a broad "safety net" under all of the private participants in a desired project. Under a project guarantee, the Government commits itself to

step in when continuation of a project becomes undesirable for private participants, to assume the obligations incurred in the operation of the project, to repay lenders, and, if certain conditions are met, to compensate investors. These, of course, are very broad forms of guarantee which significantly reduce or remove the private parties' exposure to risks inherent in future market prices, and in product and process technology. They share many of the budget problems of loan guarantees which are discussed in the next chapter.

Such incentives are contemplated by the Nuclear Fuel Assurance Act (H.R. 8401).

CHAPTER IV. LOAN GUARANTEES: A SPECIAL PROBLEM

Although loan guarantees have long been used to encourage private lenders to invest in accordance with Federal objectives, they have characteristics which can create significant problems for public policy. These guarantees deserve special consideration. One reason is that the use of loan guarantees has increased rapidly in recent years. Net new loans guaranteed now average $48 billion each year. By the end of FY 77, guaranteed and insured loans outstanding—for all purposes—are expected to total $235.1 billion. Guaranteed loans outside the budget in FY 1977 are estimated at $174.6 billion. Outlays for existing "off-budget" programs are estimated at $11.1 billion for the same period. Another reason is that some of the recent guarantee programs and proposals have, or are likely to have, a very different impact on the Federal budget and on the economy from that of earlier guarantee programs.

Powerful policy tool

As it reviewed ways to budget Federal incentives for energy development, the Task Force had to consider loan guarantees carefully. It became clear that loan guarantees are a powerful policy tool and their use may have unforeseeable fiscal consequences. Certain characteristics of loan guarantees call for careful review so that guarantees, when inappropriate, are not used to achieve desirable ends.

This chapter of the staff report will highlight several features of guaranteed loans. It considers, first, the three types of loan guarantees, when inappropriate, are not used to achieve desirable ends.

This chapter of the staff will highlight several features of guaranteed loans. It considers, first, the three types of loan guarantees, and second, the operation of loan guarantees. The Congressional Budget Act's exclusion of loan guarantees from the definition of "budget authority" is an important feature that will be treated in a later chapter.

Types of loan guarantee programs

Loan guarantee proposals have greatly changed in purpose and design since the 1930's when they were first used extensively. Programs using the mechanism vary widely from one another because each was designed to fit the characteristics of a particular credit market and the politics of a specific time. Their treatment in the budget has been guided by no consistent theory. However, from the perspective of their budgetary impact there are three types.

Type 1: Correcting imperfections in the capital markets

The earliest guarantee programs were created because lenders were unable to estimate the risks attached to important types of lending.

For example, during the depression widespread foreclosures and bankruptcies were triggered because homes tended to be financed with short-term loans. Federal policymakers were convinced that, if homeownership were to be possible for most families, general acceptance had to be created for the self-amortizing long-term residential mortgage covering 80 percent of a property's value. Bankers, however, had no experience with that form of lending and were reluctant to offer acceptable interest rates. So, FHA mortgage guarantees were instituted in 1934 in the conviction that the actual risk involved in the new form of mortgage was significantly less than mortgage lenders were estimating. By assuming risks which otherwise would be borne by lenders, the Government reduced the cost of borrowing for consumers and rental investors and provided the private market with information on the risks involved in this federally preferred form of lending. The strategy was immensely successful. Lenders were encouraged to adopt the new mortgage instrument, eventually even without Federal guarantees.

The budgetary impact of these guarantees has been negligible. The programs involved many small loans with liens on property and were designed to be actuarially sound. Defaults in FHA's basic single family insurance fund have been about 5 percent of total guarantees—so low that fees and premiums have more than covered the fund's losses and other expenses. These programs thus involve neither Federal budget authority nor outlays.

Type 2: Allocating credit to classes of marginal borrowers

Federal guarantees have also been used to help extend credit to borrowers who were demonstrably greater than ordinary risks. Higher risks resulted from a greater than normal probability of default, or from the lack of acceptable collateral. So, Federal agencies assumed risks which private insurers were unwilling to accept at socially tolerable rates of interest. For example, loans in urban renewal areas were guaranteed to help coordinate private investment with public efforts. Residents of these areas typically had not established a record of credit worthiness and the future value of properties in these areas was too uncertain. These guarantees were not a simple extension of prior FHA activity. In fact, they caused considerable tension between the older FHA personnel—committed to actuarially sound guarantee programs—and the newer urban renewal staffs committed to the attainment of social goals.

Loans guaranteed under these programs usually are numerous and relatively small. It is thus possible to accumulate experience upon which to estimate and thus provide a reserve for defaults. These programs typically involve social objectives which hinder their operating on an actuarially sound basis. The guarantee also is often combined with interest subsidies, operating subsidies or other incentives. These programs, therefore, do lead to Federal outlays.

Both type pool risks

Because Type 1 guarantees require sharply different treatment in the budget from those in Type 2, the distinction is an important one to make. However, these two types of guarantee programs share important characteristics. They have usually involved large numbers of relatively small loans. With the guarantees, the Government pools risks across many transactions. If the risk of default is randomly distributed among individual transactions, the statistically expected cost of defaults can approximate the actual costs. Government pooling of risks may be especially appropriate when defaults are not random but are heavily influenced by regional economic shifts or by cyclical swings in the economy. For such cases the lessons of experience come more slowly and less clearly than in the case of risks that are fairly uniform nationally or over long periods of time.

Type 3: Financing discrete ventures by allocating credit

Other programs have made use of loan guarantees in order to finance specific public programs by allocating private credit rather than by on-budget spending. The loans being guaranteed are often very large loans to one or a very few borrowers who may face common risks. This of course is the category in which the loan guarantees for energy development fall. Many of the reasons for concern inherent in Type 3 loan guarantees are found as well in broader project guarantees such as are proposed in the Nuclear Fuel Assurance Act.

Timing of outlays

For this type of guarantee it may be impossible to anticipate the magnitude and timing of outlays. When guaranteed loans are for single purpose plants the Federal guarantor agency may be unable to recoup a large proportion of the guaranteed payments by reselling assets after a default. Outlays may also be driven above guarantee amounts by the need to manage a troubled project to which a major Federal commitment has been made. Finally, the timing of major outlays—a central issue for Federal fiscal policy—can rarely be estimated when such a guarantee program is being considered.

In the case of Type 3 guarantees, deciding the proper treatment of budget authority is especially troublesome. If every loan guarantee program were required to establish through appropriation a reserve for defaults equal to the best estimates of its expected outlays, one could argue that the probable budget impact of all loan guarantee programs as a group would best be reflected. But, rather than being a solution, this would bring great pressure on program advocates to place a low estimate on the probability of defaults. If defaults occurred, the existence of a reserve covering only a fraction of the needed outlays would solve few problems; on the other hand, if the program succeeded, *none* of the budget authority would be used.

Operation of loan guarantees

Sources of financing

When the use of loan guarantees is being advocated, it is often claimed that they provide a relatively mild form of Federal intervention in a basically private transaction. It is implied that the soundness of a proposed venture is assured because a particular private borrower will have to deal with private lenders. This suggests that the Government guarantee merely changes calculations of risk in a transaction similar to most others in the private sector. This argument is based on the premise that private lenders will be motivated to evaluate the prudence and strength of the project being financed. That premise may not be valid. Even when banks or other lending institutions play an active role in loan guarantee programs, they tend to be more concerned about evaluating the terms of the Government guarantee than evaluating the merits of the activity. For example, private institutions play an active role in loan guarantee programs which require the origination and servicing of large numbers of small loans. However, even in these cases private lenders may take no role in weeding out ill-conceived ventures. The involvement of private lenders in the Section 235 Homeownership Assistance Program did not prevent widespread defaults resulting from questionable loans.

Similar to Federal agency debt

Private lenders may be even less interested in evaluating a venture which involves a Type-3 loan guarantee. Programs guaranteeing large corporate borrowing have typically involved Federal guaranteed corporate bonds sold in the securities market. In the past, these guaranteed loans were often so designed that investors treated them as if they were not the debt of a private borrower, but rather the debt of a Federal agency. For example, announcements of the debt issue prominently displayed information about the Federal

agency which gave the guarantee—the identity of the private firm receiving the proceeds of the debt issue was of little interest to the investors. Once the trustworthiness of the guarantee mechanism assured investors that the full faith and credit of the Federal Government stood behind the loan, the nature of the project being financed was almost of no concern. Thus, loan guarantees may have little value as a way to insure that the disciplines of the private market will come to bear on the operations of selected projects. Understanding the role of the Federal Financing Bank may make this even clearer.

Federal Financing Bank

The Federal Financing Bank (FFB) was created in 1974 in order to coordinate the impact of Federal agency debt issues on the capital markets. Because many guaranteed loans differed only technically from Federal agency obligations, the FFB was authorized to purchase any obligation guaranteed in whole or in part by an agency of the Federal Government. The FFB has now become the primary investor in guaranteed loans and is expected to acquire 63 percent of the net loans guaranteed by Federal agencies in fiscal year 1976. The Federal Financing Bank charges interest which is only ⅛ of 1 percent above the yield of comparable Treasury securities. Therefore, by using FFB, a Federal agency can finance a very large guaranteed loan much more cheaply and easily than if funds had come from private lenders.

When the FFB purchases a guaranteed obligation, the Federal Government, of course, is no longer just a guarantor, it becomes the direct lender. Note that the FFB buys *all* of an obligation which may only be guaranteed in part. For example, a private borrower can sell the FFB, let's say, $100 million in bonds of which only $80 million may be guaranteed by some Federal agency. Since the FFB finances its investments by issuing obligations to the Treasury, Treasury borrowing would increase by the full $100 million and not just by the $80 million covered by the Federal guarantee. This undercuts the argument that partial guarantees force the private sector to bear *some* risks inherent in a proposed project and therefore to carry out its own evaluation of the project's merits.

As will be discussed in a later chapter, loan guarantees can be used as a way to provide a project with Federal financing which does not appear in the Federal budget.

Useful role of FFB

It would be misleading to imply that the FFB purchase increases the impact of a guaranteed loan on the capital markets. The guaranteed borrowing, without FFB, could come to the private markets but at higher cost. This FFB role is useful in coordinating the impact of guaranteed borrowing on the capital markets. Understanding the FFB actively should highlight the need for careful Government scrutiny of new guarantee programs.

Consequences for government decisionmaking

Uncontrollable outlays

A loan guarantee is a contingent liability of the Government that must be honored. A guarantee for a loan that defaults results in Federal outlays. Therefore, the budget will rise automatically unless an appropriate contingency arrangement is made to cover such an eventuality. However, neither the timing nor the magnitude of resulting outlays can ordinarily be forecast when a guarantee program receives legislative approval. Once a guarantee is given, the timing of any outlays is largely out of Government control. As James Mitchell, an Associate Director of OMB, mentioned in his testimony to the Committee's Energy Task Force, with loan guarantees the problem of "trying to estimate a cash disbursement in the future is a very, very tough question."

Danger of inadequate review

By using loan guarantees, Government action supplants the risk and return calculations through which the private economy evaluates a proposed project and therefore the Government stimulates the flow of credit into a favored project. As we have noted, there are many instances in which the decision of the private market *should* be overridden because it does not conform with the public interest. When this intervention is made, however, the Government must substitute its own evaluative processes for those of the private market. No major economic activity of the Government should go on unchallenged by anybody as if it were a free good, as if there were no opportunity costs, as if it were not drawing resources away from other priorities. As Dr. Barry Bosworth testified:

"You must realize that when you extend loan guarantee programs, the Government must replace the market. The Government must step in and do its own evaluation of projects before it extends the loan guarantee program. Then the question arises of whether or not in very many situations it is true that the Federal Government knows something that the private market doesn't know. Does the Government know that these are really good projects, but for some reason the private market is foolish. Although it wants to earn a profit, it simply cannot realize that these are really profitable undertakings."

When decisionmakers think that loan guarantees do not have an impact on the budget, a proposal may get inadequate public review, and serious distortions in the allocation of public resources may result. There are, of course, many ways in which the Government can affect the distribution of resources in the economy without the activity appearing in the budget. Taxation and regulatory powers are obvious examples. Most proposals affecting these, however, are subject to review in adversary proceedings, such as congressional hearings and the courts.

High political costs

Once a project is in operation the existence of a loan guarantee may significantly alter the bargaining position of the Federal guarantor agency. A major default would usually bring high political costs, even when a project was originally undertaken with broad public recognition that the Government was being exposed to significant risks. When such a default looms, a guarantor agency may be very reluctant to undergo the intense scrutiny of a congressional and media investigation. By quietly threatening default, the sponsor of a project could put great pressure on the Federal officials to develop a rationale for additional subsidies and other incentives in order to avoid the cost and embarrassment of a full Government bailout. Additional problems for the Government might also be created if important sectors of the economy have become dependent upon the output of the project. Even if the economics of the project were so unfavorable as to force a default, the Government may be politically unable to terminate the project.

Consequences for the private sector

Encourages default

Loan guarantees also have a significant impact on the operating decisions of a participating private firm. As Dr. Bosworth pointed out in his testimony, "Although loan guarantees may encourage the initiation of a desired project, they also tend to increase the probability of default and premature project shutdown." This is especially true for firms with large net worth. The standard criterion for deciding to abandon a project once it is operative is whether or not the project's revenues cover its variable costs (that is, the total cost less such fixed charges as interest and amortization of debt). An operating project would ordinarily be continued as long as its revenues cover *variable costs* and make *some* contribution to payment of fixed charges. The only exception is if the entire corporation would be bankrupted by the fixed charges. However, with a loan guarantee, it might be profitable to abandon the project when it becomes apparent that revenues will not cover *total costs*, that is variable costs plus fixed charges. It is important, therefore, that the guarantee agreement be designed carefully so that it motivates the private participants in the project not to default precipitately.

Who pays for projects?

The Government's choice of a mechanism to stimulate investment in a particular project largely determines who pays for it. In any year, the level of the Federal deficit or surplus results from major political decisions which are reached independently of decisions on individual programs. For fiscal year 1977, as an example, the President with his January Budget Message announced a projected deficit of $43 billion and the Congress, in its First Budget Resolution, established a target deficit of $50.8 billion. Both figures had great symbolic importance as summary statements of Federal fiscal policy. Each figure constrained the budget requests of executive departments or the actions of congressional committees. So when a major new activity is financed with on-budget expenditures—if the deficit remains the same—it will be "paid for" by diverting resources from competing governmental activities through spending cuts, or by diverting resources from private current consumption through increased taxes. Advocates of other priorities, therefore, will give the new proposal careful review.

When financing for a new project is obtained with loan guarantees, it is "paid for" by drawing resources out of the capital markets. This is true whether or not the guaranteed loan is purchased by the Federal Financing Bank. With the guarantee, a borrower becomes a price competitor for available credit. Unfortunately, this does not mean the resources are diverted from activities which from the perspective of the Government are of lower priority. The increased demand tends to drive up interest rates in sectors which lose capital. The operation of the private market decides which activities will now not get credit. Traditionally, the weakest competitors in periods of high interest rates have been those demanders of credit most dependent on long-term financing: housing and the capital needs of State and municipal government.

Limited resource

As is the case with Federal revenues, private credit is a limited resource. The widespread use of loan guarantees may largely convert a visible competition among Federal programs for fiscal resources into an invisible competition of Federal programs for private credit. The Federal use of loan guarantees, therefore, must be systematically evaluated by policymakers determining the impact of Federal Government on the economy. Each new loan proposal—especially if it is a Type-3 guarantee—should receive especially careful scrutiny.

CHAPTER V. TWO MAJOR ENERGY FINANCING PROPOSALS

Two major proposals to finance energy development may soon be before the Senate. They are the Nuclear Fuel Assurance Act (H.R. 8401) and the Synthetic Fuels Commercialization Program (H.R. 12112). These bills provide for loan guarantees and project guarantees. Many observers believe that the

latter bill will require price guarantees as well.

This chapter discusses these two major energy financing proposals in order to provide background and specificity for the previous discussion of guarantee mechanisms. Chapter VII of this report will review the budgetary treatment of these two bills as it relates to the forthcoming Second Concurrent Resolution.

Uranium enrichment

Uranium must be enriched before it can fuel nuclear power plants. Three U.S. uranium enrichment facilities now exist, all owned and managed by the U.S. Government but operated by private industry under contract.

Currently planned expansion of existing Government-owned enrichment facilities will increase U.S. capacity but ERDA indicates that this entire capacity has already been committed to customers—the equivalent of 208 domestic power plants and 121 foreign plants.

Two enrichment technologies

Two principal enrichment technologies have been developed: diffusion and centrifuge. To date, the gaseous diffusion process developed during World War II has provided all U.S. capacity. It is a mature, reliable process that has been used on a large scale for 30 years. The newer centrifuge process is anticipated to have several advantages over the diffusion method, and is generally considered to be the enrichment technology of the future. Nevertheless, because the centrifuge has not yet been commercially proven, the older diffusion process is expected to be used in the next enrichment facility constructed.

Need for enrichment capacity

With continued growth in electricity generated by nuclear fission, the eventual need for new enrichment capacity is clear, but the timing and magnitude of that need are not. How much additional enrichment capacity we need, and when we must have it depends on projections of nuclear power growth which can be either optimistic or pessimistic and on assumptions about the foreign markets to be served. Analysis by the Congressional Budget Office, however, suggests that the four private enrichment plants contemplated under H.R. 8401 will produce more nuclear fuel will be immediately needed but that this surplus will be used during the 1990's.

Nuclear Fuel Assurance Act

Enactment of the pending Nuclear Fuel Assurance Act (H.R. 8401), would permit private financing, construction, ownership, and operation of new uranium enrichment plants subject to action by the Appropriations Committee and to approval by Congress of each of the individual project guarantees. The bill would authorize ERDA to provide private industry with classified uranium enrichment technology, for which users would pay royalties. Private developers could purchase certain unique materials, services, and equipment from the Government on a "full-cost recovery" basis (i.e., ERDA would be reimbursed for all costs except certain R. & D. expenses recoverable through royalties). The Government would warrant that the enrichment technology would perform to specification. H.R. 8401 as amended on the House Floor, says that any future liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the technology will work. To ease startup of the new private facitilies, the Government could provide access to its enriched uranium stockpile, either purchasing production overruns if private customers were not ready to take delivery or providing stockpiled enriched uranium to customers at cost if initial private production were insufficient.

Government responsibility in the event of default

To implement the warranties and to protect private lenders, ERDA would be authorized—if a particular private project faltered—to take over the plants, assume domestic assets and liabilities including project debt, and—depending on the reasons for failure—to compensate domestic equity investors. These warranties and conditions would be spelled out in cooperative agreements entered into by the private companies and ERDA and approved by Congress under the terms of the Nuclear Fuel Assurance Act.

The bill also directs ERDA to begin the work necessary to build an add-on diffusion plant at the existing Portsmouth, Ohio, facility, in addition to any private cooperative agreements and plants that may be approved.

Guarantees to overcome obstacles

The guarantees authorized by the bill are designed to overcome three major obstacles to private development: classified technology, size of initial investment, and potential risks to investment. Warranties of Government technology would eliminate uncertainty about the performance of classified technologies. The other obstacles would be removed by the Government's agreement to take over a project and compensate investors, if necessary.

An agreement that the Government would, if necessary, assume the loan obligations of a project would remove the risks facing lenders and, simultaneously, enable the project to raise a large portion of invested capital through borrowing. That ability reduces problems arising from the size of the investment required.

The ability of a project to raise a large portion of its financing through debt that is unsecured by the general assets of the equity investors also reduces the risk faced by equity investors (stockholders). When firm contracts with customers ensure a steady stream of revenues upon project completion, the main risk to equity investors would be the possibility of losing their initial capital investment. A high debt/equity ratio made possible by guarantees would limit this risk because the maximum that equity investors could lose would be the relatively small equity investment.

Investment tax credit

The investment tax credit acts, in addition to the guarantees, to reduce even further the capital investment actually contributed by equity investors. Under some circumstances, tax benefits accruing to equity investors could exceed their investment in the project.

ERDA has received four proposals to construct uranium enrichment plants from firms anticipating utilization of the assistance that would be provided by the Nuclear Fuel Assurance Act. The existence of these proposals indicates that the incentives proposed in H.R. 8401 would be sufficient to stimulate private investment.

Who should own the enrichment plants?

Underlying the issue of whether to enact the Nuclear Fuel Assurance Act is the broad question of who should construct and operate future enrichment facilities. Several options exist. They are Government ownership, cooperative arrangements with industry (which H.R. 8401 proposes), and mixed Government-private ownership. In addition, the existing enrichment plants could be sold to private interests or the question itself could be postponed beyond fiscal year 1977.

Case for Government ownership

The case for Government ownership rests, to a considerable extent, on the belief that the degree of competition required to realize the potential benefits of private ownership is unlikely to develop and that, despite the large initial outlays, additional Federal enrichment activities would ultimately return large revenues to the Government. Another form of Government ownership would be to create a Government-owned corporation to enrich uranium. The case for this suboption rests on the desirability of retaining Government ownership of a Government-developed technology and revenues from it, while avoiding large direct Federal budget impacts and realizing some of the efficiencies associated with corporate (versus Government) business practices.

If the Government were to own all new capacity (here assumed at 6 plants by year 2000), substantial annual outlays, according to CBO, would be required to finance construction. The annual outlays will rise to a peak of approximately $2.7 billion by 1984 and diminish thereafter. Annual revenues from sales would also increase but would not exceed annual outlays until 1988. Cumulative revenues would exceed cumulative outlays, including assumed interest in 1983.

Case for private ownership

The case for private ownership rests generally on the presumption that broad efficiencies characterize private undertakings, and on the philosophical belief that production of materials is an activity best suited in our society to the private sector.

If private industry were to own all new capacity, no Federal outlays beyond those currently planned would be required—assuming contingencies would not occur—and no revenues from new sales would be received. However, the Government would receive royalties for the use of Government-owned technology. If, for example, a royalty rate were negotiated at 3 percent of gross revenues for 17 years, each large private facility could pay the Government more than $400 million in cumulative royalties during those years, and annual revenues from six plants could reach $150 million by the early 1990's.

However, in order to encourage private sector ownership the Federal Government could be at risk for amounts ranging up to $8 billion ($1.4 billion for the diffusion plant, $1 billion for each smaller centrifuge plant, plus contingencies and an inflation factor) from initiation of construction to sometime after the date of full commercial operation. While ERDA believes default is very unlikely it is a possibility and hence a risk.

Mixture of private/Government ownership

The case for a mixture of private and Government-ownership rests on the belief that the need for the first new increment of capacity in the mid-1980's is such that planning and construction should begin in the very near future and that Government, with its experience in building and managing three existing facilities using a proven technology, is in the best position to own this next facility, which is likely to be the last one using this older technology. Private industry would then assume responsibility for providing other future additions to capacity using new technologies. This option would be provided by the Nuclear Fuel Assurance Act which directs ERDA to construct another enrichment plant in addition to any private facilities.

If ownership were mixed, with the Government owning the next facility and the private sector owning further additions, the Government would receive both royalties and enrichment revenues. Royalties would reach about $125 million annually by the early 1990's. Initial Government outlays would reach a maximum of $0.9 billion in 1983, with the cumulative debt (including assumed interest) repaid by 1993, and cumulative net revenues reaching over $4 billion in year 2000.

An additional option would be to delay any decision on future enrichment facilities for

at least 1 year. Since the Government-owned additional plant has been authorized independently of H.R. 8401 the next diffusion plant would proceed even if the action on the bill were to be delayed. Thus, the primary effect on enrichment development might be to delay initial work on centrifuge facilities.

A final additional option would be to sell existing plants to private corporations. If this alternative were considered in lieu of the Nuclear Fuel Assurance Act, it would clearly settle the issue of whether uranium enrichment facilities should be private. It would require the Federal Government to forego revenues from the existing plants which, from 1976 through 1990, could total $9.2 billion. In place of this revenue source would be the value of the plants to be sold.

This alternative alone, however, would not address the issue of providing for future increases in enrichment capacity.

Synthetic fuels

Synthetic fuels are usually considered to include gas and oil made from such sources as coal, oil shale, or urban or other waste, but not gas made from oil. Production of such synthetic fuels would be eligible for support under H.R. 12112 which is now being considered in the House of Representatives.

Present technology

Several processes for producing synthetic fuels have been developed. Some of the older processes have been demonstrated to work, and have been put to use in foreign countries. However, much of that production is subsidized, and the scale of production is considerably smaller than that envisioned for programs proposed in the United States.

ERDA conducts an extensive research program aimed at developing "second-generation" processes for producing synfuels that promise to be more economically attractive, efficient in use of resources, and environmentally acceptable. Nevertheless, such technologies are not yet available, and economics of existing processes have not, in the past, been sufficient to induce industry to produce synthetic fuels commercially in the United States.

Costs of producing synthetic fuels

Current estimates of the cost of producing synthetic fuels exceeded by a considerable margin the prices at which competing fuels can now be purchased. For example, Dr. William McCormick, Director of ERDA's Office of Commercialization, testified at the hearings of the Energy Task Force that while high-Btu pipeline gas might cost $3.25 to $3.50 per million Btu, the highest price at which natural gas now sells (in intrastate markets) is under $2 per million Btu. Mr. Frank Cannon of the Koppers Company agreed, stating that for 4 years Koppers which has 17 plants overseas has tried to market its gasification process in the United States without success, because the cost of producing gas with that process was too high for potential U.S. customers at current prices.

Relevance of future price/cost to profitability

However, as Dr. McCormick remarked in his testimony, the relevant comparison is between future energy prices and future costs of synthetic fuels. If energy prices were to increase rapidly, synthetic fuel production could become a profitable enterprise. Studies performed for ERDA have indicated that it is unlikely that energy prices will rise rapidly enough to make synthetic fuel production profitable before 1985, but that such market forces probably would create a private synthetic fuel industry after 1985.

Goals of a synthetic fuel program

In proposing a synthetic fuels commercialization program, the Administration specified three goals for 1985: (1) development of technical, environmental, and economic information on synfuel production processes; (2) accumulation of experience with synfuel production in American industry; and (3) production of significant quantities of synthetic oil and gas. To achieve these goals, the President initially proposed price guarantees, loan guarantees, and construction grants designed to achieve an interim synthetic fuel production target equivalent to 350,000 barrels of oil per day, with an option of expanding the program to 1 million barrels per day by 1985. The first part of the Administration's program, $6 billion in loan guarantees, was defeated in the House of Representatives last year. This year the Administration is requesting a smaller $2 billion program of loan guarantees.

The relative importance given to the production and the information goals can influence the desirable size of a synthetic fuel program. The information objective might be achieved, according to CBO, with a program too small to increase domestic energy production significantly. That objective could be pursued effectively if a target production of 350,000 barrels per day by 1985 were chosen, but substantial information might also be generated by a smaller program. One with a target of 125,000 barrels per day would allow construction of one plant to produce each type of fuel included in the larger program. To achieve a 125,000 barrel per day target might require $1.5 billion in loan guarantee authority, $1.7 billion in price guarantee authority, and $230 million in construction grants. Such a program might support construction of five plants.

Different versions of synfuels bill

Congress is considering a variety of options for assistance to synthetic fuel production. The version of H.R. 12112 reported by the Committee on Science and Technology of the U.S. House of Representatives would provide only *loan* guarantees as an incentive. The House Banking Committee and the House Commerce Committee reported amendments to H.R. 12112 that would add authorization of price guarantees. The Commerce Committee amendments also altered the scope of assistance by excluding all fuels produced from coal from receiving guarantees and by allowing synthetic gas at prices higher than those allowed by the Federal Power Commission if customers can be found.

Direct Government ownership

If a decision were made to restrict the scale of synfuel production while pursuing the information goal vigorously, direct Government ownership of a small number of plants constructed and operated by private contractors (much like present uranium enrichment plants) might be desirable. Such an approach appears well-suited to dealing with environmental and socioeconomic consequences and to acquiring public knowledge of synfuel technology and economics. On the other hand, it would not foster creation of a private synfuel industry, but would put the Government in the oil and gas business (directly competing with private industry) if high production targets were chosen.

Alternatively, the Government could construct synthetic fuel plants and then sell or lease them to private industry, as suggested by Senator Bellmon. Such an approach would remove the "front-end" risks of constructing synthetic fuel plants, because plants would not be transferred to the private sector until they were completed and licensed successfully. However, if the costs of producing synthetic fuels were to prove to be higher than the selling price of alternative fuels, the Government would be unable to recover its entire cost through sale or lease to private investors. Resale "at a discount" would then provide a mechanism through which the Government would provide an adequate subsidy to induce the private sector to produce synthetic fuels.

Government cost-sharing with private industry could similarly reduce the initial cost borne by private enterprise, and thus reduce the price private industry would have to charge to recover its investment and earn an adequate profit.

According to CBO, to construct the same plants included in the program budget provided by ERDA in testimony on the loan guarantees of H.R. 12112 would cost about $5.9 billion; those outlays would occur between 1977 and 1985. If current projections of prices and costs are correct; revenues would not be sufficient to repay this investment with interest: the shortfall would probably be on the order of $1 billion over the life of the plants.

Development of new technologies

ERDA is developing several advanced synfuels processes that could improve the economics, reliability, and environmental impact of synfuel processes. Pilot plans for several second-generation processes are under construction or operating, and a request for proposal has been issued for a demonstration-scale plant to produce synthetic boiler fuels from coal.

In many cases adequate private investment in research is not forthcoming without Government support since the enterprise which bears the costs and risks of research cannot share in its full social benefits. In the commercialization stage the rewards to private enterprise may more closely approximate the social benefits. If these considerations apply in the case of synthetic fuels, Congress may find it appropriate to emphasize Federal involvement in support of research while giving responsibility for commercialization to private enterprise.

Demonstration plants

The President's budget for 1977 proposed authorization for three new demonstration plants: one designed to convert high-sulfur coal to clean boiler fuel, one to convert coal to a "high-Btu" gas of quality sufficient to ship by pipeline, and one to convert coal to a "low-Btu" fuel gas for electric utilities and larger industrial users.

These demonstrations could require up to a total of $400 million in outlays by the late 1980's. Such projects would not be completed before 1985. Consequently, the new technologies probably would not be available for inclusion in synthetic fuel plants constructed before 1985.

By the year 2000, ERDA anticipates that advanced technologies will lead to production of 2 million barrels per day of oil from coal and possibly 10 quads (5 million barrels per day equivalent) of gas from coal.

Further research and development into new technologies for synthetic fuel production would provide a better technical basis for establishment of a commercial synthetic fuels industry.

If it is decided that a commercial synthetic fuels industry should be established immediately, a choice must be made among Government-ownership, provision of loan guarantees alone, or provision of loan and price guarantees.

Options to reduce risks

Loan guarantees can reduce "front-end" risks, especially those due to uncertainty about the cost or performance of new technologies. Government construction of a synthetic fuel plant, with later sale to a private firm, can perform a similar service. If concern about the market on which synthetic fuels would be sold is an obstacle to private development, such devices may be insufficient. Price guarantees, set at an appropriate level, could be effective in removing such an obstacle. Government construction of a plant then leased to the private sector could, depending on lease terms, reduce both regulatory and market risks.

CHAPTER VI. BUDGETARY TREATMENT OF GUARANTEE MECHANISMS

The budget

As noted by the 1967 report of the President's Commission on Budget Concepts the budget presents the financial plan of the Federal Government. This plan includes appropriations, receipts, expenditures, net lending, the means to finance a budget deficit (or the way to use a budget surplus) and information about Government borrowing and loan programs.

The budget is a "road map" of where we are going. It is both a statement of national priorities and an instrument which can be used to reorder those priorities. The budget is also an element of economic policy and a tool to shape that policy. Finally, the budget of the United States Government tends to reflect boundaries of activity between the private and Government sectors and between the States and the National Government.

The budget should reflect the full scope of Federal activity. Action by the private sector ought not to appear in the budget, but the various financial transactions of the Government, including its liabilities, should be reflected in some way. Otherwise, policymakers in both the Executive and the Legislative Branches may be unable to assess the full impact of their decisions.

Criteria for a budget

It is important that the budget fully disclose the nature and extent of the Government's liabilities. This includes contingent liabilities as these may have a significant budgetary impact. Moreover, it would be useful to know the beneficiaries of the resulting assistance or subsidies. Certain types of financial incentives will assist the consumer, some are designed to assist industry, and some would shift costs to one or the other.

In addition to reflecting the full scope of Federal activity, the budget should be precise in terms of amounts and clear in terms of concepts. Distinctions between budget authority and outlays, between contract authority and borrowing authority, between potential liabilities and actual expenditures ought to be recognized, "Federal spending" takes many shapes and to lump them all together at times ignores the complexity of budgetary concepts which themselves seek only to reflect the complex reality of public policymaking.

At the same time the budget should be understandable. With knowledge of a few basics, policymakers ought to be able to interpret the budget. The vast sums and the technical complexities must not obscure the fact that the budget is a tool for decisionmakers. It is also an instrument by which the general public can become informed as to the scope and direction of public policy. Unless the budget is understandable it cannot serve this important function.

Effects of guarantee

The various mechanisms to finance energy development all have an impact on the budget. Loan guarantees, price guarantees, and project guarantees are integral parts of the Government's financial plan. How the budget accounts for all guarantees will affect the amounts in the Fiscal Year 1977 Second Concurrent Resolution and future years, and may in the long run, affect the nature of the congressional budgetary process itself.

Loan guarantees

"The authority to insure or guarantee the indebtedness incurred by another person or government" is specifically excluded from the definition of "budget authority" provided in section 401(c)(2) of the Congressional Budget Act of 1974. Loan guarantees, therefore, have an "off-budget" characteristic which distinguishes them from most alternative methods of financing public objectives. Prior to passage of the Congressional Budget Act, many programs had been designed with "backdoor" spending mechanisms that provided budget authority without advance action by appropriations committees. In his testimony before the Committee's Energy Task Force, James L. Mitchell, an Associate Director of OMB, noted that in recent years there have been an "astonishing" number of loan guarantee proposals. "We have moved," Mr. Mitchell said, "from the old backdoor on appropriations into the guarantee technique."

Outside budget totals

The President's Commission on Budget Concepts report, which recommended that loan guarantees be reflected outside budget totals, stated that these guarantees were likely to become increasingly important. The Commission recommended that loan guarantees be summarized as a note in the budget and that serious consideration be given to "new forms of coordinated surveillance" of such guarantees. As stated in the report:

"Otherwise, an appropriate choice in terms of effective resource allocation may be difficult to achieve and the inclusion of direct loans in the budget may encourage an undue expansion of guaranteed and insured loans to avoid being counted in the budget."

Budget treatment of loan guarantees

At the Task Force hearings Stanley Lewand, a vice president of Chase Manhattan Bank, noted that Government support of private ventures such as loan guarantees "is not without cost to the taxpayers who assume all or part of the business risk in lieu of the venture's beneficiaries." Now that "total primary guaranteed loans (adjusted)" outside the budget total $174.6 billion, a major problem is how best to include that cost to the taxpayers in budget decisions. The Task Force hearing brought to light a conflict between the needs of budgetary control and the needs of economic analysis. Unless the cost of a program appears on the budget so that the program competes against other claims upon the Government's financial priorities, or the program is subject to some other adversary proceeding, it may escape adequate congressional review. Loan guarantees are therefore of concern to those interested in control. Philip S. Hughes, Assistant Comptroller at the General Accounting Office stated GAO's position "that there should be full disclosure of the budget impact of all existing and proposed Federal credit and credit support programs. Only by full disclosure can the full impact of such programs and the trade-offs with other Federal programs be evaluated." On the other hand, Dr. Arnold Packer, the Budget Committee's Chief Economist, stated that economists ordinarily exclude Government lending from those activities which should appear in the Federal budget. Treating loan guarantees as a Federal outlay, he felt, would provide a seriously exaggerated picture of the size of the Federal sector in the economy. "I would think that it would be distorting from a macro-economic point of view to put the lending in the budget," said Dr. Packer "Now if the Federal Government is going to operate a synthetic fuels plant or a nuclear enrichment plant, then it is a Federal activity and it belongs there, but not if it is the guarantee area or even in the lending area."

Another way to treat loan guarantees in the budget would be to estimate each year the amount of Federal payments likely to result from loan guarantee defaults and have that estimated amount appear in the budget as budget authority, accompanied by the associated estimate of outlays. The full exposure of the guarantees would not be reflected in the budget. Only the amount of expenditures that we anticipate will be needed would appear. For example, if a $2 billion solar energy loan guarantee program were established and were expected to have a 10-percent rate of default, the budget would show $200 million. The advantage of this approach is precision. Only the amount that is estimated to be necessary and that in all likelihood will be spent appears in the budget totals. The disadvantage is that the extent of the Federal liability is not shown nor is the economic impact of the guarantee upon the private sector. The Government might have to spend far more than the amount estimated to cover defaults than is shown in the budget. The budget thus would not reflect the complete potential for Federal spending.

This approach is how some (but not all) loan guarantee programs have been treated in the budget. In the case of the $2 billion synthetic fuels programs, the Administration has estimated a default rate of 25 percent and is requesting budget authority of $500 million that would appear in the budget to cover anticipated spending.

Treatment of assumed debt

If a default were to occur when Federal loan guarantees have been extended, the Government might well take over operation of the facility and assume its assets and liabilities. These liabilities will probably include debt. Whether this debt, when it is held by the Government, becomes part of the Federal debt subject to limitation that is reflected in the budget and shown in the concurrent resolutions of the Congressional budget is uncertain. The Task Force hopes that this issue can be reviewed in the Committee's major study of Federal financial guarantees.

Price guarantees

Price guarantees do not pose too great a problem in terms of budgetary treatment. Authority to implement a price guarantee program is requested through the normal authorization and appropriations process. If approved, an estimate is made of the program's costs, and the anticipated amount of budget authority is then provided through appropriations. This budget authority appears in the budget totals. One issue that does arise with such programs is in what year the budget authority should be carried? Should it be carried in the year the program is enacted? Or should it be carried in the year that the price support payments are required? The principle that budgetary costs should be acknowledged when the decision to establish a program is made argues in favor of showing the budget authority up front. Outlays of course would appear in the year they occurred. But the difficulty with estimating accurately what level of price supports might be required several years hence argues in favor of carrying the budget authority in the year for which it is necessary.

Budgetary treatment vs. budgetary control

The difficulty with programs that support prices is not budgetary treatment but rather budgetary control. Price guarantees can be entitlement programs. Once in place they can make demands upon the budget that must be honored. Given the unstable nature of prices, particularly in the energy area, these demands can be considerable.

Project guarantees

Project guarantees are intended to protect participants in a venture from the failure of a particular project. Guarantees are extended not to the financial institutions lending capital to the ventures but to the project itself. Much of the analysis in this staff report on the affect of loan guarantees applies equally well to project guarantees. But the liabilities incurred by project guarantees—unlike those of loan guarantees—are not specifically excluded by law from the budget totals. Because project guarantees are relatively rare, a discussion of their

budgetary treatment can best occur in reference to a specific guarantee. The next chapter of this paper in part will discuss the budgetary treatment of the guarantees contemplated by the proposed Nuclear Fuel Assurance Act.

CHAPTER VII. THE SECOND CONCURRENT RESOLUTION

In the First Concurrent Resolution the Committee assumed $5.1 billion in budget authority and $4.2 billion in outlays for energy. These amounts were considerably above what the President had requested and reflected the Committee's view that energy ought to rank as an important budgetary priority. However, no provision was made in the Resolution for funding off-budget energy proposals. This exclusion was not meant to prejudice Senate action. The Committee simply believed that sufficient information was not then available to review these proposals. As stated in the report:

". . . by not including any funds in the First Concurrent Resolution for the Presidents' off-budget proposals, the Committee does not preclude any action on the specific proposals if they are brought to the Senate Floor. Both the off-budget issue and the specific program proposals themselves could then be reviewed in light of the First Concurrent Resolution and any available information. If significant on-budget expenditures were deemed appropriate by the Congress, an adjustment could be made by the Second Concurrent Resolution."

Since passage of the First Concurrent Resolution relating to both uranium enrichment and synthetic fuels has moved forward. The Committee must now determine in the Second Concurrent Resolution whether or not to adjust Function 300 targets to accommodate such legislation and, if those targets are to be adjusted, what budgetary treatment of budget authority and outlays is appropriate.

Available options

A number of options for treating the Nuclear Fuel Assurance Act and the synthetic fuels commercial demonstration program—if they are enacted—are available to the Committee. Each of these options is defensible from a technical viewpoint and yet each one has a very different effect on functional totals. In addition, the selection of one or another of the available options may establish a precedent.

Uranium enrichment scoring options [1]

The $8 billion in guarantees contemplated in H.R. 8401 could be treated in a number of ways. The Committee could choose to:

Score the full $8 billion as budget authority at the time of the appropriation. This approach is akin to scoring the full exposure of a loan guarantee program.

—Score the full value of each contract with a private venture at the time of ratification of each individual contract.

—Score partial amounts, representing the actual Government liability year-by-year, as the liability grows. For example, if all the contracts are approved, the first year of liability would be approximately $300 million.

—Score some fraction of the $8 billion as budget authority based upon an estimated rate of default greater than zero. This is the procedure presently contemplated by the Administration and the House Budget Committee for treating the synthetic fuels bill.

—Score nothing at all because the liabilities are contingent.

[1] This section deals exclusively with the $8 billion in contract authority authorized in H.R. 8401 in as much as the $255 million authorized in section 4 of the bill for a new Federal enrichment plant is a traditional type of authorization. If the bill were enacted and funds were appropriated, the amount provided would appear on budget as budget authority with resulting outlays.

Score nothing at all

The position of the Administration is that no budget authority should appear since budget authority as defined in the Budget Act is authority to enter into obligations which *will* result in future outlays. If this approach is followed, Function 300 targets for fiscal year 1977 would require no adjustment. In the event the default occurred in some future year, that year's budget authority and outlay would have to be adjusted to reflect the actual level of Federal liability. It should be noted that this off-budget treatment is, in the view of the General Accounting Office, permissible but undesirable. In an opinion requested by SBC staff, the GAO stated that while the authority authorized in H.R. 8401 did not establish "budget authority" within the meaning of the Budget Act, the authority should be reflected in the budgetary totals if Congress is to achieve the maximum effectiveness of the new budget process.

Score some fraction

The case for scoring some fraction of the project guarantees is predicated on the assumption that some defaults will occur and future outlays will be required. In this instance, the Committee's final action could reflect the probability of failure associated with each of the component elements of the package. The components include the construction of one new gaseous diffusion plant and three centrifuge plants. It appears unlikely that the gaseous diffusion plant will fail for technological reasons. Therefore, a case can be made for not scoring the $1.4 billion of liability associated with its construction in the SCR. In the case of the three centrifuge process plants, however, some technological risk does exist since the process, at the commercial scale, proposed is new. If the Committee wished to show in the budget the amount of liability under H.R. 8401 associated with the gas centrifuge technology, $3 billion would be added to the budget totals.

Centrifuge plants are constructed as a series of "cascades". When the first such "cascade" is complete, the technological risk will have been resolved. At this time, success or failure is evident. Additional "cascades" need not be constructed. In the event that the process is not successful, construction could be suspended and the project guarantees paid out. The amount of Federal exposure under H.R. 8401 necessary to support the development of the first "cascade" is estimated to be approximately $400 million per centrifuge facility. If, as is planned three facilities, are extended guarantees and all three centrifuge plants fail, the Federal liability would total $1.2 billion. The Committee could, if it wished show this amount in the budget totals.

Score partial amount

Another option for the Committee would be to score a partial amount of the $8 billion in project guarantees contemplated by the Nuclear Fuel Assurance Act representing the actual liability on a year-by-year basis. Because the $8 billion constitutes the total liability over a period of several years, reflecting the $8 billion in the budget for any one year might distort the budget totals and exaggerate the liabilities. The amount of the Federal liability for the one year in question could be shown instead. If all the contracts anticipated under H.R. 8401 were reflected in the budget in this way, the liabilities for fiscal year 1977 would total approximately $300 million.

Score full value of each contract

Another budgetary treatment option for the Committee would be to score the full value of each contract with a private venture at the time of each individual contract. The $8 billion authorized in H.R. 8401 is the upper level of contingent liability that the Government could conceivably assume with regard to the four private enrichment plants expected to request project guarantees. Of the $8 billion, $1.4 billion is attributed to the one gaseous diffusion plant being planned, $3.0 billion is attributed to three centrifuge projects, and $3.6 attributed to contingencies and inflation. The budget could reflect the liability of the Government assumed through the project guarantees for each of the four enrichment projects or as many as are approved by Congress.

Score full amount—$8 billion

Another option would be for the Committee to score on budget the full amount of the liabilities contemplated by the proposed Nuclear Fuel Assurance Act. Thus $8 billion in budget authority—the upper level of liability—would be added to the budget totals at the time of the Second Concurrent Resolution. The Administration believes this option to be unwise because it artificially inflates budgetary totals while distorting the macroeconomic impact on the budget. As noted above, the Administration also believes that this option is unnecessary given the specific definition of budget authority in the Budget Act. Nevertheless the Committee might want to exercise this option because the $8 billion is the amount that the Federal Government is obligated to pay if a series of events concluding in the default of all the project guarantees were to occur.

When to score uranium enrichment options

In addition to the problem of what or how much to score in order to accommodate legislation such as H.R. 8401, the Budget Committee must determine when to score the required budget authority if at all. In the event that budget authority is required, should that budget authority be available at the time the Appropriations Committee takes action or at the time the contract is signed and the liability created? Or should budget authority be scored only when an actual Federal payment is required? It may well be most appropriate to score the budget authority at the time the resolution approving the individual contract is passed for it is at this time that the liability, however contingent, is established. In any event, accommodating current legislation dealing with uranium enrichment poses the questions of what to score and when to score.

Synthetic fuels scoring options

Many of the problems relating to how much and when to score budget authority for uranium enrichment are not present in the legislation relating to Federal guarantees for the development of a commercial synthetic fuels industry. H.R. 12112 provides for loan guarantees in the amount of $14 billion and allocates that amount equally in fiscal years 1977 and 1978. S. 2864, a version of the bill that passed the Senate last year, provides for $6 billion in guarantees allocated all in fiscal year 1977. For the loan guarantees in the House bill, it has been suggested that $500 million in 1977 budget authority be included in the budgetary totals subject to action by the Appropriations Committee. This amount represents a default reserve of 25 percent based upon a $2 billion loan guarantee program. This treatment of loan guarantees as budget authority, which the Administration accepts, would appear to be consistent with the Budget Act although guarantees have at times been treated differently in the past. In marking up the First Concurrent Resolution the House Budget Committee also accepted this budgetary treatment of loan guarantees and assumed $500 million in budget authority for a synthetic fuels commercialization program.

Price guarantees

Problems peculiar to synthetic fuels development and the legislative initiatives which support it are related to price guarantees. This is so whether or not the price guarantees are specifically contemplated in synthetic fuels legislation. Legislation reported

by both the House Banking, Currency and Housing Committee and the House Committee on Interstate and Foreign Commerce contemplates varying levels of price guarantees over the 30-year life of the facility. No price guarantees are mentioned in the Science and Technology Committee's version of the bill. Yet there is little doubt that synthetic fuels, in the short run, will fail to be price competitive with either petroleum or natural gas. Hence some type of price guarantee seems inherent with synthetic fuels commercialization. The Administration's initial $6 billion synthetic fuel loan guarantee proposal recognized this for it specifically contemplated $4.5 billion in price guarantees for which authority was to be requested later on.

The exact time at which energy from synthetic sources will become price competitive is highly conjectural. Therefore the level and duration of the financial commitments associated with such price guarantees cannot be calculated. And their budgetary treatment thus becomes difficult. It may be that the Committee wishes to have budget authority scored for the year in which price payments are made, or the Committee may wish to estimate the amount in the budget for the year in which the synthetic fuels program was established. In either case members of the Committee and of the full Senate as well will want to realize that some form of price assistance may be necessary for the proposed synthetic fuels programs.

[GAO Office Report, August 24, 1976]

LOAN GUARANTEES SHOULD BE INCLUDED IN THE BUDGET

The Congressional Budget Act of 1974 (Titles I–IX of Public Law No. 93–344, July 12, 1974) is a comprehensive statute which sets forth many of the procedures by which the Federal budgetary process is to operate. Our interpretation of the Act's language and the intent of the Congress in enacting this legislation is that the total amount of loan guarantees including associated contingent liabilities are not required to be included in the Federal budget. Review of S. 2532 and H.R. 12112 indicate that such disclosure is not contemplated.

However, one must look beyond the language of the Act and consider that one of the fundamental objectives of the Congressional Budget Act of 1974 was to establish a process through which the Congress could systematically consider the total Federal budget and determine priorities for the allocation of budget resources. We believe this process achieves its maximum effectiveness when the budget represents as complete as possible a picture of the financial activities of Federal agencies. We further believe it is vital to maximizing the effectiveness of the process that Federal financial resources be measured as accurately as possible because priorities are actually established through decisions on the conferring of the authority to enter into obligations which will result in immediate or future outlays of Government funds. From this standpoint, therefore, the budget should (a) encompass all actions which confer authority to spend money, (b) reflect as accurately as possible the amount of such authority which is conferred, and (c) recognize the point at which control over the spending of the money passes from the Congress to the administering agency. The consequence of excluding loan guarantees and their associated contingent liabilities from the budget is to thwart Congress' achieving the maximum effectiveness of the process it established to review the Federal budget and determine priorities.

In the case of Federal loan guarantees for housing and other programs, historical experience permits the default rate to be estimated with reasonable accuracy and included in the budget. However, if the Congress enacts S. 2532, H.R. 12112, or similar legislation, authorizing a relatively small number of very large loan guarantees, we believe that it will be difficult to accurately predict the extent of default, and therefore, the total amount approved for loan guarantees should be shown in the budget.

CONSTITUTIONAL AUTHORITY EXISTS FOR RATIFICATION OF GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, once again I rise to address my colleagues concerning the necessity for congressional ratification of the Genocide Treaty.

Opponents to the treaty have long asserted that the entire subject of human rights is not appropriate for international agreement.

It is my view that genocide must be the concern of the community of nations, however, as the horror of its consequences knows no geographic boundaries. We should not allow the frightening memories of the World War II holocaust fade from our minds. Under the Constitution, the President has the power to make treaties by and with the advice and consent of the Senate. The Genocide Treaty falls within the realm of this constitutional authority. According to former Supreme Court Justice Thomas C. Clark:

> Treaties which deal with the rights of individuals . . . as a matter of international concern may be a proper exercise of the treatymaking power of the United States.

The United States not only has the authority to enter into such agreements but, there is no question that adequate precedent exists. A quarter of a century has passed since this country used its treaty powers to become a party to the United Nations Charter, one of whose basic purposes is the promotion of human rights for all. America has previously acted in conjunction with other nations to condemn those who violate agreements regarding seal hunting, opium trade, and slave trade.

Mr. President, in failing to ratify the Genocide Convention, the United States can no longer plead that it is constitutionally impotent to do so. The fact that genocide is an issue appropriate for concern and action seems obvious. It is our moral obligation and within our legal power to ratify this document. We must do so.

REVISED LIST OF PENDING ARMS SALES

Mr. HUMPHREY. Mr. President, on Wednesday, September 1, I placed in the RECORD a list of advance notifications of pending arms sales submitted to the Congress pursuant to section 36(b) of the Arms Export Control Act. At that time I noted that the information was fragmentary due to what I considered to be excessive classification by the executive branch. Since that time we have discussed this problem with officials of the Department of State and are now able to provide a few more details regarding the transactions in question.

Unfortunately, the executive branch still insists on classifying the identification of many items being sold. They base this decision on a rather vague reference to the "national security." In many instances the real reason such classifications are maintained is that either the seller or the buyer has asked that such details not be made public. While in some instances such requests might be justified, I think these instances are rare and I do not believe that they should be cloaked with the excuse that we are somehow protecting our security.

I ask unanimous consent that there be printed in the RECORD at the conclusion of these remarks a revised list of the notifications received September 1.

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

SEC. 36(b) NOTIFICATIONS RECEIVED SEPT. 1, 1976

Country, transmittal number, and quantity description	Value (million)
Israel:	
7T–41—Bombs	$26.8
7T–16—Ammunition	72.8
7T–26—Bombs	46.0
7T–27—Missiles	31.8
7T–47—Helicopters	64.0
Saudi Arabia:	
7T–15—Missiles	25.0
7T–21—Missiles	30.0
7T–22—Additional construction work AF Headquarters	160.0
7T–23—Family housing at Tabuk	88.0
7T–20—Training Center equipment	130.0
7T–35—Armored personnel carriers	10.0
7T–37—Aircraft	23.3
7T–38—Guns	12.4
7T–39—Launchers/missiles	7.9
7T–40—Saudi Arabian National Guard funds for training and modernization	215.0
Iran:	
7T–25—Torpedoes	20.5
7T–32—Missiles	39.0
7T–46—Missiles	150.0
7T–34—Missiles	52.0
7T–29—RH–53D aircraft support for 6 aircraft	25.0
7T–28—Conventional ammunition	105.0
7T–31—Helicopter repair parts	200.0
7T–36 (a and b)—Aircraft	(1)
Pakistan:	
7T–24—Torpedoes	16.1
7T–48—Missiles	14.2
7T–50—25 M88A1 tank recovery vehicles	20.3
7T–49—Armored personnel carriers	13.2
7T–30—Ammunition	15.7
Korea:	
7T–19—24 OV–10 aircraft	58.2
7T–51—733 AIM–9 Sidewinder missiles	20.8
7T–43—421 M48A1 tanks	37.7
Norway:	
7T–42—40 fire units and 900 Roland missiles	100.0
Philippines:	
7T–44—11 F–5E aircraft, training, and support	61.4
Australia:	
7T–33—Aircraft	(1)
Germany:	
7T–45—F–104G maintenance support/pilot training	38.8
Morocco:	
7T–17—20 T–2 aircraft, training, and support	88.9
Singapore:	
7T–18—21 F–5E/F aircraft, 200 AIM–9J1 missiles, training, support	109.7

[1] Confidential.

PRELIMINARY NOTIFICATION: PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under

that act in excess of $25 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practices.

I wish to inform Members of the Senate that such notifications were received on September 1, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LEGISLATIVE APPROPRIATIONS, 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14238, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

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.

Mr. HOLLINGS. Mr. President, on behalf of the Committee on Appropriations I am pleased to finally bring to the Senate H.R. 14238 and our recommendations for fiscal year 1977. The delay is certainly not our fault as the subcommittee marked up the bill back on June 24 anticipating House action a few days later. Unfortunately, the bill was twice pulled off the House schedule and finally was considered and approved by the House last Wednesday, September 1. Anticipating the House action, the full Committee on Appropriations reported the bill, subject to receipt of the bill from the House, on August 28 as we had anticipated Senate consideration before Labor Day.

Mr. President, I ask unanimous consent that Miss Mary Jo Manning of my staff be permitted access to the floor during the consideration of this bill.

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

Mr. SCHWEIKER. I ask unanimous consent that Dave Newhall and Dick Vodra be granted privileges of the floor during the consideration of this bill.

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

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

I ask unanimous consent that Jane Ellsworth of my staff have permission of the floor during consideration and voting on this measure.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

Mr. ALLEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. I correct that. The Senator reserves the right to object?

Mr. ALLEN. I am reserving the right to object.

I would like to suggest to the distinguished floor manager of the bill that we agree to all of the Senate amendments as original text with two exceptions, one being the amendment on page 17 having to do with the compensation of Members of Congress and certain other officials, and also the amendment starting on page 36 having to do with the acquisition of another, fourth, Senate Office Building.

And if the floor manager of the bill would like to offer amendments striking the House amendments in the one instance or adding the Senate amendment in the other that would be in order. But I would be loath to agree to granting approval of all of the amendments, which would put the laboring oar on those who oppose the Senate committee action in these two areas.

So if the Senator would like to get all of the Senate amendments approved except those two, the Senator from Alabama would interpose no objection.

Mr. TAFT. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. TAFT. Will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I concur in the request of the distinguished Senator from Alabama. I just say that I think it would facilitate procedure with what I hope to bring up by way of amendment, when the amendment is offered.

I hope to offer an amendment to the committee amendment relating to salaries which would eliminate the salary increase only for Senators and Members of the House and would not eliminate the increases for the judiciary or the other officers that might otherwise be affected.

I think it would move more easily if this were done.

The PRESIDING OFFICER (Mr. GLENN). Is there objection to the unanimous-consent request?

Mr. HOLLINGS. I will amend the unanimous-consent request, that it be considered as original text en bloc, save and except two exceptions pointed out by my distinguished colleague from Alabama relative to the matter of pay on page 17, compensation and mileage for Members and compensation of Members, and on page 36 relative to the acquisition of property in square 630 in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as amended by the Senator from South Carolina?

Mr. ALLEN. Mr. President, I have no objection to offer.

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

The amendments agreed to en bloc are as follows:

Beginning on page 2, insert:

TITLE I

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSES ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $5,052,630.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate, $3,000; in all, $16,000.

SALARIES, OFFICERS, AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $615,015.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, $251,540.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips $195,260.

OFFICE OF THE CHAPLAIN

For office of the Chaplain, $31,800.

OFFICE OF THE SECRETARY

For office of the Secretary, $3,323,290, including $151,370 required for the purpose specified and authorized by section 74b of Title 2, United States Code: *Provided*, That, effective October 1, 1976, the Secretary may appoint and fix the compensation of a Bill Clerk at not to exceed $25,440 per annum in lieu of not to exceed $19,080 per annum; an Assistant Bill Clerk at not to exceed $19,080

per annum in lieu of not to exceed $12,720 per annum; a Secretary at not to exceed $17,172 per annum in lieu of a Receptionist at not to exceed $17,172 per annum; a Registrar at not to exceed $16,218 per annum in lieu of a Secretary to the Curator at not to exceed $16,218 per annum; a Clerk at not to exceed $10,812 per annum in lieu of an Assistant Messenger at not to exceed $10,812 per annum; an Historian at not to exceed $29,574 per annum; an Associate Historian at not to exceed $18,126 per annum; a Photo Historian at not to exceed $25,281 per annum; a Research Assistant to Historian at not to exceed $10,335 per annum; a Secretary to Historian at not to exceed $11,130 per annum; an Information Clerk, Digest, at not to exceed $10,017 per annum; and a Secretary, Stationery Room, at not to exceed $13,356 per annum: *Provided further*, That, effective October 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $37,842.

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $9,660,685.

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $227,255 for each such committee; in all $454,510.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $48,190,355.

LEGISLATIVE ASSISTANCE TO SENATORS

For legislative assistance to Senators, $5,500,000.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, $15,579,010: *Provided*, That, effective October 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Administrative Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $36,729 per annum in lieu of not to exceed $35,298 per annum; a Superintendent, Service Department at not to exceed $35,457 per annum in lieu of not to exceed $31,482 per annum; a Director, Computer Center at not to exceed $35,457 per annum in lieu of not to exceed $34,344 per annum; a Director, Recording Studio at not to exceed $35,457 per annum in lieu of not to exceed $34,662 per annum; a Telecommunications Adviser at not to exceed $29,574 per annum in lieu of not to exceed $27,348 per annum; a Chief Cabinetmaker at not to exceed $22,737 per annum in lieu of not to exceed $20,670 per annum; a Chief Janitor at not to exceed $19,557 per annum in lieu of not to exceed $17,808 per annum; an Assistant Superintendent, Service Department at not to exceed $22,578 per annum in lieu of not to exceed $20,988 per annum; a Night Supervisor, Service Department at not to exceed $19,875 per annum in lieu of not to exceed $15,264 per annum; a Supervisor, Printing Section at not to exceed $18,921 per annum in lieu of a Foreman of Duplicating Department at not to exceed $17,808 per annum; a Supervisor, Folding Section at not to exceed $18,921 per annum in lieu of a Chief Machine Operator at not to exceed $15,582 per annum; a Supervisor, Addressograph Section at not to exceed $18,921 per annum in lieu of not to exceed $14,628 per annum; two Audio Engineers at not to exceed $13,356 per annum each in lieu of an Audio Engineer at not to exceed $13,356 per annum; a Micrographics Supervisor at not to exceed $21,147 per annum; an Assistant Micrographics Supervisors at not to exceed $16,536 per annum; a Secretary-Receptionist at not to exceed $10,812 per annum; a Senior Folding Machine Operator at not to exceed $12,243 per annum; a Senior Addressograph Operator at not to exceed $12,243 per annum; twenty Laborers, Service Department at not to exceed $9,222 per annum each in lieu of seventeen Laborers, Service Department at not to exceed $9,222 per annum each; ten Office Systems Specialists at not to exceed $15,582 per annum each in lieu of seven Office Systems Specialists at not to exceed $15,582 per annum each; ten Senior Programer Analysts at not to exceed $25,122 per annum each in lieu of eight Senior Programer Analysts at not to exceed $25,122 per annum each; three Network Technicians at not to exceed $20,352 per annum each in lieu of a Network Technician at not to exceed $20,352 per annum; two Secretary-Typists at not to exceed $12,402 per annum each; three Systems Supervisors at not to exceed $29,892 per annum each in lieu of a Systems Supervisor at not to exceed $29,892 per annum; an Operations Supervisor at not to exceed $20,988 per annum; eight Lead Operators at not to exceed $14,628 per annum each in lieu of six Lead Operators at not to exceed $14,628 per annum each; two Data Conversion Operators at not to exceed $10,017 per annum each in lieu of a Data Conversion Operator at not to exceed $10,017 per annum; a Training Specialist at not to exceed $20,034 per annum; five Printing Operators at not to exceed $14,946 per annum each; three Quality Controllers at not to exceed $14,946 per annum each; three Assistant Chief Telephone Operators at not to exceed $13,356 per annum each and an Auditor at not to exceed $13,356 per annum in lieu of four Assistant Chief Telephone Operators at not to exceed $13,356 per annum each; twenty-one Telephone Operators at not to exceed $10,494 per annum each, a Secretary at not to exceed $10,494 per annum, four Clerks at not to exceed $10,494 per annum each, and an Auditor at not to exceed $10,494 per annum in lieu of twenty-seven Telephone Operators at not to exceed $10,494 per annum each; a Chief Barber at not to exceed $12,084 per annum in lieu of a Foreman of Skilled Laborers at not to exceed $12,084 per annum; a Chief Barber at not to exceed $10,971 per annum; two Barbers at not to exceed $11,130 per annum each in lieu of two Skilled Laborers at not to exceed $11,130 per annum each; three Barbers at not to exceed $9,381 per annum each; forty-eight Laborers at not to exceed $9,222 per annum each and a Barber Shop Attendant at not to exceed $9,222 per annum in lieu of forty-nine Laborers at not to exceed $9,222 per annum each; a Barber Shop Attendant at not to exceed $4,134 per annum; seven Detectives, Police Force at not to exceed $14,946 per annum each in lieu of not to exceed $13,992 per annum each; sixteen Technicians, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each; and six K-9 Officers, Police Force at not to exceed $13,992 per annum each in lieu of not to exceed $13,038 per annum each: Provided further, That not to exceed $45,000 of this appropriation may be used to employ special deputies.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $311,645.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $5,500,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $629,700.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $422,855 for each such committee; in all, $845,710.

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $45,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $600,385 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $21,854,485.

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.07 per hour per person, $90,905.

MISCELLANEOUS ITEMS

For miscellaneous items, $17,807,000.

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery stamps for the office of the Secretary, $610; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $2,685.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $27,150; in all, $31,650.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Effective October 1, 1976, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "fiscal year".

(b) Subject to the provisions of section 105(d)(2) of the Legislative Branch Appropriation Act, 1968, as amended and modified, the amount of accrued surplus available to any Senator under section 105(d)(1) of such Act at the close of September 30, 1976, shall be available to that Senator during the period beginning on October 1, 1976, and ending on December 31, 1976, for the purposes of fixing the number and rates of compensation of employees in his office.

SEC. 102. Section 108(c) of the Legislative Branch Appropriation Act, 1976, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) If (A) a Senator's service on a committee terminates (other than by reason of his ceasing to be a Member of the Senate) or a Senator's status on a committee as the chairman or ranking minority member of such committee or a subcommittee thereof changes, and (B) the appointment of an employee appointed under this section and designated to such committee by such Senator would (but for this paragraph) thereby terminate, such employee shall, subject to the provisions of subsection (e), be continued as an employee appointed by such Senator under this section until whichever of the following first occurs: (1) the close of the tenth day following the day on which such Senator's service on such committee terminates

or his status on such committee changes or (2) the effective date on which such Senator notifies the Secretary of the Senate, in writing, that such employee is no longer to be continued as an employee appointed under this section. An employee whose appointment is continued under this paragraph shall perform such duties as the Senator who appointed him may assign.".

SEC. 103. Section 5533(c)(1) of title 5, United States Code, is amended by inserting before the period at the end thereof "($10,540, in the case of pay disbursed by the Secretary of the Senate)".

SEC. 104. (a) The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

(b) The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

(c) Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld.

SEC. 105. (a) Effective October 1, 1976, except as provided in subsections (b) and (c), the maximum annual compensation of a mail carrier in the Senate post office shall not exceed $8,109.

(b) In the case of a mail carrier in the Senate post office who was serving as such a mail carrier on September 30, 1976, the maximum annual rate of compensation shall not exceed $11,130, so long as his service as such a mail carrier remains continuous.

(c) In the case of a mail carrier in the Senate post office (other than a mail carrier whose compensation is fixed under subsection (b)) whose regularly scheduled daily tour of duty begins on or before 6 a.m., the annual rate of compensation may be increased, in the discretion of the Sergeant at Arms and Doorkeeper, by not to exceed 10 percent. If such annual rate of compensation, as so increased, is not a multiple of the figure set forth in the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, such rate shall be adjusted to the next higher multiple of such figure.

SEC. 106. (a) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Employees Barber Shop Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) All moneys received by the Senate employees barber shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop.

(c) On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) This section shall take effect on October 1, 1976.

SEC. 107. No provision of this Act or of any Act hereafter enacted which specifies a rate of compensation (including a maximum rate) for any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 4 of the Federal Pay Comparability Act of 1970 to such rate.

SEC. 108. The second paragraph under the heading "Administrative Provisions" in the Legislative Branch Appropriation Act, 1959 (72 Stat. 442; 2 U.S.C. 65b), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000 during any fiscal year".

SEC. 109. Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) is amended—

(1) by inserting after "Joint Committee on Congressional Operations" the following: "and the Select Committee on Intelligence of the Senate"; and

(2) by adding at the end thereof the following new sentence: "In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled.".

SEC. 110. (a)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Government Operations is authorized, during the fiscal year ending September 30, 1977, to employ one additional professional staff member at a per annum rate not to exceed the rate provided for the four professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if the individual who was a reemployed annuitant and was employed by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, ceases to be so employed at such rate.

(b)(1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Commerce is authorized, during the fiscal year ending September 30, 1977, to pay one additional professional staff member at a per annum rate not to exceed the rate provided for the two professional staff members referred to in section 105(e)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if any of the individuals who were paid by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, cease to be paid at such rate.

On page 17, in line 4, strike out "I" and insert "II".

On page 23, in line 19, strike out "II" and insert "III".

On page 24, in line 10, after "$263,000" insert a colon and the following:

Provided, That, not to exceed $100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

On page 26, in line 12, strike out "$1,400,400" and insert "$1,618,860".

On page 29, in line 10, after "incumbent" insert a colon and the following:

Provided further, That $109,230 of this amount is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

On page 30, in line 5, strike out "$178,600" and insert "$180,200".

On page 31, line 11, strike out "III" and insert "IV".

On page 31, in line 16, strike out "$6,624,000" and insert "$8,000,000".

On page 31, in line 17, strike out "IV" and insert "V".

On page 32, in line 9, strike out "V" and insert "VI".

On page 33, in line 25, strike out "$5,725,900" and insert "$5,853,900".

On page 34, in line 4, strike out "$147,500" and insert "$193,500".

On page 34, beginning with line 9, insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000, to remain available until expended: Provided, That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts including costs-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other services and other expenses as may be necessary to carry out this paragraph: Provided further, That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: Provided further, That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

On page 40, in line 2, strike out "$11,172,000" and insert "$11,672,000".

On page 40, beginning with line 3, insert:

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

For an additional amount for "Modifications and Enlargement, Capitol Power Plant", $12,000,000, to remain available until expended, and the limit of cost authorized by Public Law 93-50 (87 Stat. 109-110) for such project is increased by such additional amount.

On page 40, in line 20, strike out "VI" and insert "VII".

On page 41, in line 13, strike out "VII" and insert "VIII".

On page 41, in line 25, strike out "$66,589,400" and insert "$67,591,000".

On page 42, in line 5, strike out "$8,277,300" and insert "$9,408,300".

On page 42, in line 6, strike out $552,000" and insert "$1,683,000".

On page 42, beginning at the end of line 13, strike out the colon and lines 14 and 15.

On page 42, in line 21, strike out "$19,293,200" and insert "$19,900,000".

On page 44, in line 5, strike out "$20,800,800" and insert "$21,729,000".

On page 44, in line 18, strike out "$2,909,700" and insert "$3,087,000".

On page 47, in line 7, strike out "$88,500" and insert "$95,500".

On page 50, beginning with line 1, insert:

TITLE IX

COPYRIGHT ROYALTY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Commission, $268,000, which shall be available only upon enactment into law of S. 22 or equivalent legislation.

On page 50, in line 7, strike out "VIII" and insert "X".

On page 53, in line 1, strike out "IX" and insert "XI".

On page 54, in line 18, strike out "X" and insert "XII".

On page 55, in line 1, strike out "XI" and insert "XIII".

On page 55, in line 3, strike out "1101" and insert "1301".

On page 55, in line 9, strike out "1102" and insert "1302".

On page 55, in line 21, strike out "1103" and insert "1303".

On page 55, in line 24, strike out "1104" and insert "1304".

On page 56, in line 2, strike out "Senate and".

On page 56, in line 4, after "1975.", insert: on June 30, 1975. Effective October 1, 1976, the gross annual maximum rate of compensation of Pages of the Senate shall be $9,063, and such rate shall not be adjusted under any Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, except to the multiple specified in any such Order which is nearest to but not less than $9,060.

SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate and who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed $13,038 per annum.

(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months.

Mr. HOLLINGS. Mr. President, the House difficulty apparently had to with possible amendments relating to the allowances of the Members of the House. There is not one item in this bill that increases any Senator's staff or his allowances—except that in changing the allowance for administrative and clerical assistance from a calendar to a fiscal year basis, we do permit a Senator to carry over for 3 months any balance accrued as of September 30.

Our recommendations are summarized on the front page of the report. We are $16,559,520 over the amended budget estimates and we are within the committee's allocation of the first concurrent budget resolution for this bill.

While the committee recommends no changes in the Senator's staff and consolidated office allowances, we have not retreated in our support of the research, evaluation, mechanical assistance and workspace that modern legislators need in this age of specialized and technological issues.

SENATE

For instance, in the Senate we have established 45 new statutory positions, including 7 for the Secretary of the Senate that are mainly to make permanent personnel formerly on the Secretary's administrative roll. The remaining 38 new Senate positions are to assist our new Sergeant at Arms, who has renewed the vitality of that Office. The bulk of those new positions 24 are for the Computer Center to support the comprehensive legislative information system that will be operational later this year and the correspondence management system now being tested in 14 Senate offices. We also recommend the establishment of the grade of private first class for the privates on the Senate detail of the Capitol Police force that have served 2½ years in order to help Chief Powell stay competitive with the other D.C. police forces in retaining and recruiting good officers.

As usual, this bill takes care of many of the housekeeping functions of the Senate and we have inserted 10 new administrative provisions at the end of title I. The most noteworthy of these provisions cuts the salaries of the mail carriers in the Senate Post Office appointed on or after October 1, 1976 to $8,109 for the 26 to 28 hours a week that they work instead of the current salary of $11,130. The higher rate will prevail for the mail carriers on board September 30, 1976, for as long as they maintain continuous service as mail carriers.

JOINT ITEMS

There is little to say about the joint items except that they now amount to $55,488,860 of which $46,904,000 is for the franked mail sent out by the Congress. The official estimate from the U.S. Postal Service is in the hearings and the amount is based on the Congress mailing 328 million pieces of mail during 1977 and they project this volume rising by 6 million pieces a year in the future.

OTA AND CBO

During the 4 years I have chaired the Legislative Branch Appropriations Subcommittee I have tried to be fully supportive to the congressional research and evaluation agencies that can greatly assist us in performing and evaluation duties. During my tenure, the Office of Technology Assessment and the Congressional Budget Office have been established. The OTA has certainly demonstrated its ability to the Committee on Appropriations in the area of transportation, and has now completed a total of 33 assessments for the committees of Congress and we recommend the continuation of the controlled growth of that Office. The CBO got off to a bad start last year so the Director trimmed her original request to basically a continuation level plus 15 additional positions, which both the House and the committee recommends to strengthen CBO's work in national security and international affairs, and budget, tax, and fiscal analysis.

CRS AND GAO

For our two other research and evaluation units we are recommending a total of 866 positions for the Congressional Research Service and 5,144 for the General Accounting Office. In the case of the CRS, as well as the rest of the Library of Congress, the House allowance was more harsh than in other areas of the bill, and we have restored the full request for in-depth analysis for committees. A large part of the GAO increase is for the additional duties assigned by the Energy Policy and Conservation Act and to maintain GAO's reviews of Federal programs. The recent report by our Defense Subcommittee certainly reflects the assistance of the GAO to this committee, and I know also of the good work of the GAO for Senators and other committees.

LIBRARY OF CONGRESS

As I indicated earlier, the House made 54 percent of their cuts in the Library of Congress. The new Librarian made a good appearance at our hearings and we recommend the restoration of 31 positions to strengthen the reference and processing departments and other areas of the Library. We have also provided $1,951,000 and 61 positions to carry out the proposed Copyright Revision Act that was authored by our distinguished chairman, Senator MCCLELLAN, and passed the Senate as S. 22. It now appears likely that S. 22 will become law before Congress adjourns and the committee has made provision for the Copyright Royalty Commission that is expected to be part of the final act. Finally, for the Library we have restored the full revised request for the books for the blind and physically handicapped.

ARCHITECT OF THE CAPITOL

For the Architect of the Capitol, the committee recommends a total of $124,479,500 including the full amounts requested for the Senate Office buildings and Senate Garage that were not considered by the House. We have also inserted $12 million in additional authorization and appropriation to complete the modifications to the Capitol powerplant, with the approval of the Committee on Public Works; in order that adequate heat and cooling capacity will be ready when the Dirksen extension and James Madison Memorial buildings are ready in 1979.

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

Mr. HOLLINGS. I yield.

Mr. CURTIS. Mr. President, I commend the distinguished chairman and his committee for their work on this appropriations bill. At a time when there are increasing pressures on budget and inflation and, at the same time, an increasing load of work for the Senate, it becomes a difficult task, I am sure.

They are to be commended for their attention and for the dedication they have given this.

There is an amendment that I offered a year ago relating to staff members. It was my intention to ask for an opportunity to appear before the distinguished chairman's committee to further elaborate on it. About 40 or 44 Senators supported it last year.

It has to do with what we have called a pooling arrangement for the hiring of a staff member.

The House of Representatives permits

two or more Members to employ the same staff member. The Senate is not permitted to do that. Here is how it could be used:

Perhaps two Senators from the same State have a problem they would like to have some specialized work done with. They would like to employ one technician and pay half of his salary by one office and half by the other. Under our existing rules and law in the Senate, that cannot be done. The only way we can do it is to have one Senator employ the technician for a month and then another Senator employ him for a month.

There are other situations. For instance, the minority of the Committee on Finance have used all their assignments, but we are desperately in need of a technician in the field of health. There are a great many qualified people in the field of taxation, but someone who is knowledgeable about all the programs and the laws relating to health, as well as the State laws involved, is a little bit difficult to find. Even if we found one, we have no place on the minority to place one.

If two or three Senators could go together and pay one staffer to serve them all, it would seem to me it would be a wise utilization of our resources. It would not add any dollar amounts to the total appropriation. At the same time, I think the Senators could work out a plan whereby they could render better service.

My question is this: Does the distinguished chairman have a position on such a proposal, and would he look with favor upon an amendment that would make such a practice possible?

Mr. HOLLINGS. Mr. President, in responding to our distinguished colleague from Nebraska, whom I admire, and who has served here for so many years, the way he presents this is so reasonable and so rational that one would almost jump to the chance to say, "You have persuaded me and I agree." He said, "Here is how it could be used." Our hard experience has been how it can be abused. That is why Wayne Hays is out of the Congress today, partially, because in addition to having them on the House post office payroll, he had them serving back in the district. This is the kind of thing we get into, identifying an individual and his particular pay and doing work for a particular Senator or a committee or at one particular post of duty.

I think having just suffered an abuse of it on the House side, which the Senator cited as an example, maybe we ought to be a little bit more cautious before we do that. I know when we get these very expensive consultants, and the Senators do not have adequate allotments to get the best, perhaps, as the Executive Department may be able to employ.

In any event, I would not look with favor upon this, and we did not include it. I know and appreciate the position of the distinguished Senator, but I would not favor the amendment because I think while he can cite that as an example of how it would work, unfortunately we have just gotten through a hiatus on Capitol Hill of how it does not work.

Mr. CURTIS. I thank the Senator for his candid observation.

I would like to suggest this: Certainly, we do not want to legislate any possibilities for loopholes, for staffs to be ballooned, or for the employment of people who do not perform service. If I elect not to offer the amendment at this time, and that is very likely to be my decision, I wonder if, by the time this bill comes around in another year, we could be granted a few minutes hearing before the committee to further explore the matter and to see if there is any possible way, after a hearing the next time, to restrict the language so that it could be used for full-time people right here in Washington under certain limitations that would give us the maximum protection against abuses.

On that basis, I would not offer the amendment now, if the committee would be willing to explore it between now and another year, on the condition, of course, that I would make the request to appear before the committee.

Mr. HOLLINGS. Certainly. The committee would want to hear from the Senator because he has a clear insight and view as to this particular need and its potential. We would be delighted to hear from the Senator. We will set it on our agenda during the year, and perhaps before the year is out on one of the supplementals. We will look at it and see if we can include the proper caveats to be sure there are no monkey shines and to be sure that we can get the job done. I know what the Senator intends.

Mr. CURTIS. I would not want to be a party to an amendment that would open up the possibility of abuses. We have enough of that now. I thank the distinguished chairman.

Mr. HOLLINGS. I thank the Senator.

400 NORTH CAPITOL STREET

The committee recommends language and appropriations totaling $39 million to enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire, maintain and make certain alterations of the property contained in lot 71 in square 630 in the District of Columbia—the 400 North Capitol Street Building—for Senate office building purposes. This building containing approximately 500,000 square feet of usable office space is immediately adjacent to the Capitol grounds and the committee believes that the acquisition of this building is the best and most economical solution to the Senate's critical office space and parking requirements.

As you will recall the Supplemental Appropriation Act, 1976 authorized the Sergeant at Arms and Doorkeeper to negotiate a lease for Senate use of this building. Negotiations with the advice and assistance of the Architect of the Capitol, General Accounting Office and General Services Administration were conducted earlier this year but it was not possible to come to an acceptable lease agreement. In fact, over the minimum 8-year period the Senate requires this additional space, the lowest level of rent negotiated with the owners, plus the taxes the Senate would have to pay, would amount to 98 percent of the $31,500,000 fair market value established by a GSA preliminary appraisal of the building with the tenant improvements included in the offer to sell the property to the Senate.

I reported these developments to the Committee on Public Works on March 18, 1976, a report that our ranking minority member, Senator SCHWEIKER, fully supports. The result was a request to the Commission on the Operation of the Senate for a study of the Senate's space needs. The Commission has indicated it would be difficult to accomplish this additional task in view of their already established plans to finish their work by the end of the year. No one knows better than this subcommittee of the need for planning on Capitol Hill since in 1973, and again in 1974, the Senate approved my recommendation for funds for a master plan. Each time the House turned us down, but finally last year we obtained an appropriation for a master plan. However, a contract was not entered into until April 19, 1976 and it will be next October before we see that master plan proposal.

Some 160,000 square feet of additional office space has been acquired since 1970 in square 724 immediately north of the Dirksen Building, but the Senate has experienced a 75-percent increase in employees over the same period so that these additional facilities are virtually all committed. This expansion has included the addition of two new committees—Budget and Intelligence—the additional personnel authorized for Senators (S. Res. 60) that in part, has required the assignment of 136 additional rooms above the prescribed allocation to 60 Senators; and the establishment of the Commission on the Operation of the Senate and the Committee on Committees; as well as major investigations of Watergate and intelligence activities. This expansion is not over as the Committee on Rules and Administration is now considering the "Sunset Bill" (S. 2925), that undoubtedly will require a major increase in staff to review the Federal programs as prescribed within that bill.

Even if we do not buy the building, the Sergeant at Arms requires 38,000 square feet in additional space to house the expanded computer center, including the second computer to be delivered early next year to provide the long awaited Senate comprehensive legislative information system. The Office of Technology Assessment, which is currently crammed into four different locations on Capitol Hill and must constantly rent expensive space in nearby hotels for meetings of their assessment panels, requires approximately 60,000 square feet. The most likely place to locate these two activities is in the 400 North Capitol Street building at an annual rental cost exceeding $800,000 a year, which undoubtedly will be followed by further leases to house additional Senate activities as the Senate continues to grow to meet the challenges of modern legislative age. We all know the result of following such a shortsighted path: One, the landlord will love us as we pay off his mortgage with our rent payments; second, a few years from now we will be beating our breast and bewailing the fact that we did not buy the building when we had the opportunity to do so.

The Architect of the Capitol has testified that $8 million in inflation costs could be saved if the Senate staff now housed in the Square 724 buildings could be transferred to the 400 North Capitol Street building, construction of the long needed underground garage for the Senate could be initiated some 3 to 4 years earlier than previously planned. The Senate moved into these inefficient and almost unsafe buildings because there was nothing else available at the time, but now we have what may well prove our only and last opportunity to house our employees in close proximity in proper and suitable space.

The 400 North Capitol Street building would carry a bonus of 948 additional parking spaces which would help terminate the silly situation we now have of 2,758 permits issued for the 595 unreserved spaces in the general parking lot with the result that the surrounding neighborhood is inundated with the cars of Senate staff. This situation will be further aggravated by the D.C. government plan to restrict curb parking on Capitol Hill to 2 hours during the day. In 1972 when the Committee on Appropriations approved the construction of the Dirksen extension, we deferred on the underground garage because of the 4,000 parking spaces planned for the Visitors Center. Last week the Interior Department announced that they were "buttoning up" that project without providing any additional parking facilities for tourists and visitors to Capitol Hill. This reinforces my conviction that we need to move promptly on the garage so that the visitors to our offices can eventually have some place to park their cars.

The completion of the Dirksen extension will not obviate the need for acquiring the 400 North Capitol Street building. As I have detailed above there is a demonstrated need for over half of that building right now, whatever portion the Senate does not need could always be used to satisfy the space needs of other compatible activities. The Architect of the Capitol has also indicated that after the extension is completed, no earlier than mid-1979 at best, there will be a continuing requirement for a reservoir of 150,000 square feet to allow the alterations contemplated for the Russell Office Building.

So that in sum, there is a justifiable Senate requirement for this building for at least 8 years. As I have indicated it would be approximately the same cost to purchase as it would be to lease the building for that period of time; the purchase would be at a price that, in the opinion of the Architect, is far less than it would cost to build such a structure today; and the Senate, instead of some outside landlord would be in the control of the building.

WEST CENTRAL FRONT

The committee has also inserted language and an appropriation of $25 million in the bill to authorize the Architect to restore the West Central Front of the Capitol without change in either location or architectural appearance. In my opinion, the present condition of the West Front is a shameful disgrace, particularly during our Bicentennial Year when the Capitol is being visited by unprecedented numbers of visitors. As the Members will recall, the Senate has twice voted for restoration and the last time in 1974 the House did not go along because construction would be underway during the Bicentennial observance. The major Bicentennial activities are now behind us and it is time we keep faith with our citizens who view their Capitol as the shrine of freedom and get work underway to maintain and preserve the last remaining wall of the original Capitol.

RESTRICTIONS OF COST-OF-LIVING INCREASES

As I indicated at the beginning of my remarks, the Committee on Appropriations considered H.R. 14238 before the House of Representatives took action on the bill. While this is indeed an unusual procedure, the committee has had to resort to this device several times in the consideration of the appropriation bills this year in order to maintain the rigid schedule prescribed by the Budget Reform and Control Act.

As I am sure that the Senators are fully aware, when the House approved this bill on September 1, several amendments were added on the floor of the House, one of which would prohibit the payment of the cost of living salary increases projected for October 1, 1976, to not only Representatives, but Senators, Federal judges and all other Federal personnel whose salaries are currently $37,800 or more.

This provision upon which no hearings were held and which impacts on all branches of the Government, was hidden in the appropriation for the compensation of Members of the House. The effect of this language is to prohibit the cost of living increases authorized by the Executive Salaries—cost of living—Adjustment Act that passed the Senate on July 28, 1975 by a vote of 58 to 29.

Mr. President, I am informed by the Office of Management and Budget that this amendment would amount to $28 million but that $23 million of that total derives from the cost of living increases for career civil servants in grades GS–15 through 18. It is ironic indeed that the proposed of this far-reaching provision, Mr. UDALL, on March 18, 1969 when the other body was embroiled in a similar battle remarked:

> The one question posed by this legislation is whether you want to penalize, to single out of the whole top echelon of the Federal establishment a few people in the House and Senate leadership and say that they will not get the comparable increases that other people have received.

Mr. President, I submit that we are still facing the same question 6 years later, namely, are we going to cut off our nose to spite our face? If the Members of the House cannot justify a cost of living raise of less than 5 percent for themselves that is one thing but this is one Senator who can testify to the cost of living as I am sure those long held down Federal executives and judges can too, as well as any American homemaker who knows you cannot feed and clothe a family at last year's level.

There is another facet of the cost of living increase that is noteworthy. There are several proposals before the President. The one advanced by his pay agents—the Director of the OMB and the Chairman of the Civil Service Commission—would average 4.83 percent, but on a sliding scale providing lesser amounts for the lower grades and higher increases for the upper grades, which means the upper grades will receive more than 4.83 percent, but the law we enacted last year allows us only the average of 4.83 percent. So the findings are that the top career civil servants are entitled to a greater increase, and while we, in my opinion, are no less worthy of the same increase, we are held to the average under the law.

In view of all this, I believe that this provision is inappropriate since it would reverse our action of last year and fall upon the whole Government without the benefit of any hearing or reports of any committee. It is faultily worded since it goes far beyond merely restricting the salary increases, but makes useless the Commission on the executive, legislative and judicial salaries. It is certainly misplaced as a rider to the appropriation for compensation of Members of the House, as it would impact upon all branches of the Federal Government.

Inasmuch as the committee consideration of this bill preceded the action of the House, the committee, therefore, had no opportunity to meet and consider this matter. As the manager of the bill, I ordered the entire provision stricken since the committee had no opportunity to take a position on this matter one way or the other.

Mr. President our report is on the Senator's desks and it is much longer than usual which I believe is an indication of the great number of substantive matters that were before our committee this year. I believe that the report fully explains the actions we have taken, and I would be pleased to answer any questions the colleagues may have regarding this bill.

Mr. President, in the haste to get our report published in the short time between the House action last Wednesday and the Senate's consideration today, a few small errors occurred in the report. In order to make the record correct I just want to note the following:

On page 18 we actually propose 10 instead of 8 new administrative provisions, and over on page 19 it should indicate that we are discussing further 5 instead of 3 of the provisions.

On page 20 we are referring to the "location of intelligence activities" instead of "relocation."

However, I would first like to yield to the distinguished ranking minority member of the Legislative Branch Subcommittee, Mr. SCHWEIKER, for whatever remarks he may have.

Mr. President, I want to thank my distinguished counterpart, the Senator from Pennsylvania, who worked very diligently and who has always given leadership to the matter of legislative appropriations, housekeeping in the Senate, and providing the tools for the legislative branch with which to work. He saw an inequality with respect to the pay of the messenger working within the Senate Post Office and those working on the elevators. As a result of his diligence, we have that reconciled in this particular bill.

I yield to him at this particular point for any statement he wishes to make.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I thank the distinguished chairman for yielding.

I just want to say that I commend him for his interest in this legislation, and also in the Capitol Building, the grounds, and Capitol problems. He has provided some sharp insight and some forward-looking thinking in terms of where we are going in the legislative appropriations bill.

Mr. President, I support the distinguished chairman of the Legislative Subcommittee of the Committee on Appropriations, Senator HOLLINGS. He has provided a detailed description of this bill which provides the fiscal year 1977 funds required for the functioning of both houses of Congress, the Library of Congress, Congressional Budget Office, General Accounting Office, Government Printing Office, Joint Committees, and other joint activities.

The total for this bill is $1,008,850,285 as stated by the chairman of the subcommittee, which is $75,801,882 more than was provided in last year's bill. This increase includes inflation, pay raises, and those growth items already mentioned by Senator HOLLINGS.

I would like to emphasize how the total amount of this bill is divided between the requirements for the Senate, the House of Representatives, and the other activities—which includes the GAO, Library, GPO, CBO, and other small activities.

This bill contains: $135,988,875 for the Senate; $241,773,550 for the House of Representatives; $631,087,860 for the other activities—which includes funds for the purchase of 400 North Capitol Street and the restoration of the west front of the Capitol.

It is apparent by this comparison that the Senate is not the biggest user of funds in this bill, even when the $35.5 million is added for the purchase of 400 North Capitol Street and $25.0 million is added for the restoration of the West Front of the Capitol.

Mr. President, the acquisition of the building at 400 North Capitol Street is supported by many of our colleagues who have experienced great difficulty in squeezing their staff into space meant for half as many people. We are all aware of our increasing staffing requirements as our constituencies grow and our mail increases proportionately. The acquisition of the building at 400 North Capitol Street will relieve the overcrowding condition in the Russell and Dirksen Buildings, as well as providing space for those offices now located in the various buildings across the street from the Dirksen Building. The new wing to the Dirksen Building, now named the Philip A. Hart Building, will not provide sufficient space to relieve the existing space requirements much less provide for growth in the future. Lastly, the purchase of the building at 400 North Capitol Street will permit earlier development of the underground garage in the area across the street from the Dirksen Building. Earlier development of the underground garage will reduce the inflation costs expected for the years after completion of the Hart extension to the Dirksen Building. I firmly believe that acquisition of this new building is a proper and prudent action for the Senate at this time.

Mr. President, I urge my colleagues' support for this bill as reported to the Senate.

Mr. HOLLINGS. I thank my distinguished colleague, Mr. President.

As I understand, the remaining committee amendments now to be considered before other amendments are offerred.

I am looking on page 17, beginning at line 21, relative to the proviso, and including the language for the first six lines on page 18, that no money shall be used for increases in salaries of the Members of the House, or no moneys appropriated for the salary of an individual or the position or office referred to.

I call up that amendment, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, beginning at the end of line 21, strike out the colon and the language following through line 6 on page 18.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HOLLINGS. I am sure the Senator from Alabama wants to be recognized.

Mr. ALLEN. Mr. President, I believe the distinguished Senator from Ohio (Mr. TAFT) has an amendment he wishes to offer with respect to this committee amendment. The parliamentary situation regarding this amendment is that the House passed an amendment in its bill which we are now considering, H.R. 14238, providing that none of the funds appropriated by this act or any other act could be used to increase the salaries of Members of the House and the Senate, the judiciary and the Cabinet, and certain other agency heads, as I understand it, beyond the salary that they would be receiving on September 30 of this year.

Mr. President, I deplored the fact that last year there was added to a bill having nothing whatsoever to do with the salaries of Members of Congress and of the executives and the judicial departments a provision tying the salaries of the Members of Congress and the executive and judicial officers—not including, however, the President—in with the salaries of Federal employees generally, who are given cost-of-living raises every year. It created a built-in conflict of interest. Every time the President offered an alternate plan to that proposed by the Pay Commission, Congress would be called on and is being called on now to decide between the Pay Commission's plan for a raise based on cost-of-living increases and an alternate plan, if any, by the President.

When the Hatch Act provision bill was before the Senate, I offered an amendment at that time requiring that in this situation where the President offers an alternate plan for a pay increase different from that of the Pay Commission, there be a separate vote as to Members of Congress, so that there would not be any conflict of interest in that area.

That amendment was passed overwhelmingly here in the Senate, and as a matter of fact was accepted by the distinguished chairman of the Post Office and Civil Service Committee, the Senator from Wyoming (Mr. MCGEE). As I say, it passed overwhelmingly here in the Senate. The amendment, however, was dropped in conference.

So now we have a situation where Members of Congress, the Federal judiciary, the Cabinet, and I think many agency heads, receive well-nigh guaranteed pay increases every year.

That is hardly a factor that increases and embellishes the image of Congress. That provision, tying Members of Congress in with Federal employees generally, came in the back door, and I noticed that over in the House of Representatives last year, while it passed rather substantially here in the Senate, it passed there by just a 1-vote margin.

I believe that was a very bad public relations move on the part of Congress, to provide that Congress shall receive a built-in, guaranteed raise each year. Congress has enough of a problem maintaining a good image before the public, and I do not believe that it adds a great deal to the luster of congressional service to be raising our salary every year.

The House of Representatives has initiated this amendment, which provides that out of funds appropriated by this legislative appropriation bill—and, in order to include other Federal officials, judges, and executive officers, it provides that they shall not receive it from any other act—any compensation greater than that which they shall receive on the 30th of this month, inasmuch as the salary raise will not go into effect until the 1st of October.

The House passed this amendment overwhelmingly, and I assume they are serious about it. I assume they want that provision; they want that freeze. This amendment could well be called a freeze on salaries in the upper levels of all three branches of Federal service.

I think at this time, when we are supposedly fighting inflation and trying to hold down the amount of wage settlements in contract disputes between labor and management, it is not the time for Congress to be stepping in and demanding an annual pay increase for its Members.

The amendment in the House of Representatives does not apply to the rank and file Federal employees, except that it does put the same ceiling on the so-called supergrades in the Federal service—those in the $38,000 and $39,000 a year range, whose salaries have a direct relationship with the salaries paid to Members of Congress.

I assume, as I say, that the House wants that amendment passed over here in the Senate. I do not suppose they expect the Senate to kill their amendment. I do not suppose they expect the conference to drop their amendment, and they will not drop the amendment if we can keep it in.

When the bill was called up, the distinguished floor manager of the bill, the

Senator from South Carolina (Mr. HOLLINGS) asked unanimous consent that all the Senate committee amendments—and there are a number of them, possibly a couple of dozen—be agreed to as the original text, and added on to the bill, displacing, wherever applicable, the action by the House of Representatives.

I objected to that request—or I said that I wanted two of the amendments to be held out for action separately; I did agree to adopting all of the Senate amendments except two. One of those is the Senate committee amendment which would knock out the salary freeze of the House of Representatives. In other words, the Senate committee amendment would allow the pay increase. The other had to do with spending some $35 million in purchasing a fourth office building for the Senate, which, of course, would have to be greatly remodeled at a cost of many millions of dollars more to be put in shape for a serviceable office building.

The distinguished Senator from Iowa (Mr. CULVER) has stated that he is going to oppose the Senate amendment providing for the appropriation of the money for the purchase of this fourth Senate office building; and I shall certainly support him in his opposition.

But the effect of the parliamentary situation now is that the House amendment providing for a salary freeze for top Federal officials in all three branches of Government is before the Senate.

The Senate amendment—the Senate committee amendment I will call it, because it is not a Senate amendment as yet—the Senate committee amendment knocks out the salary freeze contained in the House amendment and it would lift the ceiling or lift the freeze. So rather than allow the Senate committee amendment to be adopted and considered as original text subject to amendment, which would put the laboring oar on those of us who support the pay freeze, I objected to the adoption or agreeing to that amendment, and place the laboring oar on the Senate committee and the floor managers of the bill to strike out the freeze contained in the House amendment.

I hope that the Senate will reject the Senate committee amendment and will leave the freeze in and freeze for this year, with an opportunity to look at it next year, but freeze for a year from October 1 the salaries of the top Members of Congress, the Federal judiciary, and the Federal bureaucracy.

So I believe that we will probably have this come to a vote after the discussion starting at 2 o'clock on the antitrust amendments. But I wanted initially to explain my position in the matter, to the effect, that I do favor the pay freeze put in the bill by the House of Representatives, and I oppose the Senate committee amendment which would strike out the pay freeze.

Mr. President, I call for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

UP AMENDMENT NO. 423

Mr. TAFT. Mr. President, I send an amendment to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes unprinted amendment No. 423.

On page 18, line 2, strike out "section 225(f)" and insert "section 225(f)(A)".

On page 18, line 3, strike out "356" and insert "356(A)".

Mr. TAFT. Mr. President, the House adopted an amendment to the legislative appropriations bill which prohibits funds to be used for increases in salaries of Members of the House of Representatives and positions referred to in section 225(f) of the Federal Salary Act of 1967, as amended, at a rate which excludes the salary in effect on September 30, 1976.

There seems to be some question as to whether or not it would have an effect retroactively upon the cost-of-living increase that has already been put into effect. I am not sure which interpretation is the correct one. But perhaps we may have some comment on that later or some action taken to address itself to that situation.

The Senate bill also contains the same provision that the committee amendment would strike.

Section 225(f) of the Federal Salary Act refers to Members of the House and Senate, the Federal judiciary, and executive level positions I through V. Everyone down through level GS–16 will be included under this amendment. This amendment would effectively freeze those salaries—the employees would not be given a cost-of-living raise on October 1, or a salary increase. This would do further harm to our Government's efforts to attract or retain in Federal employment right, successful people.

For some time, I have been pushing legislation to take politics out of salary increases for Members of Congress.

Indeed, back when this Commission procedure was first adopted in the House of Representatives, I was a Member of the House and opposed it on the floor at that time, as representing, I thought, a failure of the House of Representatives to be willing to face up, to take the responsibility that I think the Constitution put on them to adopt their own salaries.

Mr. President, I have introduced legislation (S. 908), which would remove the jurisdiction of the Wage Commission over congressional salaries. The Wage Commission, every 4 years, recommends salary increases for top officials in the Government: The judicial, legislative, and executive branches. Congressional salaries would then be subject to change only by passage of a separate statute. However, my colleagues have not as yet agreed with me, and time and time again, legislation has passed which hides congressional salary increases in with those of other Federal employees. Or, conversely, legislation penalizes other Federal employees while piously depriving Members of a raise.

There are many Members who want raises and they should try to vote themselves one if they think that is correct. However, this raise should be enacted separately, not tied safely to the benefits of others.

In the bill before us today, members of the judiciary and the executive branch, many of whom are already turning elsewhere for more lucrative jobs, are again being penalized by Members of Congress. It is said that it is "demeaning" for Congress to make less money than other Federal officers. Yet the Members of Congress will not vote themselves a raise separately.

My amendment to the committee amendment would strike the provision of the bill that limits salaries of employees in section 225(f) of the Federal Salary Act of 1967. The bill would then apply only to Members of the House and of the Senate.

This Nation is looking at Congress with a critical eye at this time on our integrity, especially in this election year. In using or continuing to use a back-door approach to our salaries I think we are going a route that deprives us of giving the confidence of the American people.

I would be very much surprised if the public does not feel very strongly against an increase given in this backhanded way.

The Government has had a very difficult time in attracting, retaining, and motivating top officials in the executive, legislative, and judicial branches, however, and I recognize this. A pay raise for other Federal employees is fair and necessary to keep first-class people in Government service. However, I point out that there seems to be no lack of candidates for the jobs we hold in the House of Representatives and Senate. People who run for political office do so without regard to the salary offered in large respect. If Members want a change in their salary, they are entitled to vote for one, but they should not penalize other employees and the Government itself by their own actions.

I shall mention one other aspect of this matter about which I feel rather strongly, and I feel Congress ought to adopt a policy with regard to salary increases that many State legislatures have adopted and, indeed, my own State of Ohio has a constitutional amendment to this effect. It is embodied in a bill which I have introduced, S. 2386, that is pending before the Committee on Post Office and Civil Service at the present time but on which no hearings as far as I know have been scheduled.

The effect of this bill would be to provide that if Congress votes a salary increase for Members of the House of Representatives or Members of the Senate, an increase could not become effective until after the next general election. This would mean that at least the voters in the House of Representatives as to all Members and the voters in the Senate as to one-third of the Members would have a right to express their opinion on the action that might have been taken and in a sense to ratify the recommended increase that had been passed for Members of the House of Representatives and Members of the Senate.

Mr. President, I believe this amendment that I have offered, a perfecting amendment to the committee amendment, or to the House amendment, actually, as it is before us, to be stricken by the committee amendment, is a sound

proposal and one I think that merits the support of the Senate.

Mr. HRUSKA. Mr. President, I rise in support of the amendment just proposed by the Senator from Ohio.

Mr. President, we in the Congress have a heavy responsibility to maintain a high degree of quality and competence in our Federal judicial system. As a member of the Committee on the Judiciary I have been active in the confirmation hearings of hundreds of Federal judges, nearly 300 in number in the last 7 years alone.

I have had occasion to consider the history and record of judicial nominees and to question these highly qualified and distinguished lawyers about their backgrounds and abilities for sitting on the Federal bench. I have been impressed with the success and reputation that these men enjoy throughout the legal community and in their individual States and even nationwide. They generally come from the Federal bench, leaving successful and lucrative law practices. Most of them take significant income reductions when they accept appointment to the bench. It is well known that lawyers of the skill and experience we want on the Federal bench can command income far in excess of the current judicial salaries.

If, however, we keep the salaries at their present levels, we can anticipate a reduction in the quality of our judges. We will get what we will be willing to pay for.

Mr. President, the Federal judiciary has an important role in our Federal Government, and that is especially true because of the growth in recent years of new Federal agencies issuing thousands of regulations of which many require judicial review. Also, the many new laws provide for increased access to the court system, and an increase in the caseload.

It is only realistic to recognize that a lawyer's decision as to whether to remain or to serve on the Federal bench may ultimately turn on the consideration of pay. As we know, with the exception of the 5-percent increase in the past year, there have not been any increases since 1969. At the same time, the salaries of State chief judges have increased by approximately 45 percent during that same period. Attorneys' salaries, as surveyed by the U.S. Department of Labor, have risen 53 percent since 1969.

In addition, the report of the Committee on Post Office and Civil Service with respect to H.R. 2559 illustrated several examples of hardships created by the salary freeze. Since November of 1973, eight judges with lifetime tenure have resigned, to return to private life, and some specifically stated that the reason for their decision was the freeze on salaries.

Mr. President, Congress, by its action, created a most difficult administrative situation by freezing the higher salaries at the 1969 level in the executive branch while allowing the lower group salaries to keep pace with the increased cost of living. That cost of living increased for the senior grades as well.

As with the judicial branch, we face and risk in the executive branch the loss of talented, dedicated men and women whose responsibilities to their families must be weighed when they consider private employment with more attractive salaries.

It is my hope, Mr. President, that the Senate will approve, by a substantial margin, the amendment of the Senator from Ohio. In that way, we will be serving the cause of good government and one that would be consistent with our desire to keep the good people we have while continuing to recruit good people as we go along.

If it is the judgment of Congress that they do not want to face the responsibility of increasing their own salaries, that is fine. But we should confine our debate to congressional salaries and not seek to enlarge the company that is suffering misery. We should face the issue of congressional salary increases, our own responsibilities and apply it to ourselves, but for the above mentioned reasons we should not do so in the case of the executive branch and the judicial branch.

I yield the floor.

Mr. HOLLINGS. Mr. President, as I understand the Taft amendment, it would do part of what I am attempting to do. I do not want it to apply to the legislative branch, the executive branch, or the judicial branch—none of the three. As I understand the Taft amendment, it would strike out the matter pertaining to the judicial and executive salaries.

Mr. TAFT. The Senator is correct.

Mr. HOLLINGS. I am not trying to preempt anything, I say to the Senator from Alabama. I am willing to accept that part of the amendment, and then we can debate congressional pay, which I think is the real issue. Is that right? We can have a voice vote on that, if the Senator is willing.

Mr. ALLEN. It is all right with me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Is the question now on the committee amendment as to strike the House language perfected by the Taft amendment, now the pending question? I would like to debate that a little and probably get the yeas and nays on it.

The PRESIDING OFFICER. The committee amendment has not been affected. The House language has been affected.

Mr. ALLEN. The motion to strike the committee amendment would take with it this amendment as well.

Mr. HOLLINGS. So it would have the same effect. That is right.

Mr. President, I ask for the yeas and nays.

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Mr. President, I should like to raise a question about the language that begins on line 21, the first sentence of this amendment. That language, I think, should be plain that it applies to the increases to be recommended in this fiscal year, pursuant to that section.

I, too, am a little worried about what is going to happen to these perfecting amendments; and I call to the attention of the Senator from Alabama and the Senator from South Carolina the fact that this applies only to the House of Representatives. It is in the House of Representatives' title; it is not in the Senate's title.

Mr. HOLLINGS. That is right, it is on the House title and that is why I think it is inappropriate.

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

Mr. STEVENS. I yield.

Mr. TAFT. If the Senator will look at page 18 of the bill, there is additional language which applies to all those covered in 225(f), which covers the House and the Senate. In subsection (a) it covers the judiciary and the executive positions, and the other subsections of that section of the bill.

Mr. STEVENS. I am going to suggest that if it is to apply to both the House and the Senate, without any conflict, I question it. It should be in an amendment that goes at the end of the bill. I understood that the Senator from Ohio had such an amendment.

My worry about the first amendment, which is called the Shipley amendment, is that it appears to be retroactive. I would like to offer an amendment, but I do not want to offer an amendment if the matter can be stricken, anyway.

Is it the Senator's intention to maintain the committee's position to strike the whole thing?

Mr. HOLLINGS. That is right. I would still move to strike the whole thing. The Senator from Ohio understands that. He has a backup amendment for the last of the bill, in which he would reinsert what we have just agreed to; namely, that it would apply to the House and the Senate and not to judicial salaries.

I have to agree with Mr. UDALL, on the House side. The way the language reads which concerns the Senator and me, it would be retroactive. It says that no increases could be paid from this particular measure under that section, and that would apply not only to the increase for this year but also to the increase authorized last year.

Mr. STEVENS. I wonder whether the Senator from Alabama would agree to the committee procedure to strike this amendment, with the understanding that the amendment of the Senator from Ohio would go at the end of the bill and would apply to both the House and the Senate.

Mr. ALLEN. Does the Senator from Alaska state that his amendment would keep the provision from being retroactive as to the pay increase of last year but that it would not affect the freeze as to the upcoming raise, if any, on October 1? Is that correct?

Mr. STEVENS. That is correct—for Members of Congress.

The Senator from Ohio's version—I think the Senator from Alabama has seen it—has the same effect as the action we have just taken in adopting the first amendment of the Senator from Ohio.

Mr. ALLEN. Let me make this suggestion: Actually, the amendment of the Senator from Ohio was not necessary at

this point, because I believe the motion of the committee is to strike the whole thing. If the committee amendment succeeds, the amendment of the Senator from Alaska and the amendment of the Senator from Ohio would be moot. If the motion fails, then there would be plenty of time for the Senator from Alaska to come in with his amendment.

Mr. STEVENS. I say to the Senator from Alabama—may we have 1 minute, Mr. President? I ask unanimous consent that it be permitted.

The PRESIDING OFFICER. Is there objection? Is that a unanimous-consent request?

Mr. STEVENS. That is a unanimous-consent request.

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

Mr. STEVENS. The position of the Senator from Alaska is that where this language comes that was placed in the bill by the House, it will not apply to the Senate. I believe it ought to be applied to the Senate. I urge consent that we strike this now and deal with the section that applies to both the House and the Senate at the end of the bill.

Mr. ALLEN. When the time for the debate has come. I would rather consider the question there.

Mr. TAFT. Will the Senator yield for a moment?

Mr. ALLEN. Yes.

Mr. TAFT. I point out that I think there is a serious question whether the interpretation given here actually exists in the House language. Over on page 18 of the bill, lines 5 and 6, it does say, "salary rate in effect on September 30, 1976." I do not really think it is retroactive in any respect. I point out further that section 225(f) does cover House Members. The same limitation does not exist in the first sentence of the amendment.

Mr. ALLEN. I do not believe it does.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the hour of 2 o'clock having arrived, plus the 1-minute extension, the Senate will now resume the consideration of H.R. 8532, which the clerk will state.

The legislative clerk read as follows:

AUGUST 24, 1976.

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 8532) entitled "An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Brooks, Mr. Flowers, Mr. Sarbanes, Mr. Seiberling, Ms. Jordan, Mr. Mezvinsky, Mr. Mazzoli, Mr. Hughes, Mr. Hutchinson, Mr. McClory, Mr. Railsback, and Mr. Cohen be the managers of the conference on the part of the House.

The Senate resumed the consideration of the message from the House of Representatives on H.R. 8532.

AMENDMENT NO. 2232

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized to call up an amendment No. 2232. Time for debate on this measure is limited to 2 hours, to be equally divided and controlled by the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Nebraska (Mr. HRUSKA). Who yields time?

Mr. ALLEN. Mr. President, in accordance with the previous order, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ALLEN. I ask unanimous consent that its reading at length be dispensed with.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

I move that the pending motion to concur, with an amendment, in the House amendment to the Senate amendment to the text of the bill (H.R. 8532) be amended by substituting in lieu of the matter therein proposed to be inserted in lieu of the House amendment to the Senate amendment to the text of this bill (H.R. 8532) the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1977".

TITLE I—DECLARATION OF POLICY

SEC. 101. (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, he may, prior to the institution of a civil or criminal proceeding thereon, 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 examinations, 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 position 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 consisent 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 required 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 after having been supenaed 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 pursuat 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" in 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".

(w) Section 5 is amended by adding at the end thereof the following:

"(f) Any material or information provided pursuant to any demand under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

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 criminal proceeding instituted by the United States in which a defendant enters a plea of guilty or nolo contendere and arising out of any grand jury proceeding, inspect and copy any documentary material produced by such defendant in and the transcript of the testimony of such defendant or any other officer, director, employee, or agent of such defendant in 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. (a) The provisions of this title, except as provided in subsection (b), 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.

(b) The provisions of section 3(k)(5) of the Antitrust Civil Process Act, as added by section 201(1) of this Act, shall become effective on October 1, 1976, or upon enactment, whichever date is later.

TITLE III—MISCELLANEOUS AMENDMENTS

AFFECTING COMMERCE

SEC. 301. 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".

FOREIGN ACTIONS

SEC. 302. It is the sense of the Congress that, in the interest of promoting an international rule of law and eliminating safe havens for wrongdoers, that 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 where a party refuses declines, or fails to furnish discovery, evidence, or testimony on the ground that a foreign statute, order, decree, or other law prohibits compliance, the court should consider utilizing all sanctions available under rule 37(b) of the Federal Rules of Civil Procedure in order to reach a fair and equitable determination of the action or proceeding. In determining proper sanctions under rule 37, the court should take account of good-faith efforts by the party to comply with the request for discovery, evidence, or testimony, the reasonableness of the foreign statute, order, decree, or other law pro-

hibiting such compliance, and the pattern of enforcement thereof.

ATTORNEYS' FEES

SEC. 303. Section 16 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. 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. 304. 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. 305. (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, 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 302 applicable thereto.

(c) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

SHORT TITLES

SEC. 306. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 9. This Act may be cited as the 'Sherman Act'.".

(b) 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 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 27. This Act may be cited as the 'Clayton Act'.".

(c) The Act entitled "An Act to promote export trade, and for other purposes", approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the 'Webb-Pomerene Act'.".

(d) The Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 78. Sections 73 and 74 of this Act may be cited as the 'Wilson Tariff Act'.".

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 engaged in any activity deemed a per se offense, or arising out of the fraudulent procurement or enforcement of a patent, in violation of 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 any 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 under section 4(C)(a)(1) in which there has been a determination that a defendant agreed to fix prices or in which it has been determined that a defendant engaged in the procurement by fraud (other than technical fraud) of a patent or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(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. In the event that any monetary relief awarded to a State is not completely distributed the court may, in its discretion, after the lapse of a reasonable period of time, direct that the undistributed portion be (A) utilized to reduce future prices of the commodity involved in the violation; or (B) deemed a civil penalty and deposited with the State as general revenues.

"(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 cited in bad faith, vexatiously, wantonly, or for oppressive reasons.

"SEC. 4D. Whenever the Attorney General of the United States has brought on 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 damage 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, except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section.

"(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 restrains 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. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Act of October 15, 1915 (38 Stat. 730; 15 U.S.C. 12), as amended by section 401 of the Hart-Scott Antitrust Improvements Act of 1976. The authority granted by this subsection (h) shall be liberally construed and applied.".

SEC. 406. This title shall apply to any cause of action accruing subsequent to the date of enactment of this title.

SEC. 407. This title shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State.

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

"(2) stock or assets of a nonmanufacturing 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 regulation 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, mortgages, 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. 1842), 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 Owner's 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 issues, 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 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; and

"(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 18 U.S.C. 3161, and shall be in every way expedited.

"(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 provision of this section, such persons 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) Nothing in this section shall be construed as a limitation on the equity power of the courts of the United States, or as limiting the power of the courts of the United States as provided under section 1651 of title 28, United States Code.".

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 section 7A (b)(3) and (b)(4) of the Clayton Act, as amended by this Act.

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

SEC. 601. There is hereby established an Antitrust Review and Revision Commission (hereinafter in this title referred to as the "Commission"). In pursuant of title I (Declaration of Policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and sevice;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

SEC. 602. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) POLITICAL AFFILIATION.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 605. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 606. (a)(1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

FINAL REPORT

SEC. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATION

SEC. 609. There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

SEC. 610. Notwithstanding any other provision of law, this Act shall be effective not sooner than January 1, 1977.

Amend the title so as to read: "An Act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.".

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I ask unanimous consent that I be allowed to call up a conference report. I yield myself 5 minutes out of my time for that purpose.

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

CONDEMNATION OF CERTAIN PUEBLO INDIAN LANDS IN NEW MEXICO—CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, I submit a report of the committee of conference on S. 217, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 217) to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of August 26, 1976, beginning at page 27874.)

Mr. ABOUREZK. Mr. President, this has been cleared by the Budget Committee and by the minority side. This bill, S. 217, repeals the act of May 10, 1926, which subjected the lands of New Mexico Pueblo Indians to condemnation under State law. The House amendment to S. 217 consisted of adding a new section 3 to the end of the Senate bill. The House version amends a 1928 statute by making certain general statutes requiring tribal consent for rights-of-way across Indian lands applicable to the lands of the Pueblo Indians of New Mexico.

However, the House amendment included a proviso which provided that if agreement to a right-of-way cannot be reached within 60 days, the Secretary of the Interior may grant the right-of-way for appropriate compensation, notwithstanding the absence of Pueblo consent.

The committee of conference accepted the House amendment to the new section 3, but agreed to strike out the proviso. The language substituted in lieu thereof authorizes the Secretary to grant right-of-way renewals across Pueblo lands without Pueblo consent, but only in limited cases and under limited conditions.

Such conditions are where the original right-of-way was obtained through litigation initiated under the 1926 act, or by compromise and settlement in such litigation prior to January 1, 1975. The Secretary is limited to granting only one such renewal for a period not to exceed 10 years and only if the parties fail to negotiate a renewal within 90 days after the request for renewal by the owner of the right-of-way. Additionally, the Secretary must require payment of fair market value as compensation to the Pueblo for such grant. Finally, the conference agreement provides that no renewal of a right-of-way may be authorized without Pueblo consent if such right-of-way is declared invalid because of the invalidity of the 1926 act upon the date of the original acquisition of such right-of-way.

Mr. President, I am satisfied that the agreement reached by the conference committee is a reasonable compromise, and I move the adoption of the conference report.

Mr. DOMENICI. Mr. President, this conference report represents the culmination of well over 3 years of my involvement with legislation to deal with a pressing problem in my home State of New Mexico. Since I entered the Senate in January 1973, this has been a legislative item never far from my attention. Senator MONTOYA and I introduced the initial piece of legislation on July 15, 1974 as S. 3763 of the 93d Congress. We reintroduced S. 217 in the current Congress on January 17, 1975.

The primary concern which prompted me to support repeal of the act of May 10, 1926 (44 Stat. 498), was my conviction that the act, by subjecting Pueblo Indian land to State condemnation proceedings, made an unjustified distinction between Indian Pueblo land in New Mexico and all other Indian land in the entire United States.

I want to reiterate, Mr. President, that never at any point did information available to me indicate abuses of the power of State condemnation granted by the 1926 act. In fact, over the 50-year period in which such proceedings have been allowed under Federal law, only 12 condemnation orders have been issued through judicial proceedings. This compares with 184 rights-of-ways and other easements reached through mutual agreement of the parties.

In spite of this record, many legitimate interests in New Mexico have expressed extreme concern that without ultimately being able to resort to the condemnation process, rights-of-way and easements would have been much more difficult and expensive to obtain. During the almost 4 years I have been dealing with this bill and the issues involved, I have come to recognize that a potential exists for the abuse of the consent power of the Indian Pueblo. Even though the consent power amounts essentially to a power of veto over any use of Pueblo lands regardless of validity of the public purpose or propriety of proposed compensation. I believe it will be used judiciously.

The conference committee also recognized this as a potential problem, particularly as to existing rights-of-way and easements on Pueblo lands. The House and Senate versions differed on the treatment of such existing easements at their expiration. The conference attempted to resolve these differences by allowing a one-time, 10-year extension of judicially acquired rights-of-way without Indian consent by intervention of the Secretary of the Interior. As previously indicated, this provision could possibly apply to only 12 existing rights-of-way, but since the majority of those 12 are in perpetuity, the provision will have very little effect. The result, of course, is that virtually all of the existing rights-of-way which have an expiration date cannot be renewed without consent of the affected Pueblo.

Mr. President, this circumstance will give the Pueblo leaders and the officials seeking new rights of way and right of way extensions opportunities to prove what both have claimed throughout the development of this legislation. The officials who have occasion to seek rights of way and extensions for public purposes point to the fairness of previous voluntary agreements and pledge to continue to offer fair and equitable compensation. Pueblo leaders, who will now have the power of consent over such requests, will have the opportunity to use that power wisely and fairly, protecting all the interests of Indian people without unduly restricting the realization of valid public purposes, some for the direct benefit of the Pueblo involved.

The House, in House Report 94–800 related to S. 217, considered the possibility that the power of consent might be misused by Pueblo leaders, but concluded that if it should be, there is a remedy since Congress retains the power to enact legislation granting rights of way. In that regard, the House report explicitly specifies that—

Should public necessity require rights of way across the land of the Pueblo notwithstanding the lack of consent of the Pueblos, the Congress retains its authority to grant rights of way.

Mr. President, I will conclude my remarks by again expressing my pleasure that we have passed a bill which will allow our Pueblo Indians to be treated the same as other Indians across the country with respect to the control of their lands. I feel this is a worthy objective and a notable accomplishment and I am confident the power of consent will be used wisely and fairly. I will be following subsequent developments related to rights-of-way negotiations, particularly as to extension of existing rights of way, and I stand ready to resort to the ultimate power of the Congress to intervene to grant rights of way when public necessity demands such action, if the power of consent should be abused. I frankly do not expect that ever to be the case, since I have always believed the many Indian leaders who have told me they only want the opportunity to control their lands as other Indians over this entire Nation have always had the right to do. I am confident that the Pueblo leaders will exercise this power responsibly and prudently as they have exercised the other prerogatives of Pueblo leadership.

I wish to commend and thank all those Members of Congress, their personal staffs and the staffs of involved committees for all their hard work and diligent efforts to enact this legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

The PRESIDING OFFICER. Is there a second to the motion of the Senator from South Dakota to reconsider the vote on the conference report?

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the message from the House of Representatives announcing its action on the amendment of the Senate 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.

The PRESIDING OFFICER (Mr. CASE). Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 10 minutes.

Tomorrow, the Senate will have before it two proposals on the subject of the Antitrust Improvement Act. The first, which is known as the Allen amendment, is the one that was approved by this body on June 10. The first vote will occur, then, at 3 o'clock tomorrow. If it is rejected, the second vote will be had on what was originally called a mystery amendment, for a number of reasons. That mystery amendment consists of an amendment in the form of a motion made by Senator BYRD. The origin and the content of the mystery amendment was also quite unknown and unexplained on the day that it first surfaced.

Mr. President, it is not the product of a conference committee; it is not the product of the conferees; it is the product of a few individual Senators and individual Congressmen getting together and deciding that this is what the antitrust bill ought to be. So it is that second venture that will be voted upon if the Allen amendment is not approved.

Mr. President, I intend to vote in favor of the Allen amendment. I intend to oppose the adoption of the substitute proposed by Senator BYRD.

Among the reasons that I favor the Allen amendment is that by approving it, the Senate will affirm its June 10 action.

It is a product of composite judgment of our body as reached in orderly, convention fashion.

Its approval will result in a conference with the other body, with the wholesome result of an end product which will truly represent the will of Congress instead of the imposition of an arbitrarily contrived measure rejecting the studied and balanced judgment of both Houses on a number of very important points.

Mr. President, I will oppose proposition No. 2, the so-called mystery amendment. The mystery is now somewhat dispelled, and the undesirable features are clearly indicated when all of the new elements are considered.

The second proposition, a substitute moved by the Senator from West Virginia, is a betrayal and a rejection of the deliberate judgment and registered wishes of both bodies on one of the most crucial points contained in the title on parens patriae, namely, the rejection of the contingent fees.

This proposition No. 2 is the product of a small, self-designated group of members without the benefit of balanced viewpoints and orientation, thus lacking the elements necessary for serious consideration by our body.

It is a repudiation of what the bill's advocates refer to as the "compromise" of June 10, 1976.

Both House and Senate in previously approved bills on this subject provided against contingency fee basis for attorneys.

Both versions in section 4C empowered any State attorney general to bring suit and provided that the State shall be entitled to threefold the damage sustained "and the . . . cost of suit including a reasonable attorney's fee. . . ."

Both versions also define "State attorney general" to exclude any person employed or retained on a contingency basis. This the House did in section 4G as follows:

> 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 this Act; except that such term does not include any person employed or retained on a contingency fee basis.

The Senate language in section 4F defined "State attorney general" and provided

> . . . except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded in this section.

The express language amounts to this: no contingency fees.

Now, the amendment which is moved by the Senator from West Virginia (Mr. ROBERT C. BYRD) overturns this jointly approved provision.

It does so first by adding language to section 4C. A new section 4C(d) which provides that the amount of the plaintiffs' attorneys' fees shall be determined by the Court.

It then adds to the language in section 4G—which defines "State attorney general"—is found particularly in (B).

To place this new language contained in (B) in context, I quote pertinent portions of 4G:

> (1) defines State attorney general as already indicated. That definition concludes with the words
>
> . . . except that such term does not include any person employer or retained on
>
> (A) a contingency fee based on a percentage of the monetary relief awarded under this Section; or
>
> (B) any other contingency fee basis unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the Court under Section 4C(d)(1).

Mr. President, up to and including the subparagraph designated (A) is in accord with the previous actions and decisions by the House and the Senate. The language in subsection (B) is new.

When it is conversely stated, this subsection means that any "other contingency fee except that mentioned in subsection (A) is permitted if the Court approves it pursuant to Section 4C(d)(1).

The select group in contriving the "mystery" amendment added another new section, section 302, under the disarming title, "Conforming Amendments." This new section enfolds sections of H.R. 8532 into the Clayton Act at 15 U.S.C. 26. The new language is added to section 16 of the Clayton Act and is as follows:

> In any action under this Section in which the plaintiff substantially prevails, the Court shall award the cost of suit including a reasonable attorney's fee to such plaintiff.

The circle is complete.

Standing alone and unimpeded by qualifying language, the Court is empowered to determine "reasonable attorney's fees."

It is in this way the will of both bodies of Congress is frustrated and overcome by the proposal of the small, self-appointed group which sought to arrogate unto itself the position and office of a regularly appointed conference committee.

The subject of the dangers, the potential abuses, as well as the actual abuses, respecting contingency fees for attorneys in parens patriae class actions has been discussed at length. I do not intend to get into that here because the record is very clear on it.

Mr. President, I ask unanimous consent that there be placed in the RECORD a brief table showing the experience in the Tetracycline cases on the amount of money that was earmarked for consumers, the amount of money actually paid out, and the attorneys' fees that were paid out, together with an explantory statement preceding it.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, there are other changes.

I yield myself 3 more minutes.

The PRESIDING OFFICER. No, I do not think the Senator had exhausted his time. I was just putting his unanimous-consent request to the body.

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

ATTORNEY FEES AND CONSUMER PAYOUT IN TETRACYCLINE CASES

Defendants paid in settlement $200 million, of which $30 million was set aside for consumers. Only $8 million was actually paid out to consumer claimants. This is about 30 percent.

But the attorney fees allowed were astounding. Here are some examples:

	Alabama	*Florida*	*Illinois*
Earmarked for consumers	$661,500	$948,000	$1,319,000
Actually paid out	74,000	183,000	135,000
Attorney fees	309,500	479,000	780,000

Mr. HRUSKA. There are two other changes that facilitate large recoveries in attorney's fees, Mr. President, that are found in this new proposition No. 2, and which are not found in the bill passed by either the Senate or the House, and that is under a newly added section for 4F(b), which was not part of the bill. It passed on June 10, and authorizes State officials and retained private attorneys to request "any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action" available to a State, whenever the Attorney General of the United

States has brought an antitrust action which may affect the States.

For example, in large antitrust cases charging nationwide activities by a national corporation, all affected States would be notified by the Department of Justice.

Under this new provision, State officials and retained private attorneys would be entitled to demand truckloads of investigative materials, which conceivably might be relevant not only to an actual but even to a "potential cause of action."

For example, in the typical big antitrust case, such as the IBM monopoly case, literally millions of documents may be relevant or material to an antitrust cause of action. The Justice Department could thus become a massive document distribution center, for the benefit of State officials and of the enterprising private antitrust attorneys interested in developing a parens patriae lawsuit out of the Justice Department's investigative files.

Second, I call the Senate's attention to the changes which undercut the safeguards passed by the Senate on June 10 against large retroactive liabilities.

Section 406 of the Senate bill expressly provided that the parens patriae title only "shall apply to any cause of action accruing subsequent to the date of enactment of this title."

This safeguard against retroactivity has now been changed by section 304 of the Hart-Scott-Rodino substitute. Under section 304 of the substitute, "the amendments to the Clayton Act made by section 301 of this act shall not apply to any injury sustained prior to the date of enactment of this act."

This unexplained change could permit money claims for business activities which took place long prior to the date of enactment, so long as a claim can be made that there is some monetary injury at a future date.

Enterprising private attorneys are thus invited to bring large parens patriae actions and to assert huge monetary liabilities for alleged antitrust violations based on activities which happened years ago, even though the Senate on June 10 expressly voted to prevent such retroactivity.

It will be up to the courts to interpret or nullify this provision so as to prevent retrospective quasi-penal forfeitures under traditional constitutional limitations and due process of law.

Another significant change incorporated in the Senate proposal over the objection of the Houses conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

It is my understanding that the Senator from Idaho (Mr. McCLURE) has some questions.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. HRUSKA. I yield to him for the purpose of any questions he may have.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HRUSKA. On his time.

What was the question, Mr. President?

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HRUSKA. Well, I ask for 5 additional minutes.

Mr. McCLURE. I ask the Senator from Nebraska this question: It is my understanding that throughout the hearings and debates in both Houses, great concern has been expressed that the parens patriae provisions would permit unjust enrichment by private lawyers through blackmail litigation, at the expense of the members of the public who are the intended beneficiaries of such actions. The parens patriae title has been called a potential "ripoff for consumers, shakedown for corporations, and the great bicentennial money machine for antitrust entrepreneurs."

Will the Senator explain how the bills which are now approaching a final vote by both Houses undertake to prevent such abuses for the enrichment of private attorneys?

Mr. HRUSKA. Well, the answer to that is, that the long and the short of it is that the bill passed by House on March 18 contained strong safeguards against contingency fees as a means for unjust enrichment of private lawyers through blackmail litigation and blackmail settlements.

The bill passed by the Senate on June 10 kept the House safeguards against contingency fees, but opened a loophole for their easy evasion.

Most important, however, is that Senator BYRD's substitute bill, the so-called Hart-Scott-Rodino Antitrust Improvements Act of 1976, completely destroys both the House and the Senate safeguards against contingency fees by private lawyers. By doing so, it opens up great opportunities for the enrichment of enterprising private attorneys filing large parens patriae actions, and cloaking themselves in the toga of the sovereign states.

Mr. ABOUREZK. Mr. President, will the Senator yield briefly on that point?

Mr. HRUSKA. On his time, yes.

Mr. ABOUREZK. On my time. I want to correct a misstatement made by the Senator from Nebraska. On page 35——

Mr. HRUSKA. I yield for a question. If the Senator wants to discuss the matter I think there is plenty of time remaining under the unanimous-consent agreement.

Mr. ABOUREZK. I think it would be a good point to talk about contingency fees because there has been——

Mr. HRUSKA. I will yield to the Senator for a brief question. If he wants time he can get it otherwise.

Mr. ABOUREZK. I do not want to ask a question, but I want to correct a misstatement. I will do it on my time.

Mr. HRUSKA. Mr. President, I do not yield any further because time is limited, and we have a lot of ground to cover.

Mr. McCLURE. Can the Senator from Nebraska, perhaps, explain to me how it is that since this matter was fully discussed in both the House and the Senate, and this kind of loophole, this kind of provision, was removed or settled by action of both the House and the Senate, that we now seem to be faced with a vote on legislation which wipes out the safeguards approved by the House and by the Senate to prevent the unjust enrichment of private lawyers at the expense of the public?

Mr. HRUSKA. Well, as the Senator knows, under traditional legislative procedures, the differences between the bills passed by the Senate and by the House would be accommodated by conferees of both Houses. We would have reasoned explanation by the conferees of the recommended compromise provisions, and how those provisions carried out the will of both Houses.

As the Senator knows, no conference waws ever held on this far-reaching and complicated legislation.

The Byrd substitute, which is now presented as a so-called compromise, seems to be the result of informal staff meetings. I was amazed to learn that these provisions were never approved by the House conferees, let alone by Senators on both sides familiar with these critical issues.

Indeed, CONGRESSIONAL RECORD statements of September 2 by two representative members of the House Judiciary Committee and House conferees, Representative McCLORY—28936—and Representative RAILSBACK—29032–29033—express their indignation at the "misunderstanding" by which Senator BYRD's substitute is being considered as a "compromise" agreement.

I ask unanimous consent, Mr. President, that the remarks of those two gentlemen be printed in the RECORD at this point.

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

STATEMENT BY REPRESENTATIVE RAILSBACK

Mr. RAILSBACK. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the CONGRESSIONAL RECORD, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunder-

standing, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

STATEMENT BY REPRESENTATIVE MCCLORY

OMNIBUS ANTITRUST BILL

(Mr. MCCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MCCLORY. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

Mr. McCLURE. I am familiar with the safeguards contained in the Senate bill, in the previous action by the Senate.

Can the Senator from Nebraska explain to me just what safeguards were contained in the House bill, and what has happened to those safeguards?

Mr. HRUSKA. In the bill voted by the House on March 18, the House determined upon an outright and complete prohibition on parens patriae actions brought by private lawyers on a contingency fee basis. It was a flat, unqualified prohibition.

Specifically, section 4G(1) of the House bill provided that the term State attorney general "does not include any person employed or retained on a contingency fee basis."

This provision carried out the determinations of the Committee on the Judiciary of the House, contained in its committee report filed on September 22, 1975.

The PRESIDING OFFICER (Mr. CASE). The Senator's 5 minutes have expired.

Mr. HRUSKA. One more minute.

By virtue of the safeguards enacted by the House, therefore, arrangements by State officials with private lawyers would be based on definite and noncontingent conditions of compensation, paid by the State from its own resources, such as set hourly rates or specific dollar amounts for handling the case. As a result, the award of any monetary recovery, by a money judgment or by a compromise settlement, would go in full to the State residents for whom the action was brought, rather than going into the pockets of the lawyers.

Mr. McCLURE. Were similar safeguards contained in the action taken by the Senate?

Mr. HRUSKA. As reported by the Senate Judiciary Committee, the parens patriae title contained no express prohibition against contingency fee or similar fee arrangements. The sole protection against private lawyer self-enrichment was contained in the general provision requiring court determination and approval of legal fees that would be paid and of compromise of settlements.

However, in light of our debates on this floor and in which the Senator from Idaho took a spirited part, which pointed up the great danger of financial abuse enriching private lawyers, the Senate bill as passed on June 10 added a restriction in section 4F(1), which prohibited the filing of parens patriae actions by "any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section."

Under this watered-down "percentage" contingency ban, smart private lawyers could draft their retainers so as to avoid the word "percentage" of the award, or similar wording, and still collect large contingent fees.

To that extent, the prohibition contained in the House bill was very diluted—in fact, virtually circumvented.

Mr. McCLURE. Will the Senator give me an example of what he means, how this would actually work in practice?

Mr. HRUSKA. For example, a retainer agreement could provide for the private lawyers to be paid a fixed hourly or flat dollar fee, plus an additional sum to be paid out of the proceeds of a settlement, as approved by the court.

Or a shrewd lawyer might volunteer to handle a lucrative antitrust case "for free," but then take a big bite out of a multimillion dollar "blackmail settlement" that occurred.

Since the court, in any event, must approve the settlements, and such approval is typically routine, such a sharing by lawyers in large settlement funds would still give huge fees to the lawyers, and thereby encourage blackmail litigation.

Mr. McCLURE. Ordinarily, if the Senate adopts one provision and the House another, it goes to conference, the conference comes out with an accommodation between the views of the Senate and the House.

Can the Senator explain how the Hart-Scott-Rodino substitute accommodates these different safeguards in the two measures which are designed to prevent unjust enrichment by private lawyers?

Mr. HRUSKA. Without any explanation, the Hart-Scott-Rodino substitute does not accommodate, in any manner, the differing provisions of the two Houses at all. Instead, it goes beyond the text of the House bill and beyond the text of the Senate bill, by inserting a completely new provision, with a new section 4G (1) (B), which has the practical effect of

destroying the safeguards enacted by both the House and by the Senate.

Mr. McCLURE. Will the Senator explain how this newly added section destroys the safeguards against unjust lawyer enrichment enacted by both Houses?

Mr. HRUSKA. The text of section 4G(1), at page 35 of the printed Hart-Scott-Rodino bill, and also at page 35 of the unprinted Abourezk amendment No. 410, adds a completely new section 4G (1)(B). This permits any contingency fee arrangement, other than a "percentage" contingency fee forbidden by section 4G(1)(A), if the court determines plaintiffs' attorneys' fees under section 4C(d)(1), with the new section which was devised and which is part of the present bill.

The catch is that all plaintiff's attorneys' fee awards are determined by the court under section 4C(d)(1), anyway, as part of the court's disposition of any parens patriae action.

Consequently, this last-minute sleeper amendment would legitimate virtually any fee arrangement enriching private lawyers, out of settlement funds, out of monetary relief ordered by the court, or otherwise, subject only to routine court approval.

Hence, the total ban on private lawyer contingency fees voted by the House, as well as the partial ban voted by the Senate, are both destroyed and wiped out.

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

The Senator is recognized.

Mr. McCLURE. It was explored at length on the floor of the Senate previously, the manner in which private attorneys would be compensated with tremendous sums of money and that they would be the only real parties in interest in such litigation.

I am disturbed that we come to the point now of considering language that was specifically taken out in the House, watering down the provision that was specifically enacted by the Senate in the guise of a compromise between the two.

Can the Senator from Nebraska state whether the House of Representatives has agreed to this last-minute proposed change in this important safeguards provision?

Mr. HRUSKA. I have referred already to the fact that we have no conference report, we have no report of any kind.

We do not have before us any report by conferees. As stated previously, Mr. McCLORY and Mr. RAILSBACK strongly protest and disclaim any such agreement on the part of House conferees. It was not a conferees' report, it was not a conference report. It could not be a conference report, the Senate did not appoint conferees.

Actually, this Senator would be greatly surprised if the many Members of the House who insisted on this important safeguard against ripoffs by private contingency-fee lawyers were to yield knowingly on this hard-fought and hotly debated safeguard voted by the House.

Indeed, this Senator would be surprised if many Members of the House, as of this very day, are even aware of this Catch-22 amendment, which cuts the ground out from under these important contingency fee safeguards. The very substance of this new provision, when offered as an amendment during the House debate, was voted down on March 18 by a vote of 217 to 167—7047.

Mr. McCLURE. As I understand, there are some unprinted amendments to be offered by our colleague from South Dakota (Mr. ABOUREZK).

Do the unprinted amendments submitted by Senator ABOUREZK cure this problem?

Mr. HRUSKA. In my judgment, not at all. Senator ABOUREZK's unprinted amendment No. 410, at page 35, would modify the text of section 4G(1)(A) of the Hart-Scott-Rodino substitute, so as to prohibit parens patriae actions by private attorneys who are retained on "a contingency fee based on a percentage of the monetary relief awarded or recovered by settlement of an action brought under section 4C."

Superficially, this modification would strengthen the ban on percentage contingency fee arrangements, by preventing such percentage contingency arrangements also in connection with settlement funds as well as with money judgments in litigated cases.

On careful reading, however, section 4G(1)(B), which is the Catch-22 provision newly added by the Hart-Scott-Rodino version, appears to sanction any contingency fee award, other than one based on a "percentage," if the routine court determination of plaintiffs attorneys' fees is made under section 4C (d)(1).

Actually, the Abourezk amendment would encourage lawyers to claim that routine court approval of fee awards and settlements permits them to share in settlement funds, which would otherwise go in full to the State or to the individual State residents who are the only intended beneficiaries of the parens patriae action authorized by this title.

Mr. McCLURE. Why would courts approve such large fee awards to private lawyers out of settlement funds if lawyers could share in settlement under the proposed Abourezk amendment?

Mr. HRUSKA. Based on past history, as reflected in our debates, courts have routinely approved $2 million, $5 million, or $10 million fee awards to antitrust plaintiffs' lawyers in the settlement of large antitrust cases. A district judge is understandably happy when a settlement is reached which moves a big antitrust case off his crowded docket. So long as the defendants are willing to settle and pay $10 million, or $20 million, or $50 million, they hardly care whether the plaintiffs' lawyers walk away with a few million dollars more or less in fees, at the expense of the individual plaintiffs. Under such circumstances, many district judges gladly approve a multimillion dollar fee to the plaintiffs' lawyers, when nobody is likely to object to such an award, and the court is eager to clear his docket. As the Senator knows, the antitrust cases in the drug industry have already enriched private antitrust lawyers by over $40 million in court-approved legal fees as part of large settlements.

Mr. McCLURE. At this late day, is there any cure for this problem?

Mr. HRUSKA. If the Senate, in its wisdom, sees fit to pass the Hart-Scott-Rodino substitute for the House bill, notwithstanding these last-minute Catch-22 amendments, I would hope that the members of the other body reflect long and hard before approving a bill which has been stripped of the safeguards on private lawyer contingency fees enacted by the House, and unless it is made completely clear that private lawyers cannot enrich themselves by open-ended fee arrangements, out of settlement funds, or otherwise.

Mr. McCLURE. Does the Hart-Scott-Rodino substitute contain any other changes from the bill passed by the Senate on June 10 which favor the enrichment of private lawyers?

Mr. HRUSKA. I will point the Senator to two other changes to facilitate large recoveries and private attorneys' fees.

First, newly added section 4F(b), which was not part of the Senate bill passed on June 10, authorizes State officials and retained private attorneys to request "any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action" available to a State, whenever the Attorney General of the United States has brought an antitrust action which may affect the States.

For example, in large antitrust cases charging nationwide activities by national corporations, all affected States would be notified by the Department of Justice.

Under this new provision, State officials and retained private attorneys would be entitled to demand truckloads of investigative materials, which conceivably might be relevant not only to an actual but even to a "potential case of action."

For example, in the typical big antitrust case, such as the IBM monopoly case, literally millions of documents may be relevant or material to an antitrust cause of action. The Justice Department could thus become a massive document distribution center, for the benefit of State officials and of the enterprising private antitrust attorneys interested in developing a parens patriae lawsuit out of the Justice Department's investigative files.

Second, I call the Senator's attention to the changes which undercut the safeguards passed by the Senate on June 10 against large retroactive liabilities.

Section 406 of the Senate bill expressly provided that the parens patriae title only "shall apply to any cause of action accruing subsequent to the date of enactment of this title."

This safeguard against retroactivity has now been changed by section 304

of the Hart-Scott-Rodino substitute. Under section 304 of the substitute:

> The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

This unexplained change could permit money claims for business activities which took place long prior to the date of enactment, so long as a claim can be made that there is some monetary injury at a future date.

Enterprising private attorneys are thus invited to bring large parens patriae actions and to assert huge monetary liabilities for alleged antitrust injuries based on activities which happened years ago, even though the Senate on June 10 expressly voted to prevent such retroactivity.

It will be up to the courts to interpret or nullify this provision so as to prevent retrospective quasi-penal forfeitures under traditional constitutional limitations and due process of law.

Mr. McCLURE. Can the Senator state how the present legislation meets the position of the President

Mr. HRUSKA. In my view, the bill passed by the House on March 18 sought to accommodate the position of the administration in favor of strong but fair antitrust enforcement. However, the last-minute changes reflected in the Hart-Scott-Rodino substitute run counter to the spirit of constructive antitrust legislation and accommodation expressed by the House.

Instead, some of the proponents apparently prefer to create a legislative impasse and to create a controversy, rather than working toward the enactment and approval by the President of constructive antitrust legislation.

Mr. McCLURE. Can the Senator state in which ways the legislation departs from the expressed position of the President?

Mr. HRUSKA. On March 17, the President wrote a letter to the House minority leader. In this letter, he expressed personal reservations about the parens patriae principle. The letter also stated that the administration was "opposed to mandatory treble damage awards in parens patriae suits." The letter further stated that—

> The Administration prefers discretionary rather than mandatory award of attorneys' fees, leaving such awards to the discretion of the courts.

The parens patriae title to be voted by the Senate flatly contradicts this expressed position of the administration in important respects.

First, it enacts a Federal parens patriae authorization, rather than leaving to the States the manner and policy by which the States wish to assert their residents' rights under the antitrust laws.

Second, the bill now before the Senate expressly removes a House-enacted provision for a discretionary reduction of treble damages to single damages where the defendants can demonstrate good faith.

Third, the present bill provides for mandatory rather than discretionary awards of attorneys' fees in parens patriae actions, and opens the door wide to the unjust enrichment of enterprising private lawyers at the expense of the public.

Recently, the distinguished Attorney General of the United States, Edward H. Levi, who is a noted antitrust and constitutional scholar, sounded a warning about such abusive parens patriae provisions. On June 16, he stated that—

> The possible amount of damages can be so terrific that for a large company, the threat of that kind of a case is likely to be inevitably met with a settlement.

He expressed his grave concern as follows:

> I don't want to push the antitrust laws so far in that direction that the reaction will be, "Well, just to protect everyone, wouldn't it be better if there was some kind of a price-fixing governmental board?"

I conclude, therefore, that the present bill is responsive to the express position of the administration with respect to title I—Antitrust Civil Process Act Amendments, and title II—premerger notification.

But title III—parens patriae—remains in substantial conflict with the position expressed by the administration, and is unworthy of approval by the Congress and by the President.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield myself such time as I might consume, Mr. President.

First of all, I regret having to do this, but it has become necessary by virtue of two completely inaccurate statements being made by the Senator from Nebraska. I want to correct those misstatements. I am sorry I have to do this, but it is essential.

First of all, the Senator from Nebraska is trying to mislead the Senate on the contingency fee provision. He knows very well that is a bone that sticks in the craw of a lot of people. In the original Senate version we passed this year, we expressly banned the use of percentage contingency fees because we knew that it would be objected to by a majority of the Senate, and we were opposed to it in any event.

Concerning the motion that we are going to be voting on tomorrow, which is the subject of the dialog between Senator McCLURE and Senator HRUSKA, the Byrd substitute which we are supporting specifically and explicitly prevents the awarding of percentage contingency fees.

Surprisingly, the Senator from Nebraska has announced the original Senate version as leaving a large Senate loophole. That is the version he says he is supporting. If so, he should be supporting the Byrd motion on this point. That is the first area where he has attempted to mislead the Senate.

Second, he has attempted to mislead the Senate on the prospects for a conference report. He has denounced the committee members for not submitting a conference report to the Senate. We have said time and time again, and it has been proven by the actions of the opponents of this antitrust bill, that they will not allow us to go to conference and return with a conference report.

Mr. HRUSKA. Mr. President, I rise to a point of order and a point of personal privilege.

The Senator has suggested that the Senator from Nebraska attempted to mislead the Senate by referring to the fact that there is not any conference report, and so on. Mr. President, I recited the facts and they speak for themselves. I resent the inference that the Senator from Nebraska has attempted to mislead the Senate. He has done no such thing beyond a recital of the record itself.

The PRESIDING OFFICER. The Senators will proceed in order.

Mr. ABOUREZK. The very reason that we did not go to conference was because of the opposition and the announced intention of the Senator from Nebraska and his supporters who oppose the bill to continually filibuster and attempt to delay first the motion to go to conference and then, if we succeeded in breaking that filibuster, the conference report itself. Everybody knew, including those of us on the committee, that we would not have the time before adjournment this year to go through two filibusters. We barely made it through the one the other day.

I would hope that the record would be corrected in that respect.

Over the last 3 months, the Senate has been struggling with this antitrust bill. There have been approximately 85 votes, two filibusters, two successful cloture votes, hundreds of printed amendments, unprecedented parliamentary maneuvering, and strained tempers. Before describing the pending precedural situation, I want to assure the Senate that the bill which we will finally pass here is well worth this effort.

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; $80 billion 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.

It is all too apparent that enforcement of the antitrust laws have not been effective in curbing excessive concentration of power in the hands of a few corporations. I find the realities of the concentration of economic power staggering:

First. Although there are approximately 40,000 manufacturing corporations in the United States, the 200 largest control two-thirds of all manufacturing assets. That is a greater share of assets than the thousand largest manufacturing corporations controlled in 1941.

Second. Industries in which four or fewer firm 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 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, 100 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.

This concentration of economic power necessarily leads to inflation because these large business 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 prices when they enjoy productivity gains. These decisions 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 why the present administration has failed. Their assumption is that only supply and demand are the causes of the economic depression. It is, therefore, essential that we now invigorate the enforcement of our antitrust laws. Only then will adjustments in monetary and fiscal policy be effective.

H.R. 8532 is free enterprise legislation. It seeks to maintain vigorous competition in our economy.

H.R. 8532 is also states-rights legislation. It delegates antitrust enforcement power to the state attorneys general.

H.R. 8532 is law-enforcement legislation. It will enable both the Federal Government and the States to crack down on violators of the existing antitrust laws. Firms which are violating these laws are just as much a menace to society as the addict who steals to support a habit.

H.R. 8532 is small business legislation. It enables the Antitrust Division of the Department of Justice to stop anticompetitive mergers.

Finally, H.R. 8532 is consumer legislation. It will directly result in lower consumer prices artifically inflated by price fixing.

Let me emphasize one thing. The bill creates no new antitrust liability. It merely provides an effective mechanism for enforcement of the existing antitrust laws. As I said last May when we started consideration of this legislation—

> 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. 122 Cong. Rec. 15314 (May 25, 1976).

The need for the parens patriae provisions of this bill are especially clear. 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 attorney 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 by statistical or sampling methods * * * without the necessity of separately proving the individual claim of, or amount of damage" to each member of the class. (Section 301.) 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. Clearly 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 1 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.

Returning to my first point that only companies which violate the antitrust laws should fear this bill, let me note that, 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. At my request a list of these companies was printed in the RECORD on May 25—122 CONGRESSIONAL RECORD 15314.

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. The provisions of this bill represent a major improvement of existing antitrust law—probably the most significant improvement since enactment of the Celler-Kefauver Act of 1950.

Having emphasized that passage of this bill is a notable achievement, I want also to emphasize that this bill is reasonable legislation. Numerous compromises have occurred. In fact, this legislation is not nearly as strong as I would have liked. Let me describe the procedural situation which has forced these compromises.

Under the unanimous-consent agreement of last Wednesday, the pending matter at 3 tomorrow will be a vote on Allen amendment No. 2232, and if that is

rejected, a vote on the Byrd motion of August 27, 1976, to concur in the House amendment with an amendment. Before describing how the Senate has arrived at this point, I will first reiterate the bottom line: A vote for the Byrd motion is a vote for an antitrust bill to be enacted into law this Congress. A vote for the Allen amendment is a vote to kill the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

The compromises which the sponsors have agreed to were made at two points in time, during the Senate debate in June and in the Senate amendment now pending.

Let me give some examples of the compromises which the sponsors of the legislation have made to opponents here in the Senate and why these compromises were agreed to.

The principle compromise in the parens patriae section of the bill is to limit the types of antitrust actions in which damages may be assessed in the aggregate. As reported by the Senate Judiciary Committee, the aggregate damage provision was available for all violations of the Sherman Act (S. Rept. 94–803, at page 6). Then, on the floor the sponsors voluntarily agreed to limit the aggregate damage provision to per se violations of the Sherman Act (122 Cong. Rec. 15859–15861, May 27, 1976). Then as a result of the compromise on June 10 the aggregate damage was further limited so that it applied only to price fixing and patent fraud (122 Cong. Rec. 17541, June 10, 1976).

These compromises are significant and go much further than I would have liked. We compromised in June for a reason which most of our colleagues may not have been aware. The cloture vote which occurred on June 3 was a vote to limit debate on the Hart-Scott substitute to H.R. 8532, amendment No. 1701 (122 Cong. Rec. 16471, June 3, 1976). The Hart-Scott substitute was S. 1284 as reported by the Judiciary Committee. It was necessary to offer S. 1284 as an amendment to H.R. 8532 because S. 1284 was a three-titled bill and H.R. 8532 was only a one-titled bill. It was, therefore, necessary for the sponsors to file a second cloture motion on H.R. 8532, to be voted on once time had expired on debate on the Hart-Scott substitute (see 122 Cong. Rec. 16720, June 4, 1976). In other words, the Senate was facing a repetition of the 6-day struggle on the Hart-Scott substitute after that substitute was adopted. This prospect was what led me to reluctantly to agree to the June 10 compromise.

As I said on June 10 I found it particularly hard to rationalize limiting the aggregate damage provision just to price fixing and patent fraud (122 Cong. Rec. 17544, June 10, 1976). I see no reason why the Senate should be any less concerned about enforcement of the antitrust laws to restrain violations of the Sherman Act other than these two, such as division of markets, group boycotts, division of customers, tie-in agreements, reciprocal dealing, refusals to deal, and agreements to limit production, all of which act in restraint of trade and gouge the consumer. I challenge anyone to explain how these other antitrust violations are less serious a threat to the free enterprise system than price fixing and patent fraud.

Then, during last week the sponsors of this legislation were forced to compromise yet again. Contrary to the statements of the opponents of this legislation, we were not allowed to go to conference. Senator ALLEN stated unequivocally that he would not agree to a time limit with respect to the appointment of conferees or for any conference report (122 Cong. Rec. 28271, August 27, 1976). At a meeting in the majority leader's office, Senator ALLEN stated that he did not feel bound by the June 10 agreement on the appointment of conferees or on consideration of a conference report. He stated that he would employ all of his rights under the rules to block these actions. After our experience in June when the opponents of this bill tied up the Senate for 6 days after cloture, it was apparent that we could not wait out two filibusters in the time remaining until adjournment. Just imagine, over 100 amendments and motions filed after the filing of a cloture motion—many of which were substantively identical to amendments defeated in June.

Again, reluctantly we compromised. In order to avoid one of these two filibusters, the Senate sponsors determined that it was necessary to amend the bill upon which the House has called for a conference and send it back to the House. To be more exact, when we learned that the antitrust bill was to be further delayed we communicated that to Chairman RODINO and the other House conferees and asked what provisions they believed the House would accept without going to conference. Chairman RODINO and the other conferees were kind enough to respond to our problems and they met among themselves well into the evening going through and comparing the Senate and House passed bills. The BYRD motion contains the provisions we were advised could be accepted on the House floor without going to conference.

We very much appreciate the extraordinary and unusual effort of our colleagues in the other body and we thank them. On the other hand, we would be less than candid if we said we were totally pleased with the resultant bill. Many important provisions have been deleted. We believe a stronger bill—one closer to the Senate bill—would have come out of a conference. But, as Senator HART said, without being able to go to conference the Senate had no leverage and had to pretty much accept the bill on the House terms. For example, I know that the Senate would not have had to limit the aggregate damage provision to price fixing and exclude patent fraud.

Let me briefly catalog the compromises that the sponsors have been forced to make to the House in this legislation in order to avoid a second filibuster. This list is taken from Senator HART's statement of August 27:

The titles deleted from the Senate-passed bill are:

First. Title I, declaration of policy;

Second. Section 202, grand jury and nolo contendere provision;

Third. Certain provisions of title III, miscellaneous amendments: Section 301, which broadened the Clayton Act's merger provisions to cover activities in or affecting commerce; and section 302, foreign actions; and

Fourth. Title VI, antitrust Review and Revision Commission.

ANTITRUST CIVIL PROCESS ACT

Title II—Antitrust Civil Process Act amendments—of the Senate bill was fairly close to the comparable title of the House passed bill. A major difference between the Senate and House bills related to the standard for quashing a civil investigative demand. The House passed bill contained a standard that included certain rules under the Federal Rules of Civil Procedure. The Senate bill contained no comparable provision. Such a provision is included in the substitute amendment.

The substitute amendment contains the provisions of the House bill respecting judicial procedure to compel a witness to answer questions on oral examination. The Senate bill authorized summary procedures, including contempt, for compelling a witness to respond to appropriate questions. The substitute amendment utilizes the more formalized petition and appeal procedures.

PRE-MERGER NOTIFICATION

Title V (Pre-Merger Notification) of the Senate bill also was fairly close to the House bill. The major modifications made to the Senate bill that are reflected in the substitute amendment are as follow:

First. Acquisitions subject to notification requirements—A third standard in addition to the $100 million—$10 million size tests was added; namely, that the transaction involve an acquisition of $15 million in stock or assets, or 15 percent of the voting securities of the acquired company.

Second. Cash tender offers—The bill's 30 days plus 20 days notification period was shortened for cash tender offers to 15 days plus 10 days; and failure of the acquired company to provide the relevant information may not be used as a basis to delay consummation of the acquisition. However, the acquired company is required to comply and is subject to the penalty provisions of the title.

Third. Freedom of Information Act—The substitute amendment adopts the House provision exempting material filed under this title from the Freedom of Information Act. The Senate bill made such material subject to the Freedom of Information Act.

Fourth. Notification by additional companies—The Senate bill authorized the antitrust authorities to obtain notification from companies not meeting the size criteria in certain instances. The substitute amendment does not contain such a provision.

PARENS PATRIAE

The present Senate version of title IV, the Parens Patriae title, is a compromise between the House- and Senate-passed bills. In this compromise, the scope of the parens patriae action has been enlarged from the Senate version of per se violations and fraud on the Patent Office to the House version of the entire Sherman Act. However, the provisions relating to aggregation, or fluid damage class recovery, have been narrowed from the Senate version. The Senate bill allowed the state Attorney General to utilize the fluid class recovery method of computing damages for two offenses; price fixing and fraud on the Patent Office. The substitute amendment specifically authorizes aggregate damages for price fixing only.

The notice provision was modified to require notice in addition to notice by publication if required by due process of law.

The substitute amendment retains the prohibition on percentage contingency fees and contains some additional clarifying languages with respect to other contingency fees.

The Senate provisions respecting retroactive application, State opt-out authority, damage distribution and consolidation are basically retained.

The Senate provision respecting federally funded programs is deleted.

Mr. ABOUREZK. This list of compromises makes it quite clear that the House has prevailed on a substantial majority of the issues. Of roughly 41 identified points of difference between the Senate and House versions of H.R. 8532, approximately 25 were resolved in favor of the House position, only 10 in favor of the Senate position, and 6 resulted in a compromise. There can be no doubt that the Senate would have fared better in a conference meeting.

Senator ALLEN's pending amendment is identical to his amendment No. 2232 which was defeated on August 31, 1976, by a vote of 62 to 27. Ordinarily, I and the sponsors of the legislation would urge a vote for Senator ALLEN's amendment which embodies the June-passed Senate bill—the very bill Senator ALLEN voted against in June—because it is considerably stronger than the provisions embodied in the Byrd motion. But, as I said before, a vote for the Allen amendment is a vote to kill the antitrust bill.

The Allen amendment is a bill the House will surely reject, and without the negotiating power a conference would provide, there is no way to make the original Senate version, the Allen amendment, acceptable to the House.

As a result of the parliamentary tactics of the opponents of this legislation, if the Byrd motion is adopted the fate of this legislation will be in the hands of the House. Any vote in the House to amend the Senate bill will kill the bill. It should be obvious to everyone by now that the Senate had no opportunity to go to conference. It is clear that if the House disagrees with the Senate bill, there still can be no conference.

I have confidence that the House will quickly pass this legislation and that the President will sign it.

In closing, I quote from a statement Senator HART made during the Senate debate last June:

> Let us remember what we are about. We are attempting to provide in this particular title the opportunity to protect American business against itself. I believe to my fingertips in the principles expounded by the NAM and the Chamber of Commerce. I would have my lobbyists in here seeking to persuade the Senate to do exactly what this bill seeks to do, that is, to permit the honest businessman to compete in a marketplace that is free of restraints that are improper.

Mr. President, I ask unanimous consent that a summary of the provisions in the Byrd motion and a catalog of the differences between the Senate and House passed bills and the Byrd motion be printed in the RECORD.

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

SUMMARY OF PROVISIONS IN BYRD MOTION

TITLE I—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

Title I amends the Antitrust Civil Process Act, originally enacted in 1962. It provides the Antitrust Division of the Department of Justice with the most basic of investigatory tools utilized by virtually every Federal regulatory agency, including the Federal Trade Commission, and by many State attorneys general.

The Antitrust Civil Process Act authorizes the Antitrust Division of the Department of Justice to issue compulsory process (called a "civil investigative demand" or "CID") to investigate violations of the antitrust laws prior to the filing of a case. Under present law, the Division may issue a civil investigative demand to obtain only documentary evidence and then only from nonnatural persons (*e.g.*, corporations) suspected of committing an antitrust violation. Relevant evidence may not be obtained pursuant to a CID from natural persons or from third parties such as competitors, suppliers, customers, or employees. Nor may the Antitrust Division take oral testimony or written interrogatories in the course of such an investigation or issue a CID to investigate the legality of a proposed merger or acquisition until it is consummated—even though it may be publicly announced.

Title I rectifies these glaring deficiencies in the Division's investigatory powers by authorizing the Antitrust Division to:

(1) issue a civil investigative demand to investigate mergers and acquisition prior to consummation;

(2) issue a civil investigative demand to obtain relevant evidence from natural persons and third parties;

(3) take oral testimony and written interrogatories, in addition to obtaining documentary evidence, pursuant to a CID; and

(4) issue a civil investigative demand to obtain relevant competitive evidence for use in on-going regulatory agency proceedings.

TITLE II—PRE-MERGER NOTIFICATION AMENDMENTS

Title II amends the Clayton Act to provide for a 30-day notification to the antitrust authorities prior to consummation of very large mergers and acquisitions (involving transactions between $100 million and $10 million companies of either 15% of the stock or $15 million of assets or stock). The title does not change the standards by which the legality of mergers is judged. Certain types of transactions (e.g., de minimis non-control investments, formation of subsidiary companies, real estate acquisitions for office space, regulated industry and bank mergers) are exempted from the notification requirements. A special, shorter notification period is provided for tender offers. Further authority—to waive the 30-day waiting period, to provide additional exemptions by rule-making, to require additional information, and to extend the 30-day waiting period for an additional 20 days from receipt of such additional information—is conferred upon the antitrust authorities.

TITLE III—PARENS PATRIAE AMENDMENTS

Title III amends the Clayton Act to permit State attorneys general to recover damages for violations of the Sherman Act on behalf of natural persons (consumers) residing in their State.

Substantive standards as to what are or are not violations of the antitrust laws are not changed by Title III. In other words, enactment of Title III would not make any conduct illegal which is not presently illegal under the antitrust laws. Title III merely creates an effective mechanism to permit consumers to recover damages for conduct which is prohibited by the Sherman Act, by giving State attorneys general a cause of action against antitrust violators.

The economic burden of most antitrust violations is borne by the consumer in the form of higher prices for goods and services. Frequently, such antitrust violations as price-fixing, group boycotts, division of markets, exclusive dealings, tie-in arrangements, fraud on the Patent Office, monopolization, attempts to monopolize, conspiracies to limit production, and other violations of the antitrust laws, injure thousands or even millions of consumers, each in relatively small amounts but often on a continuing basis. When every day consumer purchases are involved (e.g., bread, dairy products, gasoline, etc.), the individual dollar amounts are so small that, as a practical matter, an individual antitrust law suit is out of the question. Similarly, consumers have found little relief under the class action provisions of the Federal Rules because of restrictive judicial interpretations of the notice and manageability provisions of Rule 23 and practical problems in the proof of individual consumers damages under section 4 of the Clayton Act. If tens of thousands of consumers are in a class action, courts throw up their hands and say "unmanageable"—and dismiss the case under the manageability standards of Rule 23.

Yet, if an antitrust violation results in an overcharge of but 10 cents on a relatively low-priced consumer item, and 500 million such items are sold, the aggregate impact of the conspiracy upon the consumers and the illegal profits of the conspirators are hardly insignificant—at least $50 million.

Title III is the legislative response to the present inability of our judicial system to afford equal justice to consumers for violations of the antitrust laws. As put by the 9th Circuit Court of Appeals:

> The state most persuasively argues that it is essential that this sort of proceeding be made available if antitrust violations of the sort here alleged are to be rendered unprofitable and deterred. It would indeed appear that the state is on the track of a suitable answer (perhaps the most suitable yet proposed) to problems bearing on antitrust deterrence and the class action as a means of consumer protection. We disclaim any intent to discourage the state in its search for a solution.

However, if the state is to be empowered to act in the fashion here sought we feel that authority must come not through judicial improvisation but by legislation and rule making, where careful consideration can be given to the conditions and procedures that will suffice to meet the many problems posed by one's assertion of power to deal with another's property and to commit him to actions taken in his behalf. *State of California* v. *Frito Lay*, 474, F. 2d 774, 777 (1973).

The very essence of Title III is the provision in section 4C(c)(1) authorizing proof of consumer damage in the aggregate, without separately proving the fact or amount of each consumer's individual injury or damage.

Plaintiff still would have the burden of proving that:

(1) Defendants violated the Sherman Act;

(2) Consumers were damaged by such violation; and

(3) The approximate amount of consumer damage.

Instead of adding up thousands or millions of claims, however, the total amount of consumer damage could be proved in the aggregate from the records of defendants and other entities in the chain of distribution or by other evidence. After the violation by defendants and the fact of some damage to consumers have been proved, the aggregation provisions of section 4C(c)(1) would be utilized to determine the amount of defendant's liability.

The aggregate damage provision is limited to instances involving price fixing.

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

I. ANTITRUST CIVIL PROCESS ACT AMENDMENTS

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Standard for quashing CID.	Permits quashing of a CID on any ground that would make a grand jury subpena invalid.	Same as Senate plus permits quashing of a CID on any grounds found in the Federal Rules of Civil Procedure applicable to discovery requests, insofar as such rules are "appropriate and consistent" with the Antitrust Civil Process Act (ACPA).	House
2. Standard for witness obtaining copy of transcript of testimony.	Senate bill limits the obtaining by a witness of a copy of the transcript of his testimony to the same circumstances and standard as if it were the transcript of his testimony in a grand jury proceeding (namely, a showing of particularized need).	House bill allows a witness to obtain a copy of the transcript of his testimony unless, *for good cause*, the Assistant Attorney General limits the witness to an inspection of the transcript.	House
3. Procedure to compel witness to answer questions.	Senate bill authorizes Department of Justice to request an immediate court order to compel a person to answer a question he has refused to answer during an oral examination. Refusal to comply with such a court order is punishable by summary contempt.	House bill requires that Department file a petition and seek enforcement pursuant to section 5 of ACPA which permits appeals.	House
4. Reimbursement of expenses to recipient of CID.	Senate bill provides for reimbursement by Antitrust Division to nontarget recipients of a CID for expenses, including attorney's fee, incurred in producing documentary material and in appearing for oral examination.	House bill provides for reimbursement only of the traditional fees and mileage paid to witnesses in the district courts of the United States.	House

B. Other issues

1. Definition of antitrust law.	Senate bill modifies existing law by deleting FTC Act from definition of antitrust laws for purposes of whether the Department of Justice may issue a CID to investigate a violation of the FTC Act.	House bill retains existing law.	Senate
2. Definition of person.	Senate bill authorizes CID to be issued to natural persons, specifically including entities acting under color or authority of State law.	House bill is silent on this issue.	Senate
3. Disclosure in CID.	Senate provision requires a CID to "state the nature of the investigation and the provision of law applicable thereto".	House provision requires a CID to "state in appropriate detail the nature of the conduct constituting the alleged antitrust violation . . . and the provision of law applicable thereto". The House report states its intention to codify judicial interpretation of existing law.	Compromise
4. Transcript corrections.	Senate provision limits persons giving oral testimony to correcting transcription errors only.	House bill allows such persons to make transcript changes in form or substance as long as the reason for the change is stated.	House
5. Right to counsel.	Senate bill provides that witness may be "accompanied" by counsel.	House bill expands and elaborates on right of counsel, i.e., "accompanied, represented and advised" by counsel "in confidence".	House
6. FTC access to CID material.	Senate bill requires Antitrust Division to transmit CID materials to FTC upon its request unless Assistant Attorney General concludes that it would not be in public interest to do so.	House bill provides that Antitrust Division may provide FTC with such material.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

II. PRE-MERGER NOTIFICATION

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Acquisitions subject to notification requirements.	Both bills utilize $100 million—$10 million size test for transactions subject to the notification requirements.	House bill also provides that before any transaction is subject to the notification provisions, it must result in the ownership of at least 25 percent of the acquired company's stock or $20 million in stock or assets.	Compromise
2. Cash tender offers.	Senate bill contains no special treatment for tender offers. The 30 days plus an additional 20 days waiting period was adopted because of the Williams Act 60 day tender offer provision.	House bill provides for a 21-day notification period for cash tender offers, rather than the ordinary 30 plus 20 day period. In the case of tender offers, it also limits the reporting requirement to the acquiring company.	Compromise
3. Freedom of Information Act.	Senate bill provides that the notification and information transmitted is confidential and may not be disclosed until the fact of the filing or of the merger becomes public knowledge. At such time, the Freedom of Information Act applies and some of the information can be made public while other information will continue to remain confidential in accordance with the specific provisions of FOIA.	House bill provides that no information submitted under the pre-merger notification provision may be publicly disclosed (except in a court proceeding) and that such information is totally and forever exempt from the Freedom of Information Act.	House

B. Other issues

1. Persons subject to notification requirements.	Senate bill applies to "persons", which includes transactions involving natural persons as well as corporations, partnerships, and foreign governments.	House bill applies to "corporations", which includes only transactions involving corporations and excludes transactions involving natural persons, partnerships, unincorporated associations and foreign governments.	Senate
2. Convertible securities.	Senate bill implicitly—but not expressly—covers nonvoting convertible securities which are convertible into voting securities when the convertible security is acquired.	House bill covers such convertible securities only at the time of conversion.	Senate
3. Expiration of notification and waiting period.	Senate bill requires full completion of notification and full compliance with additional information requests of the Department of Justice or FTC before the 30 and 20 day waiting periods commence. The merger, therefore, may not be consummated until there is such full compliance; and companies proceed at their peril if Department of Justice or FTC disagree that the companies fully complied with notification and information requirements.	If notification form and additional information requests are not fully complied with, House bill requires them to contain a statement of the reasons for partial noncompliance. The filing with such statement of partial noncompliance with reasons starts the running of the 30 and 20 day periods. The Department of Justice and FTC are authorized to seek judicial relief to extend the waiting period if the court finds that the companies did not "substantially comply" with the notification form requirements or the additional information request.	Compromise
4. Report to Congress.	The Senate bill contains no comparable provision.	The House bill requires an annual report to the Congress concerning the operation of the premerger provisions and the need for any revisions.	House
5. Notification by additional companies.	The Senate bill permits the antitrust authorities to require premerger notification by additional companies not meeting the minimum size criteria of the bill.	House bill has no comparable provision.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

III. PARENS PATRIAE

A. Major issues

Subject	Senate	House	Provision in Byrd motion
1. Separate cause of action.	Senate bill creates a separate cause of action in the name of the State.	House bill authorizes parens patriae action under section 4 of Clayton Act by State attorneys general.	Senate
2. Violations for which aggregation of damages is specifically authorized.	Senate bill specifically authorizes aggregate damages for 2 violations: price fixing and Patent Office fraud.	House bill specifically authorizes aggregate damages only for price fixing in willful violation of the antitrust laws.	Compromise
3. Single damages for good faith violations when damages are aggregated.	Senate bill has no comparable provision.	House bill provides for a reduction of traditional treble damages to actual (single) damages, when damages are aggregated, if a defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.	Senate
4. Retroactive application.	The Senate bill applies only "to any cause of action accruing subsequent to the date of enactment of this title".	House bill has no comparable provision.	Senate
5. Contingency fees.	Senate bill prohibits percentage contingency fees.	House bill prohibits all contingency fees.	Compromise
6. State opt-out authority.	Senate bill provides that this title "shall be applicable in a State until that State shall provide by law for its nonapplicability as to such State".	House bill has no comparable provision.	Senate

B. Other issues

1. Scope of parens patriae authority when aggregated damages are not used.	Senate bill authorizes such actions to be filed by State Attorneys General for 2 types of violations: per se offenses and fraud on the Patent Office.	House bill authorizes such actions to be filed for any violation of the Sherman Act.	House
2. Person excludes proprietorships and partnerships.	Senate bill has no comparable provision.	House bill states that "natural persons" do not include proprietorships and partnerships.	House
3. Equitable relief.	Senate bill provides for monetary damage and such "other relief as is just in the circumstances to prevent or remedy the violation of the Sherman Act".	House bill contains no comparable provision.	House
4. Notice.	Senate bill provides for notice by publication. If the court finds that notice by publication only would be manifestly unjust, the court is authorized to direct further notice according to the circumstances of the case.	House bill provides for "the best notice practicable under the circumstances".	Senate
5. Damage distribution:			
(a) In accordance with State law.	Senate bill provides for damages to be distributed to consumers as court directs or in accordance with State law.	House bill provides for damages to be distributed to consumers as district court in its discretion may authorize.	(a) House
(b) Civil penalty.	Senate bill provides that the portion of the damages recovered that remain unclaimed by consumers *may* be deemed a civil penalty and deposited with the State.	House bill contains no comparable provision.	(b) Senate
6. Other expenses of litigation.	Senate bill provides that a prevailing plaintiff shall recover attorney's fees plus other expenses of the litigation.	House bill provides for the recovery of attorney's fees plus cost of suit.	House
7. Actions by U.S. Attorney General.	The Senate bill contains no provision for State Attorneys General to obtain investigative files or other materials from the U.S. Attorney General.	The House bill provides for State Attorneys General to obtain such files and materials from the U.S. Attorney General "to the extent permitted by law", in order to assist the State Attorneys General in evaluating the notice given by the U.S. Attorney General and in bringing parens patriae actions.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

III. PARENS PATRIAE—CONTINUED

B. Other issues—Continued

Subject	Senate	House	Provision in Byrd motion
8. Federally funded programs.	The Senate bill provides for the State to recover treble the full amount of the damages sustained in connection with a federally funded program, with the Federal Government being reimbursed by the State for actual (single) damages paid by the Federal Government.	The House bill has no comparable provision.	House
9. Consolidation.	The Senate bill provides for the mandatory consolidation of cases for both pre-trial and trial purposes, notwithstanding the provisions of the Multidistrict Litigation statute.	The House bill contains no comparable provision.	Senate
	IV. MISCELLANEOUS PROVISIONS		
	A. Major issues		
1. Affecting commerce.	The Senate bill amends section 7 of the Clayton Act to reach activities "in or affecting commerce".	The House bill has no comparable provision.	House
2. Foreign actions.	The Senate bill contains a sense of the Congress provision that courts should consider utilizing all sanctions available under rule 37(b) of the FRCP when a party refuses to comply with a discovery order on the ground that a foreign law prohibits compliance.	The House bill has no comparable provision.	House
3. Access to grand jury documents and transcripts.	The Senate bill provides for access by private plaintiffs to a *defendant's* grand jury documents and transcripts, after completion of the Government's criminal case, in those cases in which such defendant pleads guilty or nolo contendere. The court is authorized to condition access and issue protective orders.	The House bill has no comparable provision.	House
4. Nolo contendere pleas.	The Senate bill provides that a nolo plea in an antitrust case shall be accepted only after due consideration of the views of the parties and the interest of the public in the effectiveness of the administration of justice.	The House bill has no comparable provision.	House
5. FTC access to grand jury material.	The Senate bill provides that after completion of a grand jury proceeding and any case associated therewith, the FTC may obtain access to grand jury documents and transcripts unless the Attorney General determines that providing FTC with such access would be contrary to the public interest. The same secrecy obligations imposed upon the Department of Justice are imposed upon the FTC.	The House bill has no comparable provision.	House
6. Antitrust study.	The Senate bill provides for the establishment of an Antitrust Review and Revision Commission to study and make recommendations as to any revisions in the antitrust laws it deems advisable. The Commission is to make its report within 2 years after its first meeting.	The House bill has no comparable provision.	House

DIFFERENCES BETWEEN SENATE AND HOUSE PASSED BILLS AND BYRD MOTION

V. DECLARATION OF POLICY

Subject	Senate	House	Provision in Byrd motion
Declaration of policy.	Senate omnibus bill has 6 titles, title I of which is a general policy statement underlying the purposes of the bill in particular and of the antitrust laws in general.	The House bill has no counterpart declaration of policy because the 3 main substantive House titles (parens patriae, CID's and premerger) were processed as separate bills.	House

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

The PRESIDING OFFICER. The question is on agreeing to the Allen amendment. Who yields time?

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I think we do not vote on it until tomorrow. Is that correct? We do not vote today, do we?

The PRESIDING OFFICER. That is correct. But we have to do something.

Mr. ABOUREZK. I reserve the remainder of my time then.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield 22 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from Nebraska.

Mr. President, I rise once again to express my opposition to the pending amendment and to Senator ROBERT C. BYRD's motion and to H.R. 8532, the Hart, Scott, Rodino so-called Antitrust Improvements Act of 1976.

I commend the distinguished Senator from Nebraska (Mr. HRUSKA) for his knowledge and wisdom in leading the fight against this bill.

The Senator from Alabama (Mr. ALLEN) is to be commended for his courageous stand. I refer the Senate particularly to his remarks, which appear in the RECORD of Friday, August 27, beginning on page 28251 and continuing through 28276. The strong arm tactics of the majority leadership began that day. Senator ROBERT C. BYRD's broad motion came onto the floor on scratch paper. Few Senators, perhaps the proponent managers, had seen this motion. You will recall that it later covered four pages of the RECORD. No explanation was offered. Cloture was filed and an immediate attempt was made to recess the Senate. Had the Senator from Alabama (Mr. ALLEN) not gained the floor, this hodgepodge of notes called a substitute would not have been exposed for all to see how it came before the Senate.

The substitute was published in the RECORD, as though it were a finished product. An explanation was even included, as an afterthought. We may not have known what was in the substitute until the last day of debate, if it had not been for the persistence of the distinguished Senator from Alabama.

As Senator ALLEN predicted on that Friday, the steamroller had just begun to roll. When those of us who resisted this bill rose to fight this so-called compromise with the House, we did so to do our best to expose to the Senate, the House, and most important the people, the bad features of this bill. We were lectured with cries of "delay," "we must get on with the business of the Senate," and "dilatory tactics."

I answer that very clearly. We were exercising our rights under the rules of the Senate. Those rules are meant to apply to all Senators at all times. They are not meant to be cast aside for convenience when the going is tough.

It appears now that there are Representatives in the House, conferees on this bill, who question whether any agreement or compromise was ever reached. Two House Members say that the Senate's final votes of August 31 on contingency fees and reduction of treble to single damages on a "good faith" showing, took positions rejected by the House. Senator BELLMON and I offered amendments to ban contingency fees on August 31. They were tabled. Senator HRUSKA on August 31 offered an amendment which would have allowed treble damages to be reduced to single damages on a showing of "good faith." It was tabled. These events become important when considered with the statements of Mr. MCCLORY and Mr. RAILSBACK in the House of Representatives on September 2, 1976, last Thursday.

On last Thursday, September 2, 1976, Mr. MCCLORY rose in the House of Representatives and made these remarks concerning the bill before us:

Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up or down vote on its amendment next Wednesday afternoon.

Now it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith", and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the Conference Committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

Representative RAILSBACK'S words in the RECORD of September 2, 1976, on page 29032 cast further light on the manner of how this proposal came before us.

Now, I turn my attention to the bill. Some of the language has been softened since May 19, the day I first rose to oppose this bill in the Senate. Some of the onerous provisions of S. 1284, the bill we first considered, have been found, recognized as bad, and stricken from this proposed legislation.

Yet when I studied the motion before us last week, still remaining in it is a thinly veiled indictment of our free enterprise system. An indictment against the same system which made our country great. To find it, the bill must be read closely. What is not in the bill may be more significant than what is in it.

The thrust of title I, which is labeled "Antitrust Civil Process Amendments" and expands the law of civil investigative demands, is clear. It further concentrates power in Washington. Increased power is placed in an already powerful Department of Justice and the Federal Trade Commission. Title I is yet another big brother venture by the Government. It does not affect just those under investigation. It extends to anyone who may have some information. Yes, innocent third parties served with a civil investigative demand will be forced to hire lawyers, because they will not understand what is happening to them. Although innocent of any wrongdoing, they will need legal guidance to comply with a maze of demands from the Department of Justice. All of this will take place without the supervision of a court.

Before I leave this title, there is another example of big brotherism which comes to mind. The same innocent third parties will be called on to reproduce documents from their files for the Department of Justice. How many? No one knows. How much will it cost the person who reproduces them? No one knows. What will the Department of Justice do with these documents? When the case is closed, the Department of Justice will keep copies of documents received from those who have done no wrong. When this bill was being considered in June, I recall a speech made by Senator MORGAN condemning abuses in the intelligence community. Senator MORGAN'S speech was one to which he had obviously given considerable thought and time in preparation. It impressed me at the time, and it poses a serious question for me on this bill. Why do we now permit the De-

partment of Justice to build a data bank on innocent individuals? Why place the potential for abuse in the hands of the Department of Justice?

Title II, premerger notification, has been improved. It primarily affects big business. Big business can normally take care of itself. There is again in this title, however, the now familiar refrain of overregulation by big Government; the all too familiar theme of big Government saying: We know better than you do what is good for you. This trend in Congress has troubled me for years. It troubles me now.

The most onerous of the titles in this bill is title III—parens patriae. This concept permits the State attorney general to add to the powers of his office. Yet it permits him to evade the responsibilities for his actions. It permits the 50 State attorneys general to parcel out antitrust lawsuits to private attorneys. With the history of blackmail settlements in these cases under rule 23 of the Federal Rules of Civil Procedures, I think it fair to say that private attorneys will quickly step forward and recommend suits against business, small and large, on any pretense. We have seen private attorneys collect over $40,000,000 in the Tetracycline drug litigation. We have seen private attorneys collect $10,000,000 of $75,000,000 settlements in the In re Gypsum cases.

This title tremendously will increase the political power of the State attorneys general. Most of our States attorneys general are fine men, but there have been cases of abuse in the class action suits. The possibilities of political patronage and abuse with antitrust lawyers busily searching for litigation are almost endless.

It seems that history does not teach us a lesson. We have seen, for some time now, attorney fee abuses in the present rule 23 class action cases. The proponents of this bill would continue it unabated. The classic example is the case in which a State attorney general and his assistant pocketed over $1,000,000 in a fee splitting arrangement with a private firm in a class action suit.

The Byrd motion before the Senate does not close the loopholes on abusive attorneys' fees. The amendment I offered on August 31 would have prevented outrageous attorneys' fees. It would have stopped private attorneys from diving into the consumers pot for their fees. It would have stopped judges from awarding shocking attorneys' fees. My amendment would have required in these cases that: "compensation for private attorneys be measured on the same basis as compensation normally paid by the State to private counsel retained." This amendment was tabled on motion of Senator ABOUREZK by a vote of 55 to 23. This stopped consideration of the amendment on the merits. In addition to this amendment, I had two others on this problem at the desk. Both were drafted to close two other loopholes in the Byrd motion, which would permit bloated fees for private attorneys. The Byrd motion permits the courts to award reasonable attorneys' fees. This is the very same language which has led the courts to award unreasonable fees in previous rule 23 cases. What happened to these amendments? They were found to be dilatory by the proponents and the majority leadership.

Senator BELLMON proposed an amendment which said in pertinent part: "No portion of any monetary relief or recovery shall be paid, awarded, or allocated to any private counsel employed by the State . . ." This amendment was tabled on motion of Senator ABOUREZK, 52 to 26. Thus, another vote on the merits was prevented.

Senator ALLEN offered an amendment on this problem. Stated simply, his amendment would have prevented a State attorney general from commencing high visibility antitrust suits to use as a political platform to run for Governor or other high public office. His amendment said:

> No person may participate in bringing an action under this title while seeking the nomination for election or election to any State of Federal public office.

Senator ALLEN'S amendment was tabled on motion of Senator ABOUREZK, by a vote of 43 to 21. Thus, an opportunity to consider the amendment on the merits was again prevented.

Only one logical conclusion can be drawn from these events. The proponents want the abuses in attorneys' fees, which have grown under rule 23, to remain in the bill. They want the potential for political abuse by State attorneys general to remain in the bill. If these abuses do remain, and I fully expect the proponents to insist, this bill should be called "the State Attorneys General Political Patronage and Antitrust Lawyers Full Employment Act of 1976."

"Parens patriae" is a cruel hoax on the consumer. This title will not help the consumer. Business will react to this title by raising prices to pay for the new boom in lawsuits. The consumer will pay the increased prices. On May 25 and on a later occasion, the people of my State were heard on the same point. On those occasions, I read and placed into the RECORD a few of the many letters received from the people of my State who oppose this bill. They were primarily from small businessmen. They know who will pay for "parens patriae." They know they will pay and that consumers will pay in the end.

The danger to the small businessman in this title is great. I quote from a letter of February 12, 1976, from Allen P. Stults, former president of the American Bankers Association, to Senator HRUSKA:

> I understand that the Congress will shortly vote on proposed legislation which would authorize the Attorney 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, incuding 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 statement 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.

The meaning of this letter is clear. The banks will cut off any further credit to small firms not when a verdict is rendered, but when a suit is filed against them. Banks cannot risk small business bankruptcy. In Congress, everyone says he is for small business. Parens patriae will help kill small business.

Let us now look at what the consumer gets. Their damages to be recovered will typically amount to a few dollars, perhaps less than a dollar per person. The history of class actions under the present rule 23 is telling. No one should expect the individual consumer to go through the bother of trying to collect these small sums. They have not shown interest in the rule 23 class action cases. After the lawyers skim their fees off the top, the judge will be faced with the puzzling problem of what to do with the money that is left.

The proponents of this bill say they are for strong antitrust legislation and that this bill is a strong and fair one. Those of us who oppose this bill are also for strong and fair antitrust laws. I have covered some of the major areas in the bill wherein I disagree with the proponents. As mentioned earlier, one must also look to find what is not in this bill. I now turn to that question.

On August 31, before the cloture vote, an amendment was filed in my name. It was entitled "Title IV, Antitrust Labor Law Amendments." Although never raised before during the consideration of this bill, it met the fate of all others at the desk in the late evening of August 31. The majority leadership decided that the amendments were dilatory, and under threat of a change to the Senate rules a time agreement was reached. No more amendments were to be permitted.

This bill ducks evenhandedness. There is a more basic problem to concentration not addressed by the proponents. It is not a loophole, but a gap. The gap is one of inconsistency in the application of the antitrust laws to business and labor. My amendment would have closed that gap. It offered some balance to this bill. Fairness requires that we give the same treatment to business and labor, both can and do on occasion engage in monopolistic practices. Both should be called to task for their actions.

The policy adopted many years ago by Congress to exempt labor from the antitrust statutes has no place today. The unions are certainly no longer the weak and struggling organizations of earlier years.

The monopolistic practices in which

big unions have engaged have resulted in higher costs to consumers in almost every facet of their lives. The inflationary impact continues to be ignored.

My purpose in offering this amendment was clear. I believe we should remove the exemptions for unions in our antitrust laws and allow the courts to decide, as they do for business, whether particular union actions monopolize and restrain trade.

Why duck the issue of removing the antitrust exemptions dating back to 1932 for big unions? Is this fairness or improvement in our antitrust laws?

I do not claim that my amendment was the only solution concerning labor unions to add balance, fairness, and economic sense to this bill. I would have been happy to join others in an effort to correct this imbalance, but I have yet to see any initiative in that direction from the proponents of H.R. 8532, in this bill or any other bill.

Mr. President, in order to give a more in-depth look at this issue, I ask unanimous consent that my remarks of March 3, 1975, on introducing S. 926, reference union monopoly power and the antitrust laws and the attached speech by Mayo J. Thompson, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, in conclusion, I shall vote against this bill with good reasons. They are:

It is a classic example of "backroom steamroller" legislation.

It will add more money to the already bulging pockets of the antitrust lawyers.

It puts more big brotherism in Government.

It fails to achieve balance. It does not require the big unions to follow the antitrust laws that the proponents thrust on business.

It will hurt the small businessman.

It will hurt the consumer.

Mr. President, I ask unanimous consent that the remarks by Congressman RAILSBACK be printed in the RECORD following my remarks.

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

(See exhibit 2.)

EXHIBIT 1

STATEMENT BY SENATOR STROM THURMOND ON THE SENATE FLOOR, REFERENCE UNION MONOPOLY POWER AND ANTITRUST LAWS, MARCH 3, 1975

Mr. President, in the 93rd Congress, I introduced a bill which would remove the exemption presently contained in the antitrust laws for labor unions. Today, I am again introducing legislation which would accomplish this result and call upon the Congress to recognize the serious imbalance presently existing in our economic system. Labor unions monopolistic power has grown to unacceptable levels.

Congress concluded many years ago that in order to protect the public, antitrust legislation should be enacted to prevent large business enterprises from engaging in monopolistic practices that would eliminate competition and restrain trade and commerce.

Through court interpretation and subsequent action by Congress, labor unions were made exempt from the application of the antitrust laws. Basically, the rationale for this was that unions were weak and struggling organizations, and that only by being given special privileges and protections not accorded other economic interests could they successfully stand up to the business giants of that day.

Today labor unions wield such tremendous power that the question must be raised as to whether the exemption of labor unions from the antitrust laws was a serious mistake. The evidence is overwhelming that this special protection given to unions so that they could advance their own self-interest is certainly not justified today.

The labor-management area has been viewed in the past as a power struggle between worker welfare and business gains. But now the struggle is not so much between unions and big business as it is between big unions and the public.

While there has been a great deal of concern shown about the relative power of labor unions and employers, there has been far too little concern shown over the effects of labor union power on the public interest. Union monopoly power aids and abets the development of the monopoly power of business enterprises which the antitrust laws were enacted to prevent. It has produced wage rates and fringe benefits in excess of those justified by increased productivity or competitive levels, work rules that require payments for unneeded work, and boycotts which penalize third parties not involved in labor disputes. It has resulted in the waste of labor resources, distortions in the allocation of productive resources, inflation, balance of payments deficits and the associated deterioration of the U.S. position in world markets. The tragic truth is that the American public is the real victim in all instances.

Labor union monopoly power is not compatible with a free market economy. There are really only two choices facing us. Either the power of unions must be reduced to an extent sufficient that market forces will once again be broadly effective or unions will have to be totally regulated like public utilities with the government controlling wages and work standards and allocating labor. The latter would deal a near fatal blow to our private enterprise economy. Excessive Governmental regulation is one of the causes of our current economic ills.

There are some who see as an alternative the acceptance of "social responsibility" by unions and the sacrificing of some of their self-interest. That is unrealistic. In the absence of legal restraints on union power, unions can logically be expected to continually strive to increase that power. Competition from the non-union sector of the labor force does not deter this drive for more power; rather the effort to unionize the non-union sector is used by the unions as a reason why they need more power. Furthermore, employer resistance cannot be relied upon to restrain the unions, for with the tremendous power already existing on the union side, employers are increasingly willing to give in to the unions in exchange for labor "peace" and uninterrupted operation. The employers are intimidated and the public bears the burden. Wages go up, prices go up, and the consumer has to absorb the higher costs that are the inevitable product of union monopoly power. Nor has competition from foreign industry restrained the growth of union power and union demands. In this competition, what has given way has not been foreign competitors or U.S. unions but our balance of payments and our gold reserves.

It is necessary, therefore, that the Congress take action now to amend the antitrust laws so that labor unions will have to abide by the same regulations as employers of labor. They must be prohibited from taking actions which will unreasonably restrain trade and commerce or eliminate competition in product markets.

Making unions subject to the antitrust laws will not destroy them. Nor will properly drawn legislation interfere with their function as collective bargaining representatives of employees so long as their actions are not in restraint of trade and they do not conspire to restrain trade.

This would be exactly the same as it now is with business organizations. They violate the antitrust laws only when they are large enough to monopolize or when they collude with others to restrain trade.

Since 1932 public policy toward unions has disregarded both the economic laws governing the operations of a free market and the interests of consumers. The Norris-LaGuardia Act of 1932 denied relief in the courts for business firms injured by unions. It freed labor unions to increase their monopoly powers and restrain commerce without regard to the damage inflicted on the public. Then in 1935 the Wagner Act conferred more rights and privileges on unions without corresponding obligations. In 1947 the Taft-Hartley Act preserved the unions' privileges and immunities but attempted to prevent certain "bad" labor practices. It did not, however, place any effective restraints on the further extension of union power. In 1959 the Landrum-Griffin Act added more forbidden "bad" practices with the avowed intent of protecting union members from harmful action by union leadership. It also left intact the structure of union monopoly power. Neither Taft-Hartley or Landrum-Griffin, therefore, have effectively dealt with the problems created by labor unions nor achieved real labor "reform." Rather they have added to the confusing tangle of rules and regulations which leave the power of unions to inflict damage untouched but have fostered increasing government interference in market processes.

Moreover, the body of "administrative law" which has developed around our labor statutes is subject to the shifting interpretations of the National Labor Relations Board, whose members are governed more by their ideological proclivities than by the canons of the judicial process. Thus, while Taft-Hartley outlaws the closed shop, interpretations of the NLRB have weakened the effectiveness of this prohibition. Taft-Hartley also prohibits some types of featherbedding and secondary boycotts, but these limited restraints have been largely circumvented by rulings of the NLRB. Congress' lack of success in formulating effective remedies for labor evils is due to its concentration on legislative attempts to stop the bad practices while neglecting the source from which these practices have emanated—excessive union power.

The severest damage inflicted by unions on the public and the most serious threat they pose to survival of the market economy results from their performance of functions which labor laws authorize them to perform in pursuit of their own self-interest rather than the commission of illegal acts. The problem, then, is the reduction of the legally held powers of unions when such powers unreasonably restrain commerce and eliminate competition. The solution is to bring unions under the antitrust laws.

Removing the exemption for unions from the antitrust laws would not be punitive measure. It would not subject unions to any new and unusual penalties but merely restore the equity in treatment of business enterprise and unions that has been lost because of the free hand given to unions to monopolize and restrain trade. Bringing unions under the scope of the laws that were designed to insure the survival of a competitive economy would no more destroy unions than it has destroyed business enterprises.

It has been argued that bringing unions under the antitrust laws is too difficult and too complicated, and that it would place

the antitrust laws and the national labor laws into conflict, These arguments are easily answered.

It was not so difficult to bring business enterprises under the antitrust laws that Congress was unable to achieve it. Bringing unions under antitrust restraints is no more difficult, in fact, it is less so because of the years of experience gained in applying the laws to business firms.

Complexities arise only if an effort is made to spell out in the law the various actions of unions which shall be considered in restraint of trade. This was not done in the Sherman Act with regards to business enterprises, but rather the act simply states that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal . . ." It leaves to the courts the determination of the meaning and specific application of the words of the statute. The Clayton Act likewise uses broad and non-specific terms, delegating interpretation to the courts.

This same principle should be followed in the case of labor unions. The courts will decide what actions monopolize and restrain trade and are, therefore, illegal under the antitrust laws.

National labor law and the antitrust laws, when made applicable to labor unions, will complement rather than conflict with each other. National Labor law deals with problems and practices in the relationships between unions and employers, without attempting to determine the limits to which union power can accumulate and be exercised without substantially injuring the public interest and endangering the survival of the market economy. Enforcement of the antitrust laws as applied to unions will be concerned solely with the latter and not with the former. Thus a union can violate the National Labor Relations Act without running afoul of the antitrust laws, or it can violate the antitrust laws with an action that is not prohibited by the NLRA. In other words, it will be subject to two different types of regulatory action and in this respect it will be no different from business enterprises, which are subject to a variety of restraints.

Bringing unions under the antitrust laws requires a few very simple amendments to the Sherman and Clayton Acts and an equally simple modification of the application of the Norris-LaGuardia Act. These changes are long overdue.

Mr. President, we have seen inflation ravage our Nation over the last few years. President Ford has called for an end to unnecessary Governmental regulations and strict enforcement of the antitrust laws as a means to combat inflation. Certainly, application of the antitrust statutes to labor unions would assist in such an effort.

In view of the high rate of inflation we have experienced lately, 12.2% just last year for example, I find remarks made by the Honorable Mayo J. Thompson, member of the Federal Trade Commission, in a recent address before the National Fluid Power Association in Palm Springs, California, relevant to the introduction of my bill to remove the exemption in the antitrust laws for labor unions. Commissioner Thompson argues that one of the principal causes of inflation in our country has been the monopoly power of labor unions. Commissioner Thompson's address is as follows:

INFLATION AND THE LABOR UNIONS: "REDISTRIBUTING" INCOME FROM NON-UNION WORKERS TO UNION MEMBERS

(Hon. Mayo J. Thompson)

MONOPOLIZATION AND CONSUMER DECEPTION

Let me begin my remarks by congratulating you on your choice of time and place for this meeting. A trip to a lovely place like Palm Springs, California, is a particularly pleasant way for a Washington bureaucrat to make one of his periodic treks to what I call the "real world"—any place in the United States that is more than 100 miles from that great center of unreality, the nation's Capital. Again, it is a pleasure to be here and I thank you for the kind invitation to participate in your program.

For those of you who aren't familiar with the work of the Federal Trade Commission, let me give you the traditional 60-second summary of the matter. The FTC enforces a group of statutes dealing with, in substance, two categories of commercial activity, monopolization and consumer deception. We have a Washington headquarters, 11 Regional Offices located in various major cities throughout the country—including San Francisco and Los Angeles—and a total staff of roughly 1,500 people, including approximately 600 attorneys. We are authorized by Congress to issue certain kinds of "rules" in the two areas of our alleged expertise and to haul offenders in for a full-scale hearing when we can't find a cheaper way to get them to stop whatever it is they're not supposed to be doing.

REGULATION A "BAD BUSINESS"

Now I want to pause at this point to tell you about a problem I have in my role as a member of a regulatory agency. My difficulty is that I don't really believe in government regulation of business. I took an oath to faithfully enforce the laws entrusted to our agency the day I was sworn in as a member of the FTC and of course I am going to do precisely that. And I even believe that most if not all of these laws our agency enforces are necessary. But they are, in my view, only a necessary evil and I approach the job enforcing them with, I must confess, a heavy heart. Government regulation of business is a bad business, one that a man who loves his country ought to get involved in only for the gravest of reasons.

I had a grave reason for joining the Federal Trade Commission. I thought the country's economic system was being "regulated" to death. I thought we needed less regulation of business in America, not more. And I thought I might be able to make some small contribution in that regard by agreeing to serve on the FTC.

MONOPOLY AND PRICE INFLATION

Now I wouldn't want you to get the idea that I joined the FTC for the purpose of trying to dismantle that particular government agency. On the contrary, it is not the existence of the Federal Trade Commission I deplore but the circumstances that make its existence necessary. Eliminating the FTC wouldn't make false advertising go away. And of course it wouldn't make all of America's great industries as competitive as they're supposed to be, as free of artificial restraints and non-competitive prices as many think they ought to be. If we didn't have a Federal Trade Commission, it would be necessary—to borrow a phrase—for us to "invent" one all over again. The fact of the matter is that we *do* have some dishonest advertising. And we *do* have some industries that are not competitive enough to keep consumer prices at a non-inflationary level. Until commercial honesty and effective competition are the norm in all of our important markets, "regulation" of one sort or another is going to be very much with us, whether we like it or not. And if there is going to be regulation, it ought to be done by people who don't like it.

COMPETITION THE BEST ANTI-INFLATION WEAPON

We once had a phrase in our working vocabularies that summed up my idea of what an economic system ought to be like. It was a two-word French term, "laissez faire," and it translateed into something like "leave it alone." No government interference of any kind in the economic affairs of the people. Let the marketplace do its own regulating.

In a genuinely free economy, one need not be concerned about the prospect of economic overreaching. Individual men will of course pursue their own self-interest but their potential for social harm is cancelled out by competition from other individuals pursuing *their* own self-interest. As the first modern economist summed up the laissez-faire ideal: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages . . . [E]very individual . . . intends only his own gain, [but] he is in this, as in many other cases, *led by an invisible hand* to promote an end which was no part of his intention . . . By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it." [1]

PRODUCTIVITY AND THE DISTRIBUTION OF INCOME

Sellers may of course try to charge too high a price for their goods—businessmen are, after all, as human as the rest of us—but competition from other sellers will prevent them from *succeeding* in it. And employers may try to *under*pay their workers—and the workers, in turn, may try to get *over*paid for their labor—but competition among the individual members of these two groups will in fact assure that the *actual* wage is fair to both parties.

There is no unemployment and no inflation in such an ideally-competitive economy as this. Only the worker who demands a wage that is higher than the value of his output will be unemployed. And since all prices will be held to the competitive level, there can be no inflation. Invention and innovation will thrive in such a fair and stable society, thus assuring that each man-hour of labor and each dollar of invested capital will yield each year a larger quantity and a better quality of goods and services than it did the year before. The fruits of this increased productivity—higher yields for each man-hour of labor and each dollar of capital—will be divided, thanks to competition, between labor and capital in the same proportions as the lower yields of the past. Competition thus assures both a steady *rise* in a society's aggregate prosperity from year to year and a fair *distribution* of that growing prosperity among its citizens, one based on each individual's social contribution as measured by the value his fellow citizens place on his efforts.

COMPETITION ALIVE BUT ON THE SICK LIST?

Alas, several fingers have been broken off the "invisible hand" so eloquently described by Dr. Smith in his now 200-year-old book, *The Wealth of Nations*, published in 1776. The Industrial Revolution hadn't completed its work then and small-scale industry was still very much the norm in the various economic systems of the world. In short, if the politicians of Smith's day had taken his advice on the matter of avoiding the various "guild" and "mercantile" restraints he railed against, the system would probably have worked very much the way he said it should.

Now, however, the solution to the economic problems of the world are no longer so simple. Modern economic society bears little resemblance to the model Smith saw in 18th century England. Powerful governments, through their own fiscal budgets and their control of national banking systems such as our own Federal Reserve Board, drive their

[1] Adam Smith, *The Wealth of Nations* (1776) (Modern Lib. Ed., 1936), pp. 14, 423 (emphasis added).

aggregate money supplies up and down like so many yo-yos. Great corporations, many of them operating in scores of counties around the world, control such large segments of their respective markets that only the most romantic of observers still believe that every price in America is set by the "invisible hand" of Dr. Smith's mighty lever, competition. And the price of labor—the wages paid by those corporations—has not been determined by the forces of competition since the passage of our highly restrictive labor laws in the 1930s. Competition is far from dead in America but the prognosis for its future health, if our industrial experts are to be believed, is something less than completely bullish.

UNION WORKERS SUBSIDIZED BY NON-UNION EMPLOYEES?

Consider the effect of monopolistic labor unions in the United States. First, they tend to redistribute income in a perverse way. Approximately 70% of the price paid for all the goods and services produced and sold in America goes to labor as wages and salaries. This particular division of income between labor and capital—70% for the former and 30% for the latter—has remained substantially the same since the turn of the century, thus making it fairly clear that the coming of labor unions in the 1930s has not significantly raised labor's *overall* share of the national income pie. They have succeeded, however, in getting larger shares for their *own members*. Roughly 25% of the country's total workers belong to a labor union and numerous scholars have found that workers belonging to some of the more powerful unions receive wages as much as 20% above those they would be receiving in the absence of the unions.[2] If labor as a *whole* is not receiving a larger income as a result of the coming of the unions, but the union's own members *are* receiving more, then it is obvious that those organizations are simply "transferring" money *from one group of workers to another,* from the non-union worker to the union man. Union members' wages are, in effect, *subsidized* out of the paychecks of the country's non-union employees.

CONSUMERS 75 PERCENT NON-UNION

There is no mystery about how this little exercise in monopoly power operates. Prior to the coming of the union, the workers in a particular industry will usually be receiving a wage set by the free forces of the labor market, by supply and demand. A union is then organized and, under the threat of a strike the employers in the industry will generally agree to raise wages by, let's say, 20%. Since they obviously can't absorb such a wage hike out of profits, they have no choice but to *raise the price of the product they sell to the consumer*. Labor costs, like all other costs incurred by a business firm, are simply "passed on" to the consuming public, a group of people that, as noted, is 75% non-union. And since non-union workers are less affluent, on the average, than union members, it follows that every wage increase won by one of our more powerful labor unions has the effect of re-distributing income regressively—away from the relatively poor and toward the relatively affluent.

INFLATION AND SOCIAL UNREST

Nor can the dilemma created by the monopoly power of our labor unions be solved by simply unionizing *all* workers in the country and thus freeing all wages from the forces of the competitive marketplace. We already have an intolerable rate of inflation in the United States with only a fourth of the labor force unionized, a rate that reached the rather spectacular level of 8.8% in 1973 and that threatens to go even higher in 1974. With 100% of the country's workforce enjoying that kind of monopoly power, our inflation rate might well equal that of some of our less fortunate friends in South America, those whose prices increase by 25% to 50% year after year. A nation that allows its *economic* fabric to unravel at such a pace can hardly expect its social and political garments to hold firm over the long haul. Economic distress leads, in time, to social unrest and, in the end, to political problems of the most alarming dimensions.

LABOR MONOPOLIES EXEMPT FROM ANTITRUST LAWS

When our antitrust laws were first passed—the original Sherman Act was passed in 1890—they were addressed to economic monopoly in all of its various aspects, including both corporate monopolies and labor monopolies. In time, however, Congress enacted a series of statutory provisions that substantially exempted labor from the reach of the antitrust laws. Today, it is lawful for a *single* labor union to exercise a complete monopoly over the *total* supply of labor to even the largest of our great industries and to use that power to exact any wage the firms in the industry can successfully "pass on" to the consuming public—in other words, any wage that won't bankrupt the companies involved. The result, of course, is a continuing escalation of wages—and, in turn, of prices—in all of our industries with strong labor unions and in all related industries that have to compete with them for their labor supply. Monopoly in the country's labor markets assures that prices will rise *faster than productivity* year after year and hence that we will continue to have an inflation problem into all of the foreseeable future. The stronger our unions become—and the more aggressive their members and their leaders become—the greater our future inflation problem will tend to be.

INFLATION AS THE "CAUSE" OF UNEMPLOYMENT

Perhaps the most troublesome aspect of this problem, however, has to do with the link between inflation and unemployment. Since the annual rate of increase in productivity in the United States is approximately 3%, wages could increase by *that* amount each year without causing any inflation. But if some workers insist on getting wage increases of 10% or 12% every year, and if this produces an overall wage increased of, say, 8%, then the result will inevitably be an inflation rate of at least 5%. A 5% cut in the public's purchasing power means, of course, a comparable reduction in the *volume* of goods produced and thus in the number of workers the economy can *employ*. There is a limit, however, to the amount of unemployment the country will tolerate. Beyond some point on the unemployment scale—and that point is certainly a great deal lower than the 24.9% figure we had in the trough year of the Great Depression, 1933—the public can always be expected to demand that the government "do something."

In a democratic society like ours, such a demand by the public will sooner or later be heard in Washington and "something" will in fact be done. In the unemployment situation I've described here, the government invariably responds by opening up the money valves at the Federal Reserve Board and/or by running a deficit in the federal budget, keeping the floodgates open until the unemployment rate has dropped back to a politically tolerable level. By that time, however, the *inflation* rate will be rising even faster than before, thanks to all that new money the government has injected into the system.

THE "BOOM-AND-BUST" CYCLE

We have here, in other words, a familiar boom-and-bust cycle. Wages push up prices. Then output starts to fall. To head off an unacceptable level of unemployment, the government injects enough new money to "cover" those higher wages and prices and thus prevent the worker lay-offs that otherwise would have been caused by that loss in consumer purchasing power. Injecting that new money into the system causes still more inflation. Workers then demand a new "catch-up" wage increase. Prices follow. And so the cycle continues, *ad nauseum*, with little prospect for *either* full employment or stable prices.

A "DE FACTO" EXEMPTION FOR CORPORATE MONOPOLY, TOO?

What does all this have to do with the Federal Trade Commission? We're the agency that—in theory, at least—is supposed to prevent this sort of thing from happening in America. We're supposed to see that the country's economic system is kept free of monopoly, that the economic rails are kept clear of all artificial obstructions. And we *try* to do our job. Our problem, however, is that we've been authorized to clean only *one* of the tracks in the country's two-rail economic system. We can and do investigate monopoly on the *corporate* side of the roadbed but monopoly on the *labor* side is off-limits to us.

Now this one-sided treatment of the monopoly problem in America would be bad enough if it all ended right there. But there's a little more to it. Most fair-minded people recognize the inconsistency and injustice of a law that makes a situation illegal if it is created by *one* group of people and perfectly lawful if it happens to be the work of some *other* group of people. Since labor unions are legally free to and do build up and exercise vast amounts of monopoly power in *their* markets, a lot of our citizens are unable to work up much enthusiasm for reducing whatever monopoly power might be found in our various product or corporate markets. Once the law has given its blessing to monopoly and all its wide ramifications in one area of our economic life, the temptation is very strong to give it a similar blessing in all other areas as well.

INDUSTRYWIDE BARGAINING AN ANTITRUST VIOLATION?

There was undoubtedly a time when the worker in America and elsewhere was denied a fair shake in the economic arena. Nobody has forgotten that we once had sweat-shops where even women and children worked 16 hours a day under grossly unsafe working conditions and for a wage that had been determined not by Adam Smith's "invisible hand" but by the very obvious will of a single monopolistic employer. But now the pendulum has swung much too far in the opposite direction. Many labor unions in the United States and in the other industrialized countries of the world clearly exercise a degree of monopoly power over the world's economies that is grossly inconsistent with the welfare of the great bulk of its citizens.

My conclusion, then, is that the time has come to start cutting back on the monopoly power wielded by the trade unions in this country, perhaps by subjecting those unions to a modified version of our current antitrust laws. It would make eminently sound economic sense in my view, for example, to make it a violation of the antitrust laws for a single union to represent more than the employees of a *single employer*. And to prevent evasion of that provision, the law might also declare it illegal for two or more such unions to agree or conspire with each other in the setting of wages. In short, I think industrywide bargaining ought to be outlawed on *both* sides of the table, with the individual employer confronting *an opponent that exactly matches it in "size,"* namely, a union representing its *own* employees, not those of an entire industry or a whole industrial sector.

[2] See, e.g., Albert E. Rees, *Wage Inflation* (National Industrial Conference Board, 1957), pp. 27–28.

NO PUBLIC SUPPORT FOR "DECONCENTRATING" THE UNIONS

A rule like this should have some very interesting effects in a number of dimensions. First, 1-union-for-1-employer would automatically assure the same degree of competition on both the labor and corporate side of each industry. And of course the corollary to this proposition is that, if the antitrusters want to "break up" some alleged corporate monopoly, they would have no choice but to break up the *union* it deals with at the same time. It seems very likely, in other words, that a rule of this kind would cause both wages and prices to fall in some important American industries.

No one in this sophisticated audience, however, will be under any illusion about the chances of any such proposal being enacted into law any time soon. To apply even the most moderate form of antitrust restraint to the country's labor monopolies would be something of a sacrilege to a lot of people in the country. We *talk* a lot about monopoly but, when it comes down to actually *doing* something about it, not many of us seem too anxious to budge very far from the *status quo*. We know we have some labor monopolies and that they keep pushing wages up faster than productivity. And we know we have some corporate monopolies that use every wage boost as an excuse to raise prices even more sharply and thus widen their profit margins again. But we figure a little monopoly is not too bad a thing, so long as we don't "let it get out of hand." We ignore the problem as much as we can. And when a crisis appears in a particular part of the economy—and the public demands that the government "do something"—we say, "Oh, well, a 'little' regulation by the government won't hurt too much, as long as we don't let it get out of hand."

NATIONALIZATION THE "FINAL SOLUTION"?

Government regulation encroaches a little further each year, following the slow but steady march of monopoly. Like the buzzard circling a lame cow in a back pasture, government regulation pounces the moment the last breath of competition leaves the economic carcass. Unlike the buzzard's work, however, economic regulation is not a process that leaves a clean and healthy landscape in its wake. Creating more problems than it solves, it breeds ever more pervasive involvement of the government in economic affairs. New rules and regulations must be passed to solve the problems created by the *old* rules and regulations. The "final solution"? Nationalization. Public ownership of the country's major industries. The railroads. Airlines. Steel. Petroleum. Automobiles. The banks. Insurance. Communications.

It's called Socialism. The stuff it's made out of is called Monopoly. The antidote for both of these poisons is called Competition. The gift it brings is called Freedom. The price we have to pay if we want to keep it is called Responsibility.

* * * * *

They believe we *already* have so much monopoly in our major labor and product markets that it would be easier to simply go on and turn the whole thing over to the government than to undertake the tedious and difficult task of making competition pulse with life once more in all those dead or dying economic carcasses. I don't believe this. I don't believe this country's business community, for example, is going to let itself be outsmarted by the socialist professors we have running around our universities. I believe this country's businessmen will show the same kind of responsible leadership in whatever economic crises might lie ahead of us that they've shown over the past 200 years in making this great nation the economic marvel of the world that it is today. I believe they have the capacity and the sense of responsibility to understand and apply what I consider the key to this dilemma—the way to avoid government regulation of business is to see that there's no *need* for it in the first place. I believe, in short, that they will pay—and gladly—whatever price is required to keep our free enterprise system free and pass it on, stronger than they found it, to their posterity.

"MONOPOLY IS UN-AMERICAN"

Let me try to sum it all up this way: Competition can do some pretty rough things to your profits and perhaps give you an ulcer besides. But if you ever succeed in *eliminating* it from your industry, *you're beggin' for "regulation"* by the government and, ultimately, perhaps something even worse, government ownership on the British or other European model. Competition may be costly to your purse but economic freedom, as we all know only too well, is a bargain at any price.

My final message is this:

Monopoly is un-American. Show the flag in the fluid-power industry!

Mr. THURMOND. Mr. President, our current economic situation further strengthens the argument for removing the exemption in the antitrust laws for labor unions. Congress has the obligation to restore the balance in our economy between labor and business. Such will insure reasonable and fair wages as well as reasonable and fair prices. Much has been said about the extensive influence of labor unions on members in the 94th Congress. I have long been of the opinion that excessive power wielded by any group, be it labor, business, or other special interest group, poses a threat to our American system. Mr. President, Congress, through the enactment of my bill, has the opportunity to show the American people that this body can maintain a spirit of independence and will not impose a double standard—one for business and one for the labor unions. We all are in the same ball game—there is no justification for a different set of rules for the participants.

EXHIBIT 2

STATEMENT OF MR. RAILSBACK ON THE OMNIBUS ANTITRUST BILL

Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the CONGRESSIONAL RECORD, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one pudges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate verisons, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that as a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of the Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. First of all, there has been a great venting of spleen on the Byrd amendment with regard to contingency fees. I ask unanimous consent that a summary of the House and Senate ac-

tion on contingent fees be printed in the RECORD.

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

SUMMARY OF SENATE AMENDMENT ON CONTINGENT FEES

In June, the Senate barred all percentage contingency fees in parens patriae actions. This provision remains intact in the Byrd motion (Section 4G(1)(A), page 35).

The same Senate bill also implicitly prohibited other contingency fees unless such fee was approved by the court based primarily on the number of hours worked multiplied by a reasonable hourly rate. The Byrd motion (Section 4G(1)(B), page 35) makes this implicit provision explicit. Section 4G (1)(B) in no way modifies Section 4G(1)(A) which totally bars percentage contingency fees.

DISCUSSION OF HOUSE-SENATE ACTION ON CONTINGENT FEES

In the bill which was reported by the Senate Judiciary Committee there was no express provision barring a state attorney general from retaining private counsel on a contingent fee basis. However, the Judiciary Committee Report stated unequivocally that attorneys fees must—under existing law—be approved by a court under generally accepted standards articulated in *Lindy Bros.* v. *American Radiator and Standard Sanitary*, 487 F.2d 161 (3d Cir. 1973) and *City of Detroit* v. *Grinnell*, 495 F.2d 468 (2d Cir. 1974). It is the Committee's intention that attorney's fees in section 4C cases be approved under the same criteria, and the court is directed to look behind any fee arrangements which may be made between the State and its counsel. As quoted in the Report, the criteria established by the court in *Lindy Brothers* for approving attorneys' fees are as follows:

In awarding attorneys' fees, the district judge is empowered to exercise his informed discretion.

* * * * *

In detailing the standards that should guide the award of fees to attorneys successfully concluding class suits, by judgment or settlement, we must start from the purpose of the award: to compensate the attorney for the reasonable value of services benefiting the unrepresented claimant. Before the value of the attorney's services can be determined, the district court must ascertain just what were those services. To this end the first inquiry of the court should be into the hours spent by the attorneys. * * * After determining, as above, the services performed by the attorneys, the district court must attempt to value those services.* * * A logical beginning in valuing an attorney's services is to fix a reasonable hourly rate for his time—taking account of the attorney's legal reputation and status (partner, associate). Where several attorneys file a joint petition for fees, the court may find it necessary to use several different rates for the different attorneys. Similarly, the court may find that the reasonable rate of compensation differs for different activities. * * * While the amount thus found to constitute reasonable compensation should be the lodestar of the court's fee determination, there are at least two other factors that must be taken into account in computing the value of attorneys' services. The first of these is the contingent nature of success.* * * In assessing the extent to which attorneys' compensation should be increased to reflect the unlikelihood of success, the district court should consider any information that may help to establish the probability of success.* * * The second additional factor the district court must consider is the extent, if any, to which the quality of an attorney's work mandates increasing or decreasing the amount to which the court has found the attorney reasonably entitled. In evaluating the quality of an attorney's work in a case, the district court should consider the complexity and novelty of the issues presented, the quality of the work that the judge has been able to observe, and the amount of the recovery obtained.* * * The value to be placed on these additional factors will, of course, vary from case to case." (487 F. 2d at 166–169.)

In light of these cases, the Committee voted to reject an amendment to bar the use of all contingent fees. S. Rept. 94–803, at page 80.

The Committee found that a flat ban on contingent fees "would severely limit the usefulness of Title IV for several reasons. First, most States have a small attorney general's office, and an even smaller antitrust staff. A total of 77 attorneys throughout the fifty States are assigned full-time to antitrust matters, and this includes enforcement of State antitrust statutes. Nine States assign no attorneys and 13 assign one on a part-time basis to antitrust matters. States simply do not have the in-house capability of sustaining a complex multi-year antitrust trial. Nor do many State attorneys general's offices have the budget to advance upwards of several hundred thousand or even million dollars in attorneys' fees to outside counsel, or to pay such fees if judgment is rendered for the defendant." S. Rept. 94–803, at 53.

The Report went to emphatically reject the notion that a court approved contingency fee is either immoral or unethical, particularly when, as is the case here, the amount is subject to court approval upon prescribed criteria. To the contrary, it is often the only way to secure effective representation. As put by Virginia attorney general Andrew P. Miller:

Another way to cripple the effectiveness of this bill would be to deny the Attorneys General, the right every other citizen enjoys, to contract for legal services on whatever basis, in his judgment, suits the needs of a particular case. At this point, substantial antitrust staff are not widespread at the State level. Furthermore, undertaking one major *parens patriae* suit can absorb the time of numerous staff persons for several years. Accordingly, this bill will go unused, and the rights created unenforced to the fullest extent possible, if the Attorneys General are not permitted to contract for expert antitrust counsel whose fees will be paid out of subsequent settlement or judgment, if any. We share the concerns of those who believe that attorneys' fees should be kept within reasonable limits. Therefore, we would support an amendment which would require the approval of the district court for any attorney fee arrangement according to standard attorney fee criteria.

The Report went on to counter the argument that contingency arrangement will encourage the filing of frivolous suits and unnecessarily subject defendants to harassment and to substantial legal and other fees incident to defending suits filed in bad faith. The Committee finds the contrary to be the case, particularly in view of section 4C(f) which provides for the award of reasonable attorneys' fees to a prevailing defendant if the defendant establishes that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

This provision remains in the bill as Section 4(C)(d)(2).

Finally, the Committee Report concurred with the eloquent separate views of Congresswoman Barbara Jordan (D–Tex.) contained at page 27 of House Report No. 94–499 (94th Congress, 1st Sess.). She stated "I am concerned that a flat ban on 'contingency fees' will effectively place the services of perfectly ethical and highly knowledgeable attorneys beyond the reach of the States."

There is another vital point at stake. The contingent fee is not merely an honorable means of financing litigation for those who would otherwise be unable to afford it until the award of final judgment. It is also recognized as an important tool for weeding out the frivolous and unmeritorious case on the basis of expert assessment. It is highly unlikely that a lawyer knowledgeable in any field will be prepared to invest large quantities of his own time and effort in a case on the basis that he will be uncompensated unless he obtains a successful result for the client, unless he believes after careful examination that the case has serious merit.

This point is responsive to two concerns which have been expressed by opponents and critics of the bill. Business interests have argued that the enactment of this legislation will bring a plethora of unfounded lawsuits for enormous sums of money, which they will have to defend at great expense. And members of the committee have on several occasions questioned whether the law might not present irresistible temptations to politically ambitious state officials bent on making a reputation without regard to the ultimate disposition of the cases they bring.

Neither of these unfortunate predictions is remotely likely to come true if the economic judgment of the legal experts is invoked in the evaluation of cases through the use of the contingent fee.

These views are as forceful in relation to the pending Senate bill as they were in the House Judiciary Committee.

When the Senate debated the Judiciary Committee bill in June, after prolonged debate an amendment to ban all contingent fees was twice defeated. 122 Cong. Rec. pages 16717–16720 (June 4, 1976); 122 Cong. Rec. pages 16839–16843 (June 7, 1976); and 122 Cong. Rec. pages 16912–16921 (June 8, 1976). Senator Hart unsuccessfully attempted to obtain unanimous consent to offer an amendment to bar all contingent fees "based on a percentage of the monetary relief awarded." 122 Cong. Rec. S. 8617 (June 8, 1976). In attempting to offer this amendment Senator Hart was attempting to make the point that "there are two kinds of contingency fee arrangements.

One—and I am one who finds no objection to this—that, contingent upon success or failure, counsel shall be reimbursed. I would hope no matter how we lash around on this issue, we will not lose sight of the fact that justice in this country now comes at an increasingly high price. An awful lot of people will find themselves simply out of luck if we develop the notion that contingent fees based upon success or failure are something that should be regarded as evil or unworthy.

I hope none of us ever find ourselves in the position of putting that proposition to a test. But the cost of justice has now reached the point where a good many middle class Americans could not get in the courthouse unless there was an acceptance of the notion and validity of a contingent fee based upon winning or losing the case. But the second approach and the one that is subject to criticism is the contingent fee which is an arrangement that "X percentage of my recovery, X percentage of the settlement shall be paid me in compensation."

It is this second approach which the committee sought to prevent and which we believe language, trusting the ultimate decision to the court, would assure that abuses would not occur." 122 Cong. Rec. pages 16916–16917 (June 8, 1976). Senator Hart and various members of the Senate engaged in the following colloquy on the contingent fee question.

Mr. NUNN. So the Senator from Michigan is saying that a fee of a lawyer hired under this bill would be contingent only in the sense that he would be paid if there is re-

covery. But the amount of the lawyer's fee would not be contingent as a percentage of recovery. In other words, it would be set by the court on a reasonable basis, based on the work performed. Is that right?

Mr. PHILIP A. HART. The Senator is absolutely right.

Mr. NUNN. The Senator from Georgia has been one of those voting to get the Hruska amendment back for consideration, because I felt it was worthy of consideration. But it seems to me that we would be placed in the position, if the Hruska amendment is agreed to, that all we would be doing would be knocking out contingent fees, so that there would be no contingent fee at all based on recovery or nonrecovery.

Mr. PHILIP A. HART. The Senator from Georgia perceives it exactly.

Mr. NUNN. Would we not be in the position, then, that if a lawyer took the case, he would be paid on any hourly basis, whether he recovered or not?

Mr. PHILIP A. HART. There is that possibility. In the unlikely event that a State could budget for that sort of employment, yes.

This would permit that phantom chased around here yesterday, the too free-wheeling attorney general, to turn somebody loose who would not have any concern about the validity or the legitimacy of his case and who would simply run his meter.

Mr. NUNN. That is exactly right. If there were no attorney's fees unless there was a recovery, a lawyer would be much more likely to make sure he had a meritorious case.

Mr. PHILIP A. HART. We believe so.

Mr. NUNN. But if he were to be paid whether or not he won, he could litigate for a number of years, and it could become a lifetime occupation.

Mr. PHILIP A. HART. Almost as good as representing a foundation.

Mr. NUNN. It seems to me that the Senator from Michigan has made it very clear that the thing some of us objected to about the present bill has been corrected by this letter.

It seems to me that the Senator from Michigan has corrected the fear some of us had that the attorney's fee would be based on a percentage of recovery.

Mr. PHILIP A. HART. Certainly, we seek to insure that that will be forceful.

Mr. MCCLURE. We are not talking about the usual case of an attorney who has no client; therefore, he has nobody paying him. It is saying that if they wish to do so, they could pay whatever reasonable compensation is in order.

Does the Senator from Georgia understand that?

Mr. NUNN. The Senator from Georgia understands that. The point the Senator from Georgia is making is if a lawyer's potential fee is based on whether or not he finally prevails in the case, it seems to the Senator from Georgia that the lawyer is going to use a lot more discretion in deciding to pursue that case, because no lawyer would want to work for several years on a case that is a losing case and thereby be precluded from recovery.

It seems to me that the contingency part of this amendment, when it is not based on the possibility of recovery, is subject to the very hazard that the Senators opposed to the Hruska amendment are trying to prevent.

I do not understand the Hruska amendment because it seems to me the very thing he is trying to protect against—frivolous lawsuits based on attorneys' fees—is much more likely to be prevented by the clarification of the Senator from Michigan than by Senator HRUSKA's amendment. It seems to me that would be working in the opposite direction.—122 Cong. Rec. page 16918 (June 8, 1976).

Mr. JOHNSTON. Mr. President, I should like to direct a question or two on this amendment. I hope my objections, as Senator NUNN's, will be resolved to it.

As I understand it, under the new proposal, if the Hruska amendment is defeated—I guess this question would be to Senator HART.

If the Hruska proposal is defeated, contingent fees may remain, but they may not involve a percentage of the monetary relief awarded. Is that correct?

Mr. PHILIP A. HART. That is correct.

Mr. JOHNSTON. How would it then work? How would you then structure a contingency fee contract?

Mr. PHILIP A. HART. Well, we must remember that there is provision in the Hart-Scott substitute for the court to—let me get the language precisely—"The court shall determine the amount of the plaintiff's attorney's fee."

There is a series of guidelines that have been developed, some of which, indeed, we set forth on pages 51 and 52 of the committee report. But substantially, I think that I could say that in determining the fee, the court would consider the time and the labor spent, the magnitude of the litigation and its complexity, the quality of the service rendered, and whether the plaintiff had the benefit of a prior judgment in favor of the United States on parallel comparable issues.

It is possible that you could have an hourly rate of $25, or $100. It could vary by region, I am sure. But these would be the factors that would operate in connection with the evaluation of the fee that would be presented to the court by an attorney engaged on a contingent basis, namely, if you win you——

Mr. JOHNSTON. Is the Senator saying the court will in all such contingency fee situations fix the fee, the contingency being that the court has the right to fix it based on these factors or other factors if the plaintiff is succesful, but that the court has no such power if the plaintiff does not prevail?

Should I restate that question?

Mr. ABOUREZK. That is correction. That is the intention of the legislation.—122 Cong. Rec. page 16919 (June 8, 1976).

This series of colloquies persuaded the Senate twice to reject a ban on all contingent fees.

Although Senator Hart could not obtain unanimous to offer his amendment to ban percentage contingent fees at the time the Hruska amendment was debated, that provision became a part of the June 10 compromise. See 122 Con. Rec. page 17541 (June 10, 1976). The Hart amendment banning all percentage contingent fees is carried over in the Senate amendment of August 27, 1976.

Mr. ABOUREZK. Also, Senator HRUSKA has raised objection to section 4F(b), on page 34 of the Byrd motion. It provides as follows:

To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

The section specifically limits the Attorney General's power to release documents to whatever his powers are under existing law. Under existing law, he cannot turn over materials given in response to a grand jury demand or to a civil investigative demand. Therefore, the section is limited by existing law to cases where materials were turned over voluntarily. This section is in the bill, because it was requested by the members of the House conferees, who had met on this.

I might say one other thing, Mr. President, about the attorney fees section. I have been listening for several days to talk about gigantic attorneys' fees. Under the Byrd motion, which the opponents are against, percentage contingency fees are specifically prohibited. Page 35 of the Byrd motion bars any—

(A) "contingency fee based on a percentage of monetary relief awarded under this section;".

That is the exact language. In addition the amount of the plaintiff's attorneys' fees, if any, is to be determined by the court. That provision is to be found on page 33 of the Byrd motion. There is no way that the court, if it is to abide by this law, can award a percentage contingency fee. It can set an hourly fee, and it may be contingent upon whether the plaintiff prevails. There is no possibility of gigantic attorneys' fees under these provisions. In fact, if an attorney brings an action that is not a serious action, if they are trying to blackmail somebody, then the court is entitled to award the defendant attorneys' fees.

In this substitute, there is no question about whether percentage contingency fees are legal; they are not. Despite this fact the opponents continue to bring up the contingent fee question in an effort to convince somebody that enormous contingent fees are permitted under this legislation. I hope that my statement will put this matter to rest.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield the remaining time on this side to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for yielding to me.

Mr. President, this bill throughout has cut, or efforts to pass the bill have cut, every imaginable corner in order to achieve passage of the bill. Every strong-arm tactic has been used, and we are soon to consider, after my substitute has been voted on, the so-called compromise, which is no compromise at all, as I will point out.

The proponents of this legislation have been prone to say "compromise" when no compromise exists. First they said there was a compromise with respect to the Senate version of this bill which passed on June 10.

I contended, the distinguished Senator from Nebraska made absolutely plain here on the floor of the Senate, that no compromise was involved. But yet, Mr. President, the substitute offered by the Senator from Alabama is, in fact, the Senate version of the bill passed on June 10.

Well, if, as the proponents of this legislation claim, there was a compromise on the Senate bill, why are they so anxious to defeat the bill?

I was amazed to hear on the floor of the Senate the distinguished Senator from South Dakota (Mr. ABOUREZK) say that a vote for my amendment would be a vote against the Hart-Scott bill. It is, in fact, the Hart-Scott bill, as passed by the Senate on June 10.

Now, no compromise existed even though the proponents of the legisla-

tion say that one did exist. But they are shown not to believe what they say by the fact that I am offering this so-called compromise that the Senate passed on June 10, and they are fleeing from it. They want no part of it. They have offered two separate substitutes to try to kill it. So it was not a compromise then.

Apparently, Mr. President, there is no compromise with regard to the so-called compromise substitute motion offered by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD). That compromise was the result of a rump conference between certain Members of the Senate and, supposedly, certain Members of the House.

Claims were made that an agreement was reached between Members of the Senate and Members of the House as to the so-called compromise. But, Mr. President, that is a unilateral statement. That is not agreed to by Members of the House of Representatives.

Mr. RAILSBACK, in a statement in the RECORD on page 29032 last Thursday said:

> There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

Yet, the proponents of this Robert C. Byrd substitute say that a compromise was reached. Well, it does not seem to be any more compromise on that than there was on the Senate bill they are now rejecting.

Mr. RAILSBACK continues:

> There has been no compromise agreed to between the House and the Senate.
>
> There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

Yet they come back in here with this rump conference substitute—and I say rump conference because the self-elected representatives of the Senate were three strong supporters of the legislation and nobody against the legislation or who had any different views from theirs, who were called on to meet with certain House Members. Said Mr. RAILSBACK:

> In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Yet this work of the rump conference was brought back here to the Senate and offered here supposedly as a compromise.

We did not know anything to the contrary until Thursday when Members of the House went to the House floor and said there was no compromise.

Mr. RAILSBACK continues:

> The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees.
>
> A second significant change incorporated in the Senate proposal over the objection of the House conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.
>
> As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself.

He goes on and explains that. I am going to offer his statement, and I shall ask unanimous consent to do so, in the RECORD, at the conclusion of my remarks.

Another important difference is what Mr. PHILIP A. HART said in his statement that was inserted in the RECORD when the substitute was offered, when he said that the Senate retroactivity provision was basically retained, well, that is not correct, and it is misleading in that it suggests that the retroactivity provision of the Senate bill was retained in the so-called compromise. It is not.

The Senate bill had forbidden a retroactive effect cause of action based on facts occurring before the enactment of the bill. The Byrd substitute or the rump conference substitute—and I have likened the rump conference to the rump Parliament in England under Charles I and Oliver Cromwell, which had no legal standing whatsoever, no authority to act—and yet they come in and try to palm off their own language and claim that it is a compromise reached with the House. The House Members say not so.

So I guess these gentlemen seem prone to a yell "compromise" and they retreat from the very compromise they say was reached as regards the original enactment of the Senate, and here they are not willing to agree to what the House Members said they would take.

Mr. RAILSBACK says that the Senate Members, these three strong supporters of the legislation, Mr. ABOUREZK, Mr. KENNEDY, and Mr. HUGH SCOTT, presented their compromise or their version of what they wanted to adopt; the House then presented to these Members—they never met according to Mr. RAILSBACK—presented to these three Members what they felt the House would accept, and then the Senate presented another version which the House rejected, and there, according to Mr. RAILSBACK, the negotiations ended, ended in the rejection by the House of the rump conference proposal.

Mr. President, I have in my possession a copy of this proposal by the House Members. It is different in three respects from this rump conference proposal which is stated as being the compromise measure. Well, it is no compromise measure, because it changes in at least three other respects what the House said they would accept.

So, Mr. President, this is no compromise. Mr. RAILSBACK said that he believes when the Senate proceeds to send over the results of the rump conference that it will not be accepted on the floor of the House, and if it is accepted that the President, in all likelihood, will veto the measure.

I. BACKGROUND

Mr. President, recapitulating, on Friday, August 27, Senator BYRD filed in the Senate an amendment in the nature of a substitute to the House antitrust package (H.R. 8532), along with a simultaneous petition for cloture on the substitute. I prevented an attempt to adjourn the Senate and objected strenuously to this extraordinary procedure and to the fact that no explanation was forthcoming as to what was in the "mystery package" or where it came from.

That is the Byrd motion, also known as the Byrd substitute, also known as the rump conference proposal.

When the CONGRESSIONAL RECORD for August 27 appeared the next day, Saturday, an "Additional Statement" had been inserted under the name of Mr. PHILIP A. HART at the end of my objection, which, of course, was not delivered here on the floor.

This "Additional Statement" purported to explain the background and contents of the "mystery package" implying that it was an agreement reached at an informal meeting between three Senators, KENNEDY, ABOUREZK, and HUGH SCOTT and the House conferees:

> Senator Kennedy, Senator Abourezk and the distinguished minority leader, Senator Hugh Scott, entered into informal negotiations with Chairman Rodino and the other members of the House Monopolies and Commercial Law Subcommittee as to what the House might favorably consider. The members of that Subcommittee had been appointed by the House to serve as conferees. In spite of the extremely short time period involved, Chairman Rodino and the other members of the House Subcommittee graciously acceded to the request of the Senate sponsors to meet and isolate the major differences between the two bills. (Con. Rec. page 28272, Aug. 27)

This is Senator HART's version.

Press reports commencing on August 28 and continuing the following week constantly referred to the Byrd substitute as a "compromise" measure worked out to avoid a threatened filibuster of the conference proceedings. The widespread assumption that the Byrd substitute was a "compromise" reached at a "rump conference" meeting of the House conferees and the three Senators was reflected in many references throughout the Senate debates the following week—August 30–September 1.

I might say, Mr. RAILSBACK was not the only Member of the House who said no compromise was reached. Mr. MCCLORY also made the same statement, that there was no compromise reached.

Mr. President, I ask unanimous consent at the end of my remarks that Mr. MCCLORY's and Mr. RAILBACK's statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. ALLEN. No effort was made to correct the record on two crucial points, until after the Senate adjourned on Wednesday, September 1, viz: First. The so-called Byrd compromise did not represent a compromise agreed to by the House conferees and any statement here on the floor to that effect is controverted by Members of the House who are sup-

posed to be among those who agreed—and, in fact, there are a number of provisions in it with which the House conferees had specifically disagreed; and

In fact, there are a number of provisions in which the conferees had specifically disagreed. Yet this rump conference proposal also sought to be balanced off here in the Senate as a compromise reached between three Senators who had no standing whatsoever to reach any agreement, with Members of the House who now say that no agreement was reached.

Second. There was, in fact, no meeting with the Senators at all. It turns out there were only some discussions between the three named Senators and some of the House conferees, resulting in someone's version—it still is not known whose—of what the drafter thought the Senate and House might be induced to accept. Statements correcting the record as to the facts surrounding the supposed "compromise" were inserted by Congressman ROBERT MCCLORY and THOMAS RAILSBACK in the CONGRESSIONAL RECORD on Thursday, September 2, the day after the Senate had reached a unanimous-consent agreement and adjourned.

II. EFFECT OF "BYRD SUBSTITUTE"

The effect of first, the misimpression created by the Added Statement in the August 27 CONGREESIONAL RECORD that the "Byrd substitute" had been agreed to by the House conferees, second, the constant characterization of the Byrd substitute as a "compromise"—see, for example, Senator ABOUREZK statement at page 28569 of CONGRESSIONAL RECORD, August 31—and third, the failure to correct such mischaracterization until after the Senate adjourned on September 1, is now likely to have two far-reaching results:

First. It will force the Senate to accept the Byrd substitute without amendment by virtue of the unanimous-consent agreement reached September 1, to hold an up-or-down vote on it on September 8. Arguments had been strenuously made in the Senate debate that any amendment by the Senate of the Byrd substitute would jeopardize House concurrence because the House conferees had already agreed to the "compromise." That this was the general understanding in the Senate is illustrated by the following statement by Senator JAVITS:

> What we must understand is that the matters taken in the compromise were agreed upon between people in the House and people in the Senate. (Cong. Rec., August 31, page 26810)

Second. It will force the House also to accept the "Byrd substitute" without amendment because it is likely that successful arguments will be made there that the House cannot take the chance of making any changes in whatever the Senate passes, because to do so would then necessitate further Senate action, which might result in a filibuster that could kill the bill.

EXHIBIT 1

STATEMENT BY REPS. TOM RAILSBACK (R.-ILL.) AND ROBERT MCCLORY (R.-ILL.) CRITICIZING PROPOSED "COMPROMISE" VERSION OF H.R. 8532, OMNIBUS ANTITRUST BILL, INTRODUCTION IN SENATE ON AUGUST 27, 1976

STATEMENT BY REP. RAILSBACK

Mr. RAILSBACK. Mr. Speaker, in reading certain newspaper accounts of the Senate debate on H.R. 8532 and even in reading remarks made by Members of the other body in the Congressional Record, I believe that there is a great misunderstanding as to the nature of the proposal which is now being considered. There seems to be a general misimpression that some agreement has been reached between Members of this body and Members of the other body concerning the final shape of the antitrust bill. That is not correct.

There has been no compromise agreed to between the House and the Senate.

There has been no compromise agreed to between the House conferees and the managers of the bill in the Senate.

In fact, there has been no meeting between the House conferees and the managers of the bill in the Senate.

Contrary to the publicized misunderstanding, the House conferees met by themselves and collegially decided how far they could go in compromising the House and Senate positions. This compromise was put in written form and transmitted at the staff level to the other body. Thereupon without the concurrence of any member of the House conference committee, significant changes were made to the House proposal before it was introduced in the other body as the proposed Senate amendment.

Let there be no mistake. Although the Senate proposal does in large measure reflect the position proposed by the House conferees if one judges solely by the form and the words used in the proposal, the changes unilaterally made by the proponents in the other body go to the heart and soul of the legislation.

Frankly speaking, I believe that the House versions on the premerger notification title and the civil investigative demand title were superior to the versions adopted in the other body, and were generally recognized as such. The Senate versions, perhaps inadvertently, were seriously flawed. In view of these flaws, there really was no choice but to accept the House versions.

But the parens patriae title is another matter. The Senate proposal now under consideration does not at all embody the provision adopted in the House and the proposal suggested by the House conferees.

The proposal under consideration in the Senate guts the House position in two significant respects. First, the House rather convincingly rejected attempts to water down the absolute ban on contingency fees. The purpose of the House ban was to insure that a State would not bring a lawsuit unless it was committing its own resources to the case and to promote further the development of in-house expertise in the various States. The Senate proposal guts the House ban by permitting contingency fee arrangements wherever the court approves of the fee as a reasonable one unless the fee contract between the private attorney and the State is phrased in terms of a "percentage" of the recovery. These apparent restrictions on the use of contingency fee arrangements are minimal in view of the fact that a general matter the court will oversee the award of attorneys fees in such cases and because there is no difficulty in drafting contingency fee contracts on some basis other than a percentage of the recovery. The effect of this Senate change which we have not agreed to is to convert a consumer's bill into a lawyer's bill. And that is directly in opposition to the House position.

A second significant change incorporated in the Senate proposal over the objection of the Houses conferees is the provision in the House bill which permitted treble damages to be reduced to single damages where the defendant could show that his violation was in good faith. The House position is that the damages awarded should be commensurate with the wrong and that it is unjust to inflict treble damages on any defendant that has relied on prior judicial or administrative precedent, reasonably believing that his actions—later found to be illegal—were exempt or immune from the antitrust laws. The House specifically adopted this reasonable approach when the bill was before it last March. The Senate proposal rejects this approach.

As far as I know, no member of the House conference committee has suggested to any Member of the other body that these two significant changes—which go to the heart and soul of this legislation—are agreeable to the House conferees or to the House itself. In my opinion, if the Senate continues on its present course, the entire antitrust package is in serious trouble. I have serious doubts that the Senate proposal can clear the House floor and the President's desk in its present form. In my opinion the refusal of the Senate managers to accept the proposal of the House conferees place the life of the antitrust bill in jeopardy.

STATEMENT BY REPRESENTATIVE M'CLORY

(Mr. MCCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MCCLORY. Mr. Speaker, there seems to be some misunderstanding regarding the Senate amendment to the House version of the omnibus antitrust bill, H.R. 8532. The Senate has voted cloture and has agreed to an up-or-down vote on its amendment next Wednesday afternoon.

Now, it is widely rumored that the Senate amendment is a "compromise" that has been agreed to by the House conferees. I will not speculate why this rumor is afloat. But the truth is that the House conferees have not agreed to the Senate amendment now under consideration in that body.

The House conferees offered a compromise to the Senate managers. The Senate managers counteroffered, and the House conferees rejected the counteroffer. Nevertheless, that rejected counteroffer is now being readied for delivery to the House.

This counteroffer differs from what we proposed in several important respects, and in particular it would delete the House provision allowing treble damages to be reduced to single damages on a showing of "good faith" and it would wipe out the House's absolute ban on contingency fees.

To my knowledge, no member of the conference committee has agreed to these changes. The Senate managers know we have rejected them. It seems to me that they are playing a dangerous game in asking us to accept what we have already rejected.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER addressed the Chair.

Mr. ABOUREZK. Mr. President, is there any time remaining to the Senator from Nebraska?

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

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

The PRESIDING OFFICER. On whose time?

Mr. CULVER. Mr. President, I ask unanimous consent that it be on no one's time.

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

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, with regard to the "good faith" defense argument that has been raised here with respect to the antitrust bill, I believe that the Senate position is wholly reasonable. The House bill contains a provision which reduces damages from treble to single "if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws." On two different occasions the Senate rejected amendments to reduce damages from treble to single. On June 9 the Senate overwhelmingly rejected an amendment by Senator HRUSKA to reduce all damages under the aggregate damage provision to single damages—122 CONGRESSIONAL RECORD page 17241, June 9, 1976. Later in the same day, the Senate defeated an amendment of Senator GRIFFIN to reduce damages from treble to single "if the State fails to establish that the defendant acted in willful violation of the antitrust laws"—122 CONGRESSIONAL RECORD pages 17250–17253, June 9, 1976.

Both of these amendments were rejected on sound arguments. The concept of treble damages has been a fixture of the antitrust law since the Sherman Act was adopted in 1890. The fears of those who objected to treble damages then were not well founded. Business has not been destroyed by large damage awards. On the other hand, the treble damage concept has a deterrent effect.

If any reduction of damages is authorized in this bill, consumers will be put at a disadvantage. As Senator KENNEDY said:

> If we are to accept the amendment of the Senator from Nebraska, its effect would be to put the consumers of this country at a disadvantage in comparison with the legal actions that could be brought by business interests or even those individual interests that would not be represented in a parens patriae action, because this amendment only applies to the narrow class of actions brought under the parens patriae provision. So in a particular case, where there may be [antitrust] violations . . . were a State attorney general to bring the case to represent the people of his State and were the court to find violations, he would only obtain recovery of single damages. If there are similar violations found in a suit brought by businesses against the same defendant, and they were to win the case, they would be able to recover full treble damages. 122 Cong. Rec. S8789 (June 9, 1976).

This argument applies no matter what rationale is advanced for the reduction in damages.

Furthermore, as amended, the parens patriae provision applies only to price fixing. Let me ask you, how can a businessman agree in "good faith" to fix prices? How can a businessman have "reasonable grounds" to believe that an agreement to fix prices is not a violation of the antitrust violations? Such a situation is clearly absurd. But by providing for such a defense, courts will be inundated with self-serving arguments and testimony by defendants who are about to lose a price-fixing case. This increases the opportunities for defendants to delay an antitrust action. It encourages businesses to lace their price-fixing agreements with sirup and reduces the deterrent of the antitrust laws.

Finally, the Senate amendment makes it clear that the parens patriae provisions "shall not apply to any injury sustained prior to the date of enactment of this act." Therefore, all companies are being given express notice in advance of the liability they may incur if they engage in price fixing. I cannot see how any "good faith" defense would be appropriate given this notice.

For these reasons, I would oppose such a good faith provision even if the bill's aggregate damage provision was not limited to price fixing. However, I can readily see reasonable men disagreeing over the merit of such a provision if aggregate damages were permitted for any violation of the Sherman Act—as the original House bill did.

Now, however, the bill is limited to price fixing. In this context, Mr. President, I see no logic or merit to the good faith provision.

Mr. GARY HART. Mr. President, I will vote for H.R. 8532 despite the fact that I am disappointed at the compromises which had to be made during its consideration in the Senate. The Nation is in need of strong antitrust legislation. Although the bill significantly strengthens the antitrust laws, it is substantially weaker than I would have preferred.

Every Member of the Senate is well aware of the numerous obstacles and delaying tactics which have been used to kill this legislation. I need not recount the 70 votes which occurred during the consideration of this bill by the Senate last June or the repetition of these tactics last week. Every Senator suffered through these long days and—with a clear majority of the Senate—I voted in favor of strong legislation at every opportunity.

After enduring the unreasonable delaying tactics of the opponents of this legislation for approximately 10 days in June, the sponsors of this legislation agreed to a compromise in order to expedite its passage. Even after the filibuster on the Hart-Scott substitute ended, the sponsors knew that there was likely to be a second filibuster before the underlying bill could be adopted. Indeed, after the first cloture motion had been adopted on June 3, on the Hart-Scott substitute—122 CONGRESSIONAL RECORD, page 16471—a second cloture petition was filed on June 4 on H.R. 8532—122 CONGRESSIONAL RECORD, page 16720. This prospect for a second cloture last June may have been a prime consideration in the sponsors agreeing to the June 10 compromise. However, I considered the need for strong antitrust legislation so great that I voted against the compromise version of the Hart-Scott substitute and against H.R. 8532 as amended—122 CONGRESSIONAL RECORD, pages 17571–17572. My votes expressed my hope that the bill which would come back from conference would restore the provisions which the compromise had deleted.

I was particularly concerned that the aggregate damage provisions were only to be available for use in price-fixing and patent fraud cases. The sponsors of the bill had agreed at an earlier point during the debate to limit the aggregate damage section to all per se antitrust violations plus patent fraud—122 CONGRESSIONAL RECORD, pages 15859–15861, May 27, 1976. The bill as reported by the Judiciary Committee extended to all violations of the Sherman Act—122 CONGRESSIONAL RECORD, page 15308. May 25, 1976. When the June 10 compromise proposed to limit the bill to price-fixing and patent fraud, I could see no reason why division of markets, agreements to limit production, group boycotts, division of customers, tie-in arrangements, reciprocal dealing or the other per se violations were any less invidious than price-fixing or patent fraud. I, therefore, voted against the compromise and the bill as my way of supporting restoration of these provisions in conference. I for one would have been willing to suffer a second filibuster in June to retain these provisions.

Now, as we all know, there will be no conference due to the continuation of dilatory tactics by the opponents of this legislation. Due to these tactics, the Senate has been forced to propose a second compromise which estimates what the House would agree to if a conference were held. Of course, the House is in the driver's seat in this situation and the Senate has none of the bargaining leverage it would have if a conference could be held. I am very disappointed that as a result of this situation, the sopnsors have been forced to accept a bill even weaker than one they could have obtained in a conference. Now, the aggregate damage provision covers only price-fixing. Patent fraud is no longer covered, let alone the other per se violations, and let alone the other types of violations of the Sherman Act.

I sympathize with the difficult position in which the sponsors have found themselves. They have battled nobly with the opponents of this legislation and together they have rewritten the Senate procedure manual. I have the greatest respect for Senator HART and the perserverence and patience he has shown during these trying events. These facts temper my deep disappointment in the bill.

Given the circumstances which have made these compromises necessary, I will vote in favor of this legislation. But to our colleagues in the House who might say that the Senate is sending them too strong a bill, let me say that I, for one, believe to the contrary. No one can argue

that vigorous enforcement of the antitrust laws to stop price-fixing is not in the public interest.

Because of the difficult parliamentary system in the Senate, any vote by the House to further amend the Senate bill will constitute a vote to kill this legislation. By adopting this second compromise, the Senate is putting the fate of this bill in the hands of the House. We cannot speculate whether this bill is precisely what would have emerged from conference. I believe it is weaker than it would have been. Therefore, rather than speculate on this question or bemoan the lack of flexibility which results from the Senate's action, the House must face the question of whether it wants strong and fair legislation to deter and punish price-fixers.

I trust the House will adopt the Senate proposal and the President will sign this legislation. Nothing would be a more fitting tribute to Senator Philip Hart upon his retirement or to the celebration of our political and economic freedom in this Bicentennial Year.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, the time not being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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 yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The time of the Senator has been yielded back.

LEGISLATIVE APPROPRIATIONS—1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 14238, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ABOUREZK. 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. HOLLINGS. 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. HOLLINGS. Mr. President, the distinguished Senator from Alabama would like to move to reconsider, as I understand, the vote whereby we agreed to the Taft amendment, striking out the limitations on executive and judicial pay. Momentarily the distinguished Senator from Ohio (Mr. TAFT) who is on his way will be present in the Chamber.

Perhaps if the Senator will so move, we can bring it to a vote. I did not want to be rude to move to lay the motion on the table. Maybe we can do this, see where we are, and have a test vote.

I yield to the Senator.

Mr. ALLEN. I would rather wait until the distinguished Senator from Ohio arrives here because it is his amendment. I would hope that he would agree that the vote by which the amendment was agreed to would be set aside so that we could have a vote up and down on his amendment. I do not believe many Senators were here. There were only three or four in the Chamber when the vote took place. I feel that there ought to be a yea and nay vote on it.

So, not wishing to take action until the distinguished Senator from Ohio comes into the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, in a moment I shall make a motion, but I wish to discuss it a little bit first. I would hope that we might possibly agree to reconsider the vote by which the Taft amendment was agreed to in order that we might have a yea and nay vote up and down on the amendment.

The situation is this: The House of Representatives passed an amendment freezing the compensation of Members of Congress, House and Senate, the members of the judiciary, and the top ranking members of the executive branch, not including the President. He is not involved. The bill comes to the Senate in that fashion. The Senate committee has an amendment which is pending at the desk which would strike out the House language, freezing the salaries at the September 30, 1976, level.

The distinguished Senator from Ohio then offered a perfecting amendment to the language of the House bill, which would have withdrawn from the freeze all persons other than Members of the House of Representatives and Senate.

That amendment was agreed to by a voice vote with three or four Senators in the Chamber. So, what I wish to do is to make a motion and hope the distinguished Senator from South Carolina (Mr. HOLLINGS) will not move to table it until there has been some discussion and Senators can be apprised of what they are voting on, but I would move to reconsider the vote by which the Taft amendment was agreed to in order that Members of Congress, the executive branch, and the judiciary might stand on the same basis and same level, that they not be exempted from the freeze.

Even though the vote on the amendment is reconsidered, everything would be subject to the committee effort to strike the whole section. But they ought to stand together, it would seem to me, and if any salaries would be frozen they should be frozen for all three branches.

I therefore, Mr. President, move to reconsider the vote by which the Taft amendment was agreed to, and call for the yeas and nays.

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

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I respectfully oppose the motion to reconsider at this point, or indeed I may in due time move to table it because I think in my opening remarks in offering the amendment I made it abundantly clear that my complaint in this matter is that the House of Representatives and Senate have tied their salaries to the other salaries, the judicial salaries and executive salaries and have in that way I think tried to give an impression of sanctity, or something, for commission proceedings, with which I disagree rather strongly, as to setting our own salaries.

It seems to me in the very beginning of the commission legislation the House of Representatives and Senate ought to be willing to take the position to stand up and vote on their own salaries and vote on them separately from anyone else's salaries. We have seen that this system we currently have has not worked. It has worked adversely actually. What has happened is the Senate and the House of Representatives, if indeed they are due salary increases, have seen their salary increases held back, I think, from what they might have done if they had faced up to the problem, and now they face large jumps if they are really to catch up at some point and at a time when I think the public is not in the least degree ready as a matter of mood to accept such increases.

I also feel that oftentimes we have held back on really what competitive salaries should be for members of the judiciary and the more important members of the executive branch of Government so that the amendment, as I see it, is a first step. I wish to, but, as a matter of procedure cannot, on this particular bill move to take Senate and House Members completely out of this commission legislation as I have tried and as I have a bill in to so do. But I can, I think, separate them insofar as this particular measure is concerned from the members of the judiciary and the higher executive branches who I think are entitled to the increase. I believe it is rather vital in order to keep good men in public service and get them into public service in these two branches of Government to do that.

I do not see that as being a problem of the legislative branch. I think, as we all know, there seem to be plenty of people interested in running for this body and also running for the House of Representatives.

I do not want to cut off anyone from

speaking on the matter, but in due time I do hope to table this motion.

Mr. PASTORE. Mr. President, it makes very little difference to me how this matter is resolved one way or the other. I have already announced my retirement from the Senate of the United States and I will not be here next year. So this will not make any difference to me.

But I think I would be lacking in courage if I did not stand up at this moment to say: How far must we go in demeaning ourselves as Members of the Congress?

I say very frankly that there may be some Members in this body or perhaps in the other side of Congress who are not even worth one-half of what they are paid, and I daresay that there may be many in the executive branch.

When we say that we have to raise the salaries of the judges because they will not remain if we do not raise the salaries, whom are we kidding? There are at least 200 in my State ready to become judges, if only they have the opportunity. Let us face it. I do not see our judges resigning. But I have nothing against them. If they are entitled to a raise because of the cost of living, I am willing to give it to them.

But why do you make an exception as to the Members of Congress? Why are you so frightened? Why do you lack so much courage? That is the question.

I say that what is good for one is good for the other. I am perfectly willing to say that if we are strapped for money—and if people in the higher echelons should not get a raise, then let us deny it to all. But why do we make flesh of one and fish of another?

When I was Governor of my State—this takes me back almost 30 years—do you know what my salary was? It was $8,000 a year. The first year, I received requests for contributions up to $6,000. I could not comply with all of them. My predecessors were all millionaires. I am the first elected Senator from Rhode Island who was not a millionaire.

I have to live on my salary. I have always lived on my salary. I have no business on the outside. I have not practiced law for 30 years. I have to maintain two homes, one in Washington and one in Rhode Island. I have to pay taxes just as everybody else does, and I am glad to do it.

When I came to the Senate of the United States 26 years ago, my salary was $12,500. I pay the secretaries in my office more money than that today. Then our salaries were raised to $20,000 or $22,000, then $30,000, and now it is $44,600. It is a good salary. I am not complaining. I get by.

We have never had a maid in our home from the day I was married, and that is how we get by. We do not get into any fringes. I have never taken my wife on a junket. My wife would not even go. She said, "I will go when you retire, John. That is when I will come."

Yet, someone stands here and says to me that what we should do is separate ourselves from this and then vote on it. That is exactly what we are doing here. Do you know why we are voting against this? Because we do not have the guts to stand up and say what is in our hearts.

I am not one of those who was lucky that his father was born before him. I was born poor. Every nickel I got I earned myself. Nobody left me a quarter. I went to work when I was 9 years old, when I lost my father. I did not even go to college. Do you know why? I was admitted to two Ivy League colleges. But I had to go to work. My family needed the money, so I went to night law school. It has been a struggle all my life. Yet, somebody stands here, who was blessed with an inheritance, and tells me that we should block ourselves out because we do not have the guts to stand up and say what we stand for.

We say, "You'll get a good judge if you pay him enough money," but somehow we do not use the same argument, that you will get a good Senator if you pay him more money.

There you are. So I am going to support the motion to reconsider, and I am going to vote to deny or give it to everybody. If one goes down, we all go down. That is the way I feel about it. If that is my valedictory, let it be my valedictory. I am proud of it.

Mr. STEVENS. Mr. President, the Senator from Rhode Island is very eloquent. I wish he were not taking the position he is taking.

I am sure that those of us who serve on the Committee on Post Office and Civil Service have the duty to speak up for the career civil service. It is a system of career advancement.

With due respect to the Senator from Rhode Island, this is a political year. This subject could be raised, as it was the last time, after the Commission made its report. The only reason it is raised now is that it is a political issue, and we do not have the guts to vote ourselves a pay raise. I am willing to accept that judgment, even though I would be willing to vote for the pay raise. I am willing to accept that judgment, but I am not willing to sacrifice the careers of those who are working their way up through the civil service and tell them, "Stop your ambition at level 15, because you're not going to get a pay raise once you hit the super grades."

What the Senator from Alabama would do would be to put back into this political arena the very people for whom we passed the civil service legislation, to get them out of the political arena.

Judges are not running for office. Those people in the Federal career service are not running for office. They are in a career, where we have told them, as I said, "If you have the ambition, if you work yourself up, you can advance through this system." Once they get to the supergrades, that is some sort of super status in the executive service, and the pay act put them in this area from grade 16 up, because we considered them to be executives.

The impact of the amendment of the Senator from Ohio has been to isolate the political issue. If Senators do not want a pay raise for themselves, if they do not think they are worthy of it, then they should vote for that. I still intend to vote for the committee amendment to strike the whole amendment.

The impact of what the Senator from Rhode Island says is that he is going to vote against the amendment of the Senator from Ohio in order that he can vote against the whole thing. I believe that we have the duty to protect the career civil service system, to protect those who are out there in the nonpolitical arena, and to give them the pay raise that this Commission has indicated it is going to recommend to us.

Again I say that if Senators do not want to do that for the judges and the civil servants who are covered by the pay act, we can face that issue as we did before.

Twenty thousand people in the career civil service are subject to this amendment. We are trying to say to them and to the judges, "We recognize that you should not be political footballs." We are political footballs, I say to the Senator from Rhode Island. We made ourselves political footballs, because, as someone has said, there are hundreds of people who would like to run against us. There are very few people whose nominations we will confirm to be U.S. judges.

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

Mr. STEVENS. I yield.

Mr. PASTORE. I have always voted for the increase. I say to the Senator that if it was the temper of the Senate to go along with the increase and knock out the provision of the House, I would vote for it, even though it means nothing to me. I have done so before.

All I am saying is that we in this Chamber have developed a habit of demeaning ourselves. It happens time and time again. It always happens that it comes from those who actually would serve for a dollar if they had the privilege to come to the Senate. Do you know why? Because they do not need the salary. I know a lot of Senators who just give it away to charity. I know Presidents who do not take their salary, who give it away to charity. You know why? They were lucky that their parents were born before them.

But there are a lot of people in Government, including in the Congress of the United States, who have to live on their salaries. You know why? Because there is no subterfuge in their lives, such as practicing law on the side, putting their name on the door, running around making speeches for honorariums. We have a lot of people around here who come to work at 8:30 in the morning and go home at 8:30 at night, and they live on their salaries. That is what I am talking about.

Mr. STEVENS. The Senator is talking to one of them.

Mr. PASTORE. Then I am surprised that the Senator from Alaska is taking the position he is taking.

Mr. STEVENS. I am not practicing law any more. I am in exactly the same position as the Senator from Rhode Island. What I am saying is that I think we have a duty to protect these people.

Let me tell about a district judge who just went on the bench in Alaska. He is a good Democrat, as a matter of fact, a

good friend of mine. I went to him when he was on the State supreme court and said:

You are the best man I know to be a district judge. You put your name in and I will do everything I can to see that you are confirmed.

He went from a salary of $50,000 to the Federal district judge's salary of $42,000. He, too, lives on his income and most of the Federal judges I know are not millionaires. They are here. They are not out sitting on a bench.

If the Senator's theory is valid, it is valid for those whom we went out and solicited and asked to become Federal judges. This is a cost-of-living pay increase.

As I say, if the Members of the Senate want to deny it to themselves, fine. But why deny it to those people who have gone into public service, who no longer practice law, no longer have any outside income, most of them? Yet we are asked to deny it to judges.

I feel even more strongly about the career civil service. I know many people in this Government who have worked their way up, literally, rung by rung, on that ladder, and they now are above grade 15. We are going to say to them——

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. STEVENS. I shall yield to my friend in a minute.

We are going to say to them, "No, you don't get this because this is a political year and the pay raise would be a political issue. We don't have the guts to give it to ourselves; therefore, we are not going to let you have it, either."

I do not like that reasoning, with due respect to my great friend, and he knows I have great respect for the Senator from Rhode Island.

I might support him, as a matter of fact, to vote against the Taft amendment if he would argue to the Senate to vote for the committee amendment to strike all the House amendment.

Mr. PASTORE. I might well do that. I might just as well do that, even though it does not mean anything to me.

We did that once before, the Senator will remember.

Mr. STEVENS. I do remember.

Mr. PASTORE. We knocked it sky high. The Senator remembers that.

Mr. STEVENS. Yes.

Mr. PASTORE. I want to ask my good friend from Alaska, does he think it costs that judge he just mentioned more money to live than it costs him?

Mr. STEVENS. It does this judge, because he is living in Alaska, which has a 25 percent higher cost of living.

Mr. PASTORE. Does the Senator not live in Alaska? Where does the Senator come from?

Mr. STEVENS. I come from Alaska. I live here most of the year.

Mr. PASTORE. And he has to go back to Alaska?

Mr. STEVENS. As often as I can.

Mr. PASTORE. The Senator pays taxes in Alaska; does he not?

Mr. STEVENS. Yes, I do. The cost of living for these people is not any less real than it is for us. If we do not take it for ourselves, we should not take it from them.

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

Mr. STEVENS. I promised the Senator from Virginia to yield. Then I shall yield to the distinguished Senator from West Virginia.

Mr. WILLIAM L. SCOTT. The Senator from Alaska serves on the Committee on Post Office and Civil Service. I served on it for 6 years. As the Senator will recall, the concept of comparability was accepted by Congress a number of years ago. He is making a plea for the classified workers. I share his concern for the classified workers. I believe that their pay should be comparable to that in private industry, as nearly as we can make it. They should not live above or below their counterparts in private industry. But if we are going to accept the comparability concept, why should it not apply to Federal judges and why should it not apply to U.S. Senators and Members of the House of Representatives?

I agree with much of what my distinguished friend from Rhode Island has to say. I, too, am dependent on my salary. I do not believe one should have to be a millionaire to serve in the U.S. Senate. In all candor, I find many of the people who are opposed to pay raises and reasonable rates of pay for Members of the Senate are millionaires. I think if we would check the record, we would find this is true. I am not against a millionaire serving in the Senate, but I do not believe we ought to have to be dependent on outside sources of income in order to serve in the Senate.

I think there is a lot of hypocrisy existing in this body, and I think it exists in the House of Representatives when we refuse to pay ourselves, Federal judges, and other people in the top echelon of Federal employment whatever is comparable pay to that that their counterparts would make or do make in the private sector of our economy. I hope that we can strike the entire House provision and then can go on to see that the pay of Members of Congress is comparable to what they would make if they were in private business, whether they are practicing law or running a television station or a newspaper, or something else.

It seems to me that if we want the best caliber of people representing us in Congress, regardless of their independent wealth, they should be paid a comparable pay. I think that we are letting politics decide this question.

I have no hesitancy at all about voting to knock out this provision that the House put in. I think that is the responsible thing for us to do, because we will get better people in Congress by paying them whatever is a fair salary for their services. We should not have to make speeches or choose our parentage in order to serve in the Senate.

I appreciate the Senator's yielding.

Mr. STEVENS. Does the Senator from West Virginia wish me to yield? I shall be happy to if he does.

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

I find it extremely difficult to become upset about the plight of the Federal judges. I must say that I agree with the distinguished Senator from Rhode Island. There are scores of lawyers in West Virginia who would be glad to be appointed to a Federal judgeship.

The distinguished jurist to which the Senator from Alaska alluded, as I understand it, was a member of the State supreme court, was he?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Is that an elective office?

Mr. STEVENS. No. We have the modified Kansas plan. It is appointive, then elective after 4 years, then every 10 years after that. They run against their own records.

Mr. ROBERT C. BYRD. That is one advantage he has as a Federal judge over being a member of the State supreme court.

Second, as a Federal judge, he will not pay one penny into his own retirement fund. Members of the House and Senate have to pay into a retirement fund.

Moreover, when he retires, he will retire at full pay as a Federal judge. A Member of the Senate can serve 30 years, pay $297 a month out of his salary into a Federal retirement plan, and at the end of that 30 years, he will probably receive about $25,000, after 26 years. A Federal judge does not pay one penny.

Mr. PASTORE. I paid 8 percent of my salary every paycheck, 7.5 or 8 percent. He paid nothing.

Mr. ROBERT C. BYRD. Right; the Federal judge does not pay 1 penny.

Mr. PASTORE. When he gets to be 70 years old, he retires at full pay.

Mr. ROBERT C. BYRD. And if he travels around the State and has to stay at motels, his expenses are paid. The Senator from Rhode Island, if he stays at a motel in Rhode Island, cannot recoup that expense.

Mr. PASTORE. He does not have to bother too much about the United Fund, about every church bazaar, whether Catholic, Protestant, or Jewish, every ad for every function that is running. He does not have to go to the bridge parties, or worry about the Catholic charity drive. Nobody bothers them. We have to pay into everything; otherwise, we do not last.

I told you $6,000 in requests and my pay was only $8,000.

Mr. STEVENS. I do not know whether I am winning or losing. [Laughter.]

Mr. PASTORE. I think the Senator is losing.

Mr. STEVENS. A judge does not have the privilege of running and meeting all his constituents every 6 years, but he also does not have the privilege of voting to confirm a U.S. Senator, do not forget that. We have the power over these people and over their appointments in terms of their confirmations. We see to it that we have selected the best judges, the best people to go on those Federal court benches, and I think that gives us an obligation to think about the subject of whether or not we carry through with the law that Congress passed establishing the Commission on Executive, Legislative and Judicial Salaries.

We are the ones who dreamed up this system of tying ourselves to that Pay

Act, and at the time some of us raised some questions about it, but it was done—to try to make the system the same for all the Federal Government.

We anticipate a pay raise recommendation, I understand, of something like 4.83 percent for those people whc are in this category.

The question really is: Should we deny them the recommended increase—an increase recommended by a commission we created for the specific purpose of dealing with comparability—solely because we do not want to deal with it ourselves?

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

Mr. STEVENS. I will be happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I think the Senator is basically correct in what he is saying. The fact is that during the past 10 years Congress simply had not really had the guts, if I might use that word, to raise the pay to maintain the purchasing power that its salary would earn, that it would buy at an earlier period.

Now, if Congress does not want to do that—and politics has a lot to do with it, at least expediency has a lot to do with it—it is really not fair to punish a great number of other people or to deny us the benefit of very many other fine people merely because of and largely for political reasons Congress does not see fit to keep its pay in line with what that pay would have bought at an earlier period.

Under those circumstances, I believe we ought to recognize we are losing good judges, and we are losing some other very fine people who simply cannot make the financial sacrifice that would be necessary to serve in high Government office other than Congress.

I really think if Congress wants to go along, taking the view that it just cannot vote itself a pay raise—and you and I know that at least in our judgment the reason we do not do it has to do with political expediency, perhaps people running for office and wanting to be elected would rather have the job at a depreciated value in terms of compensation than to let someone else have the job—but if that is the case they really should not deny those in other places of Government what amounts to a cost-of-living increase so as to take care of their situation.

I have helped to confirm judges who were very fine lawyers, who felt we were doing them a great favor at the time, only to have some of those men speak to me in the most embittered terms in recent years saying that we have failed to maintain the purchasing power of their salaries; they have been victimized, and that if they had known it was going to be this way they would not have taken the job.

I have had men tell me they fully expected to have a 50 percent effective cut in their income when they took the job as Federal judge, but they did not expect to have a one-for-four return for their services. Two-for-one, that is something they could live with, but to have a salary of about one-quarter of what they could earn and could have earned in private life is pretty bad.

I fought very hard to help confirm a fine young man, an outstanding citizen in the New Orleans area, to the Federal bench, only to have that young man, after having served several years, tell me that he could not afford to be a Federal judge anymore. Because he has a large family, the young man just quit while he is still young. He feels fortunate he is young enough to quit the Federal judiciary, to take a job as the president of a bank, and to go to work making a very substantial income in line with what his talents would bring in the lush field of free enterprise. No longer will he have the kind of financial sacrifice that Congress has foisted on the judiciary merely because Congress has not come up with the political courage, one might say, or maybe as a practical matter we are being just too practical politically to take the chance we might lose some votes at election time by voting for a pay raise.

If we cannot maintain the purchasing power of the salary of the judges and the cabinet officers, even our own administrative assistants, we should not penalize them because we think that maybe we would get beaten for office if we voted ourselves a pay raise.

That being the case, we ought to separate their situations from ours, and let them have whatever would be the fair value for them, judge them on a comparability basis with what their talents would bring in other lines of endeavor and quit punishing them because we feel, for one reason or the other, that we should not vote to raise our own pay.

Maybe it is the wrong time. Perhaps some other reason may exist; maybe it is just that we do not have the political courage to do so, but, whatever the reason, if we do not want to vote ourselves the pay raise we should quit punishing other people because, for one reason or the other, and oftentimes it is politics, we do not see fit to vote a pay raise for Congress.

Mr. STEVENS. I agree with the Senator from Louisiana.

I will be short in my comments from here on out. I just want to make sure we know what we are doing because, if we deny this raise, we are saying to those people who are in grade 15, "If you take a job at 16," or those at 16, "If you go to 17," from 17 to 18, 18 on up into the executive service, "you know there is no financial incentive for you to work to get any higher position."

Let me tell you what has happened, for instance, just this past year or so: The assistant commissioner of the Bureau of Reclamation—a career position—left his job to go to the World Bank where he will not be subject to the Pay Act.

We lost both the general counsel and the deputy general counsel of ICC. The NLRB lost 15 administrative law judges last year, I am told, because of pay. EPA regional administrator and regional counsel quit to accept higher paying positions in private industry.

In the IRS—and I am sure the Senator from Louisiana knows this—there were 51 payless promotions where people were promoted to more responsible jobs but no increase in salaries could be given.

The Social Security Administration had 19 supergrades retire at one time last year, and the chief actuary's position remained vacant for over a year; more than 30 prospects refused to take that position because it did not mean more pay, it just meant more work.

The Commissioner of Education and the Deputy Commissioner of Education left the Federal Government to take higher paying jobs out of the Federal Government.

At the National Cancer Institute, more than 100 physicians now earn more money than the Director of the Institute who, as a Ph. D., cannot receive any more money. The only thing he can get from here on out is this annual pay raise that we established in 1970.

Five of the eleven National Institutes of Health directorships have been vacated in the last 3 years, and some of them remained vacant for almost a year. In one, 85 of 87 candidates refused to even be considered for the job because of pay.

The position of Clinical Center Director at the National Institutes of Health has been refused by 23 candidates, and the position remains vacant now after a year.

In 1970 we established the Pay Commission, and we have had people of very great stature from the labor and management field working to tell us annually through the President what should be the fair rate of increase to match cost-of-living increases throughout the country on the basis of comparability.

As I say, later this year we will get that recommendation and we can fight over it as we have in the past. But we should not at this time deny those people the increase they have relied on to meet the cost-of-living increase simply because this is a political year.

The Senator from Louisiana and others have mentioned the question of the difference between our job and theirs. I would take this job at half the money. I took a pay cut of at least 50 percent to come down here. As a matter of fact, at the time it was two-thirds. I earned at least three times the amount we got when we came down here, but I wanted to be in the Senate.

Really, pay is important to my kids as to whether they go through college, but it is not that important to me in terms of that decision. That was my career decision to come here. The people affected by this amendment made the career decision to go into Government, whether it be the executive branch or the judiciary, and they have relied upon this act of Congress.

Here we are, because this is an election year, about to cut them off because we do not save, as the Senator from Rhode Island and I both have said, the guts to face the issue.

I believe that the Senator from Ohio is trying to find a way around the problem as far as the judiciary and the executive branch is concerned.

I did support his amendment. I still

intend to support the committee amendment, which is to strike the whole thing. I think then it would be in conference and the conference could work it out.

I still have a question about another provision that we will discuss later, but, Mr. President, I urge that we consider what we are going to do to people as they approach the career decision as to whether to become an executive in the Federal service—and that is over grade 15—or whether to go on the Federal bench.

That decision is a lifetime decision as far as the Federal Government is concerned, I think. Certainly, they are entitled to rely on an act of Congress that sets up a procedure that is designed to preserve comparability of the rate they received when they went on the bench to the ever-increasing spiral of inflation.

I hope the Senator's motion to reconsider is not agreed to.

Mr. HOLLINGS. Mr. President, I hope this colloquy that ensued since the Senator from Alabama indicated his desire for reconsideration will suffice in the sense he wanted to have some discussion. I think we have had sufficient discussion in that the Senator from Ohio was ready to make his motion. We could then vote.

I wish to point out only a couple of things with regard to executive pay and judicial pay, in that it has been raised and now debated more fully.

I think it my duty as manager of the bill to state that the Executive Office of the President, Office of Management and Budget, sent a letter dated September 7, 1976, opposing the matter of Congressman UDALL's amendment to the Legislative Appropriations Act (H.R. 14238) on the basis of saying that the pay levels for officials of all three branches will be addressed by the forthcoming Quadrennial Commission on Executive, Legislative, and Judicial Salaries. The President's proposals on the Commission's recommendations will appear therein.

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

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 7, 1976.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Legislative Appropriations, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your inquiry concerning the Shipley amendment, as further amended by Congressman Udall, to H.R. 14238, the Legislative Appropriations Act for Fiscal Year 1977.

The entire question of pay levels for officials in all three branches will be addressed by the forthcoming Quadrennial Commission on Executive, Legislative, and Judicial Salaries. The President's proposals on the Commission's recommendations will be submitted to the Congress for consideration with the next budget.

Accordingly, the Administration believes that the Congress should defer action on all amendments affecting Federal pay until the Congress has had an opportunity to consider the President's proposals based on the recommendations of the Quadrennial Commission.

I hope this satisfactorily responds to your inquiry.

With all best wishes.

Sincerely yours,

JAMES T. LYNN,
Director.

Mr. HOLLINGS. Mr. President, also a message from the American Bar Association citing all the increases with respect to inflation and diminution in the judge's salary over the past several years, opposing, of course, the cut that the House language would effect on judicial pay. I ask unanimous consent that it be printed in the RECORD.

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

SEPTEMBER 3, 1976.

DEAR SENATOR: As President of the American Bar Association, I write to express our strong opposition to the action taken by the House of Representatives last Wednesday in amending H.R. 14238, the Legislative Branch Appropriations Act for fiscal year 1977, to repeal those provisions of Public Law 94–82 which provide for cost of living adjustments for members of Congress, federal judges and federal executives.

Since 1969, the consumer price index has risen 60% and salaries of top executives in the private sector have increased approximately 55%. During the same period, however, salaries of members of Congress, federal judges, and certain federal executives have gone up only 5%.

In my judgment such discrimination against a relatively small group of skilled, dedicated public servants is not in the best interests of the country.

It has resulted, among other things, in the recent increase in resignations from the federal bench and in the unwillingness of many qualified lawyers to become judges.

Although I cannot speak with any authority with respect to the legislative and executive branches, I would assume that study would disclose similar effects there.

Our Association repeatedly has expressed its support for adequate and just compensation for members of the federal judiciary and of Congress because we believe firmly that public service must not become the exclusive domain of those who can afford financial sacrifice to work for government.

The issue is not a salary increase. The issue is a comparability adjustment to prevent the further shrinking of the real dollar income of public officials and the consequent erosion of quality of the public service. Should the action of the House of Representatives be sustained by the Senate, its ill effects will be felt in time by every citizen of this country.

We urge that past injustices not be compounded through what must be interpreted as a dramatic, election-year gesture.

Respectfully,

JUSTIN A. STANLEY,
President, American Bar Association.

Mr. HOLLINGS. Mr. President, what really is at issue here is nothing more than what the Senator from Rhode Island was really getting to with respect to the body demeaning itself.

They have had some strong times over in the House in the past few weeks. They have had the resignation of Members.

We normally handle the legislative appropriations bill as No. 1, and we were through by May. The distinguished senior chairman from Arkansas (Mr. MCCLELLAN) used to be chairman of this subcommittee. We would handle this with dispatch, it would be out of the way, and we would work down to the defense appropriations bill.

This year we encountered a hiatus in the House whereby they had a difficult time trying to bring it to the floor since they were faced with all kinds of amendments, relative to perquisites, how and why they are paid, Ethics Committee hearings, and what have you.

Finally, what they got, really, was probably a shaky type solution in a modified closed type of rule. In other words, they finally got a working majority to say that they would adopt a rule providing for only three amendments.

And, yes, one of those three amendments would refer to pay because enough fellows were fussing about pay, looking for a political issue, evidently. You do not have the character, you do not have the ability, you don't have the merit, so you have to get a political gimmick. So they decided to yield and give the Members one to argue and try to get reelected on. What they decided to do is have that handled not by a Republican, but a good Democrat, GEORGE SHIPLEY, my friend, the Congressman who is chairman of the Legislative Branch Subcommittee and he had to bring in this amendment.

Now, if you please, look at the amendment and see how really undraftsmanlike it appears.

What it simply says is that none of the funds contained in this act shall be used for increases in salaries for Members of the House of Representatives pursuant to section 204a of Public Law 94–82. That was the Shipley amendment.

It did not say that the salaries would not be increased under the law, but that the funds could not be used for any increases. The basic law is still there. There is a lawsuit about some of those already frozen, and we will apparently have another suit under this one.

These appropriations bills go from year to year and we have supplemental bills. Maybe we will get another supplemental after they have had their day at the polls and gotten reelected in November. They will all come back in and we will provide money. We have not changed the basic law.

We have had Government in the Sunshine on this bill and I have not heard from any Senator, not any Senator, including all of them making amendments now, that they think we ought to vote, that the amendments ought to be heard, and they think this and that.

They could have brought them up all along. We had hearings galore. We went in and out. We marked up and remarked. We did in subcommittee, we did in full committee.

The distinguished majority whip presided at the full committee meeting. It was all Government in the Sunshine. Not one letter, not one word. But now we come here with the politics of the election and everything, and now they suddenly have all their consciences working.

They have not changed the law on the amendment. The law worked in a substantive way last year by a vote. They

came in the regular order, the Senate passed it by 58 to 29, I think, and we all voted at that time, and everybody said that is the law.

Then, of course, our friend from Arizona (Mr. UDALL) said:

If that is the way you want to play the game, I will really put a lock on and say that under the Federal Salary Act, which will get the Senators as well as the House Members and the judges, and the Federal executives.

What about the staff? We keep losing staff. I lost the director of a little Subcommittee on Oceans and Atmosphere. I guess he got a 50-percent increase. Now he is really going to make money.

What about the salaries of those we deal with?

I asked one member of the press gallery how much he was getting paid. He did not say. I said, "35, 45?" He said, "It is less than 45."

That means he is at least getting more than 35. If not, I will hire him as a press secretary, because I can pay that much.

How much are all the people going to get paid? Wherein do we want to set the public servant's salary?

That is what I am talking about.

I watched Jack Nicklaus over the weekend. He got $100,000 and two bogeys. I saw him miss twice.

We will be looking at football all fall, and everyone is going to get at least $60,000, running into each other, just busting heads. If they do it well, they will get double that, or $120,000.

Every one of those business lobbyists who come around are getting paid double what we make. We have got to watch them every minute, listen to them and argue with them. We have to escape their clutches, because at one time this body was clutched by that crowd.

We have come a long way since Bobby Baker in that 15-year period. I entered just about that time.

If we want big steel, big railroad, big oil, to have cash-and-carry government—and that is what happens if Congress does not want to pay public servants—we have to pay it or the business crowd will come in, buy up the young lawyers. They worked it out.

I do not know how the distinguished Senator from Rhode Island was able to sneak past them. I guess they were not watching Rhode Island that year. But they get the firms, the large lawyers, and they get some young fellow and then they have them and have them in their clutches. That is what we had until we started getting the fairness doctrine. That is what the youngsters in Vietnam brought us, the draft law bill, and the tax law. We began cleaning up ourselves. Now we are beginning to have Government in the Sunshine, and we are going to have sunset. We have all of those other things, with the election practices and so on.

We really need the money, for those who want to serve and not go back to the law practice. I made double the amount, too.

By the way, up in Alaska, and I just got back, the jeep driver and the little station wagon driver earned $60,000 a year.

Where is that private free enterprise Senator on the back row? He is missing. If he could come here and let private enterprise pay us there would be $60,000 for truck drivers. One boy's name is Pat Rice. I met him at the Yukon. He said:

I will make $60,000 and no expenses this year.

Do not tell me about the week they do not work. I went on the oil derrick and they get $1,400 every 2 weeks, 1 week on and 1 week off. I will not yield right now.

Mr. STEVENS. If he is earning $60,000, he is working year-round. If in the Yukon, I can guarantee that sometime between December and February 1 he will have about 3 weeks of below 60° weather.

Mr. HOLLINGS. Right; inside the basketball club and ice cream churn. I gained 3 pounds at the ice cream churn. Every time you walk in they have the finest ice cream. In Alaska, they had a theater bigger than any in my town, showing first-run movies. If we can adjourn by October 1, maybe I can get a 3-month job for October, November, and December and pay some of my bills. It would be a good racket.

Mr. STEVENS. The Senator better hope the South Carolina knitting mills are working, because he will need a couple of sets of long johns.

Mr. HOLLINGS. Mr. President, the reason I moved as manager of the bill to strike the entire matter is because I do not see how in commonsense—it is really a stupidity matter—we are going to pay 14 assistants running around at the White House, giving them an increase in pay, so they are making more than a Senator.

We can go down a long list. It is not just judges. There will be increases in pay to that postal crowd we debated about including the ratemaking commission, the board of governors that does not even meet. We will give them all cost-of-living increases. And OSHA? Is that a great group? We are going to give them all cost-of-living increases, but we do not have sense enough to vote it for ourselves. That is what I am trying to say.

Let us get to the business at hand. We know what we are doing. We are trying our best to let this commission govern, but the way they are doing in the House, we will have to save them from their own folly. They are all coming around saying, "For Heaven's sake, save us. We wish we had not had that vote, but we got in a jam." I think a House Member is worth just as much as a Senator. I think we ought to knock out this language. That is why I took it upon myself to have it stricken.

Now that the gentleman has raised the point of order, I will wait and let the Senator from Ohio make his motion to table, if he will, because then there might be a division and we can keep stirring around in the fire on this one. But the fact of the matter is, Mr. President, we have a much better Congress and Senate than we have ever, ever had.

I know the Presiding Officer cannot talk and I do not want to get political, but the Congress is the one that saved us out of Vietnam. It was the Senator from Montana, not me, the Senator from South Carolina. I was a hawk, still fighting. But I was wrong. The Senator from South Dakota and some of the others got us out quicker. The executive branch would still be off loading equipment and still be taking over. That is how we got out of Vietnam.

The Senator from Iowa (Mr. CLARK) went to Africa and got us out of Angola.

We got us out of the inflation. If we had passed the legislation they wanted, we would have had more inflation. Senators saw the airlines and the other industries. Congress has not been all that bad. We have saved them. It was the plan of Congress, and the Senator from Rhode Island chaired the committee, to turn the economy around. Arthur Burns came in and said:

Yes, the Congress' prescription was more nearly accurate than what I had proposed with the administration.

As a result of what the Congress proposed; namely, at the $33 billion level rather than the $17 billion level, the Congress that everybody is cussing is what turned this economy around, and everybody is going to run on our record. They are cussing the Congress, but they are running on our record. That is exactly where we are today.

If we are going to continue, as the Senator from Rhode Island said, to demean ourselves—and some not working and, if they do not want to work, that is fine, but it is up to their constituents—those working deserve this increase and double this amount, and everybody in this body knows it. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I will make a motion to table, but before I do I think I should make a few remarks to try to correct a misimpression which seems to have been arrived at by the distinguished Senator from Rhode Island, among others.

First of all, I did not know I was going to trigger off such a magnificent flurry of oratory as has occurred on this issue this afternoon when I offered this rather innocent amendment, I thought, to the amendment of the House.

Second, I would like to disabuse the Senator from Rhode Island and advise him, though he has left the floor now, that I do not consider myself to be descended from robber barons. My father served in this body, I am sure at great financial sacrifice, for a good many years. My grandfather never served in anything but public office at all in his entire life and career. I somewhat resent as a personal matter the inference that somehow I am a scion of wealth who came here. As a matter of fact, I had a very good chance of coming here about 16 years before I came, but I thought it necessary to go out and make some money in the practice of law, which I am glad to say I did. I can also say, along with the Senator from Alaska, that I know more or less, I think, of what my junior partners in the law firm of which I was a member are now making, and the sacrifice, I can assure Members, is one that rounds in, at least to the degree that

the Senator from Alaska has indicated, and probably a good deal more.

But beyond that, the Senator from Rhode Island, it seems to me, has missed the point. The whole point of my amendment is not whether the Senate or the House should or should not have an increase at this time.

The point of my amendment is that if the Senate and the House believe that they ought to have an increase at this time or any other time, they ought to be men enough to stand up and vote.

When we set up this commission proceeding we thought we had a nice tactical dodge of facing up to the responsibility of setting our own salaries. We tied it to others to try to make it even more escape proof so we would not have to face up to the voters to say we voted to increase our own salaries. We have been in this mess. We have been tangled in it now for, I think, 12 years. It has not worked. It has to be changed.

The real purpose of my amendment is to point out to the Senate that it does have to be changed. While we cannot change it on this legislation, because of the parliamentary situation involved, if we can raise the issue on this legislation so that we get before the country this issue as to whether the Senate or the House ought to duck behind a commission when they vote on their own salaries, then I think a service has been done.

Mr. President, I move——

Mr. STENNIS. Will the Senator yield?

Mr. TAFT. I yield.

Mr. STENNIS. I shall not take much time of the Senate. I think the Senator from Ohio has hit the nail right on the head as to the basic principle and issue involved here.

May we have quiet in the well, please?

I have heard all the arguments which have been made this afternoon many times when this subject matter has come up. It is always somebody who says we are demeaning ourselves, and somebody else saying, "Well, we do not have the guts to do so and so."

In the years I have been here, I have testified in favor of raising the salaries on a direct vote, at a hearing during the Eisenhower administration. There are not a great many here now who were here then.

Not everyone who differs with me does it because he lacks the guts. I do not like that approach. The real issue here is whether or not we are going to stand up and vote—as I think it is very clear, from the spirit of the Constitution of the United States, that we should—stand up and vote yes or no on the increase of our own salaries. You can compare it with judges and compare it with staff members; I have been active here for years trying to get a little more relief for some staff members who are worth double their salaries to this Government, in my opinion, and they are leaving.

There is a principle involved here concerning the membership of this body. This is not a pleasant duty; it is a very unpleasant duty. But in doing this, which affects us directly, are we going to step behind a screen and let someone else do it?

I submit that is what we are doing. We are leaving it up to this Commission—someone, somewhere, that I do not know and the American public does not know who the members are—we are, in effect, asking them to step in and do this chore for us.

I appreciate very much the efforts of the Senator from South Carolina. No one works harder than he on a lot of sticky subjects we have; and he will run you out of this Chamber if you try to debate with him directly. I have asked him to help me, and I know what a help he can be. I want to thank him for wrestling with these problems; but this is our problem.

We are always glad to get elected. When we are here, we want to come back, regardless of the salary. So I hope we can lay aside this stuff about demeaning ourselves and lacking the guts here, and so forth, to pay ourselves enough.

Let me tell you, if we face this issue straight on, the American people will abide by our decision, I believe, if it is made in that way. But if we use this sort of method year after year, I believe the American people will think less and less of us.

I thank the Senator from Ohio for yielding.

Mr. TAFT. I thank the Senator from Mississippi. Mr. President, I move to lay on the table the motion to reconsider.

Mr. HOLLINGS. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GARY HART). Will the Senate be in order? Will Senators take their seats? The clerk will suspend until Senators take their seats. Senators will clear the well. The rollcall is suspended until Senators take their seats. Will Senators take their seats? The vote will not continue so long as Senators are not in their seats.

Will the Senate be in order? Will Senators take their seats?

The rollcall is suspended until Senators take their seats.

The assistant legislative clerk resumed the call of the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order. The rollcall will be suspended until Senators have taken their seats and until order is in the Senate.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. METCALF), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

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

On this vote, the Senator from Tennessee (Mr. BROCK) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 55, nays 19, as follows:

[Rollcall Vote No. 564 Leg.]

YEAS—55

Abourezk	Gravel	Pastore
Baker	Griffin	Pell
Bellmon	Hansen	Percy
Biden	Hart, Gary	Proxmire
Bumpers	Hatfield	Randolph
Burdick	Hathaway	Ribicoff
Cannon	Hollings	Roth
Chiles	Hruska	Schweiker
Church	Humphrey	Stafford
Clark	Inouye	Stennis
Culver	Johnston	Stevens
Curtis	Laxalt	Stevenson
Dole	Leahy	Stone
Domenici	Long	Symington
Durkin	McClure	Taft
Eagleton	McIntyre	Tower
Ford	Morgan	Young
Garn	Nelson	
Glenn	Packwood	

NAYS—19

Allen	Eastland	Scott, Hugh
Bartlett	Helms	Scott, William L.
Brooke	Jackson	Sparkman
Byrd, Harry F., Jr.	McClellan	Talmadge
Byrd, Robert C.	Muskie	Thurmond
Case	Nunn	Williams
	Pearson	

NOT VOTING—26

Bayh	Hart, Philip A.	McGee
Beall	Hartke	McGovern
Bentsen	Haskell	Metcalf
Brock	Huddleston	Mondale
Buckley	Javits	Montoya
Cranston	Kennedy	Moss
Fannin	Magnuson	Tunney
Fong	Mansfield	Weicker
Goldwater	Mathias	

So the motion to lay on the table the motion to reconsider the vote by which the amendment of Mr. TAFT was agreed to was agreed to.

ADDITIONAL STATEMENTS

Mr. MUSKIE. Mr. President, I support a freeze on congressional salaries. I must oppose the amendment of my good friend from South Carolina (Mr. HOLLINGS) to delete the freeze which was approved by the House of Representatives.

It is never easy for a worker to put a dollar value on his or her performance. We in Congress are no different. We have allowed raises in Cabinet pay and in the salaries of other Government workers. We have hesitated to increase our own pay. And no one who has sat here with us from 8 a.m. until midnight or beyond, who has been with us during these 60-, 70-, or 80-hour weeks, who has been here with us for 600 rollcall votes in a year would argue that we do not earn our pay.

But the question before us is not a question of merit. As elected officials, our special responsibilities go beyond being good representatives. We have another obligation as well.

In times of hardship, we must be willing to tighten our belts by at least as much as we ask our constituents to bear.

If we raise our own salaries, can we tell the more than 7 million unemployed that we understand their special hardships? If we raise our pay can we tell the family which has seen its paycheck raided by 3 years of brutal inflation that we understand the difficult choices the family faces? If we raise our pay, can we tell the disabled worker who relies on less than $200 a month that we understand his needs and his suffering? I think not.

The latest economic news makes it clear that the economy is far from healthy. We should concern ourselves with that problem, and not with questions of our salary.

Mr. HELMS. Mr. President, I strongly oppose the committee amendment to strike the House language as amended by the Taft amendment. Under the bill as it stands no funds appropriated in this act or any other act could be used to provide for automatic salary increases for Members of Congress.

While this bill is not as satisfactory as an outright repeal of the act which allows the automatic salary increases, the amendment approved in the House would prevent implementation of a salary increase brought about by this past year's inflation.

More than any other group in America, the people who will be rewarded with pay increases under the committee amendment, are the people responsible for inflation. That is why I shall vote against the committee amendment.

This pay increase will provide inflation-proofing for the inflation-causers, and that, Mr. President, should not be.

The salary increase will reward the real culprits—those in Congress who vote for spending bills which result in Federal deficits, and subsequent inflation. Inflation is hidden in every political scheme that is approved, and it is hidden in every tax package that does not provide for revenues needed to match spending.

In fact, inflation is in reality a tax; it hits people, and it hurts. It hurts just about everyone except those that are protected by automatic salary increases. It hurts almost all the people who pay congressional salaries with their tax dollars, but if this committee amendment is approved, inflation will not hurt Congressmen and Senators.

I hope the Senate will oppose the committee amendment and support the House language as amended by the Taft amendment.

Mr. HOLLINGS. Mr. President, I am now prepared to ask for the yeas and nays on the committee amendment to strike. I ask for the attention of my colleagues.

I ask them to turn to page 17 and the top of page 18, where they will see the stricken printed language, which is the House language that was added:

Provided, That none of the funds contained in this Act shall be used for increases in salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94–82.

That is the Shipley amendment.

Then, the Udall amendment:

No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or officer.

With respect to the committee amendment to strike all that language, it would be the executive, the judiciary, and the legislative restrictive language that the House included there.

I ask for the yeas and nays on the committee amendment.

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

The yeas and nays were ordered.

Mr. HOLLINGS. I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. McCLELLAN (when his name was called). Present.

Mr. STEVENS (after having voted in the affirmative). Mr. President, on this vote, I voted "yea." If the distinguished Senator from Connecticut (Mr. WEICKER) were here, he would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

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

Mr. GRIFFIN: I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

The result was announced—yeas 25, nays 46, as follows:

[Rollcall Vote No. 565 Leg.]

YEAS—25

Bellmon	Hollings	Percy
Brooke	Hruska	Randolph
Case	Inouye	Ribicoff
Clark	Jackson	Schweiker
Culver	McIntyre	Scott, Hugh
Glenn	Morgan	Scott,
Gravel	Packwood	William L.
Hart, Gary	Pastore	Tower
Hathaway	Pearson	

NAYS—46

Abourezk	Eagleton	Nunn
Allen	Eastland	Pell
Baker	Ford	Proxmire
Bartlett	Garn	Roth
Bumpers	Griffin	Sparkman
Burdick	Hansen	Stafford
Byrd,	Hatfield	Stennis
Harry F., Jr.	Helms	Stevenson
Byrd, Robert C.	Humphrey	Stone
Cannon	Johnston	Symington
Chiles	Laxalt	Taft
Church	Leahy	Talmadge
Curtis	Long	Thurmond
Dole	McClure	Williams
Domenici	Muskie	Young
Durkin	Nelson	

ANSWERED "PRESENT"—1

McClellan

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, for.

NOT VOTING—27

Bayh	Goldwater	Mathias
Beall	Hart, Philip A.	McGee
Bentsen	Hartke	McGovern
Biden	Haskell	Metcalf
Brock	Huddleston	Mondale
Buckley	Javits	Montoya
Cranston	Kennedy	Moss
Fannin	Magnuson	Tunney
Fong	Mansfield	Weicker

So the committee amendment was rejected.

The PRESIDING OFFICER. The clerk will state the last committee amendment.

The assistant legislative clerk read as follows:

Beginning on page 36, line 1, down to line 3 on page 39 insert new language.

UP AMENDMENT NO. 424

Mr. HOLLINGS. Mr. President, now that the Senate has acted, I would refer the body to page 17. What I want to do is clarify the Shipley amendment so that it will not be retroactive. It is not intended as such.

The distinguished chairman of the Legislative Subcommittee on Appropriations, Mr. SHIPLEY, made it clear numerous times in the debate on the House side, but I think if we could add on line 23, page 17, the language "at a rate which exceeds the rate in effect on September 30, 1976," if we could add that particular language in there, then that would clarify the intent and that would not be a matter of issue.

I would so move to amend the bill.

Mr. ALLEN. Mr. President, will the Senator submit the amendment in writing? I am not sure it would accomplish the purpose that he has in mind. I favor the purpose he has in mind. If it would accomplish that, I would certainly be in favor of it.

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

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

Mr. HOLLINGS. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Kathy Cudlipp and Hal Brayman of the Public Works Committee staff be granted floor privileges and that Dick Getzinger of my staff be granted the same privileges.

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

Is the absence of a quorum still suggested?

Mr. HOLLINGS. I withdraw the request.

The PRESIDING OFFICER. Is that request withdrawn?

Mr. HOLLINGS. The request is withdrawn.

Mr. TAFT. Mr. President, I just want to say I believe the language would accomplish it. It may be possible to perfect it, but I think the objective of the amendment of the Senator from South Carolina is very much in order. I do not believe it was ever intended that pay raises already in effect would have been repealed, in effect, by this language, so I will go along with the amendment.

The PRESIDING OFFICER. If the Chair may have the attention of the Senator from South Carolina, the Chair is advised that the Senator from South Carolina is addressing himself to the amendment that was just defeated and not to the pending committee amendment.

Mr. HOLLINGS. That is correct. We are not addressing the next committee amendment.

The PRESIDING OFFICER. The pending committee amendment must be disposed of before further business is considered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent then before we perfect the House language regarding the pay raises of the House Members before going on to the next committee amendment.

Mr. TAFT. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. TAFT. Is it not true that the amendment the Senator is proposing is the language of the bill as it is currently stated?

Mr. HOLLINGS. That is right. The committee amendment was defeated.

The PRESIDING OFFICER. The last committee amendment must be disposed of before the Senator's motion is in order.

Mr. HOLLINGS. Except by unanimous consent.

Mr. President, I ask unanimous consent—in other words, we have another committee amendment relative to 400 North Capitol Street, and before we get into that debate on 400 North Capitol Street, I hope to clarify this section of the bill so that we will once and for all dispose of it. I send the amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. Is that in the nature of a unanimous-consent request?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) for himself and Mr. STEVENS proposes an unprinted amendment No. 424:

On page 17, line 22, strike the complete sentence and insert the following:

That none of the funds contained in this Act shall be used to increase salaries of Members of the House of Representatives pursuant to Section 204a of Public Law 94–82 in excess of the salary rate in effect on September 30, 1976, for such position or officer.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. ALLEN. As I understand the purpose of the Senator's amendment is the contention that under the present language not only would Members of the House of Representatives, as distinct from the Senate, be denied the upcoming increase on October 1, but there is a thought that they might be required to pay back the increase they received last October 1; is that correct?

Mr. HOLLINGS. Well, you have got section 204a of Public Law 94–82 in here, and someone could relate that back and say, "since the salary you now are drawing includes the increase in 1975 pursuant to that section and since none of the moneys could be used, therefore, you have got to reimburse the Government."

Mr. ALLEN. What the Senator's amendment would then do would be to make the same revision for the House that is also contained in this language for the Senate; is that correct?

Mr. HOLLINGS. That is correct.

Mr. ALLEN. The effect being that the Members of the House and Senate both would have their salaries frozen at the September 30, 1976, level, but there would be no retroactive feature to the freeze; is that correct?

Mr. HOLLINGS. That is correct.

Mr. ALLEN. Well, I think that is what the House really intended, and I know that is what the Senate intends, and I would certainly have no objection to this amendment with the legislative history.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 10:15 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 10:15 tomorrow morning.

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

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, Mr. BARTLETT be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the legislative appropriations bill.

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

Will the Senator suspend until the Senate is in order. Will Senators conversing retire to the cloakroom so the Senator from West Virginia may be heard.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the resumption of the consideration of the legislative appropriations bill, Mr. BARTLETT be recognized to call up an amendment; that there be a 1-hour time limit on that amendment, and that at no later than the hour of 12 o'clock noon tomorrow the distinguished Senator from Iowa (Mr. CULVER) will be recognized to call up his amendment, and that there be a time limitation on that amendment of 1 hour and 45 minutes to the side, 2 hours to begin running at 12 noon, and to expire at the hour of 2 o'clock, at which time the Senate, under an agreement previously entered, will resume consideration of the antitrust measure, and that upon the disposition of the antitrust votes, the Senate resume consideration of the amendment by Mr. CULVER on which there will be a time limitation remaining of 1½ hours to be equally divided between Mr. CULVER and Mr. HOLLINGS.

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

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King and Kathy Ellis, of my staff, be granted the privilege of the floor during the voting and consideration of this bill.

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

AMENDMENT NO. 2277

Mr. BARTLETT. Mr. President, I have an amendment at the desk and I would

like to have it read and laid before the Senate as the pending business tomorrow.

The PRESIDING OFFICER. There is a pending committee amendment. The Senator's amendment would require unanimous consent to be in order.

Mr. ROBERT C. BYRD. Mr. President, what is the request?

The PRESIDING OFFICER. The Senator from Oklahoma is attempting to offer an amendment. There is a pending committee amendment before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I had gotten consent earlier for the Senator on tomorrow, immediately after the conclusion of routine morning business, to be permitted to call up his amendment on which there will be a time limitation of 1 hour.

The PRESIDING OFFICER. The Senator from Oklahoma wishes to lay the amendment down, but the Chair is advised that is not in order while there is a committee amendment pending.

Mr. ROBERT C. BYRD. Yes, he can do it tomorrow at the conclusion of routine morning business under the unanimous consent request.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in view of the fact that the Senator on tomorrow will be allowed to call up his amendment on the resumption of the consideration of the supplemental appropriations bill, he be allowed at this time to lay it down without any time being charged against it, and at the conclusion of routine morning business tomorrow and resumption of action on this measure, his amendment will be the pending question.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment number 2277:

On page 40, after line 19, insert the following new section:

AUTOMATIC ELEVATOR OPERATORS

No part of the funds appropriated under this Act shall be used for the payment of compensation for more than 46 elevator operator positions under the heading "Architect of the Capitol, Capitol Buildings"; sixteen elevator operator positions under the heading "Architect of the Capitol, Senate Office Buildings"; and twenty-eight elevator operator positions under the heading "Architect of the Capitol, House Office Buildings"; provided, that such provision shall not be applicable to present incumbents of elevator operator positions.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I can say in one or two sentences that the purpose of this amendment is to reduce the number of elevator operators on the automatic elevators roughly in half, to reduce them by 62.

Mr. WILLIAM L. SCOTT. Mr. President, I listened with interest, as I am sure the other Senators did, to the colloquies and the amendments that were offered with regard to executive pay and especially those of the Members of Congress. Obviously, there is a difference of opinion in this body as to whether or not we should exclude Members of Congress from any pay raises that are granted in the future.

I have handed to the ranking Republican Member a suggested draft of a suggested amendment that might be considered and I believe he has shown it to the floor manager of this bill. I hope they give consideration to putting this proposed amendment in proper order and either offer it themselves or permit me to offer it.

I realize that I could offer it, but I am thinking about putting it in proper form.

The gist of the amendment is that any Member of Congress who feels that he does not want to have his pay adjusted upward at any time shall notify the Secretary of the Senate if he be a Member of the Senate, or the Clerk of the House of Representatives if he be a Member of the House of Representatives, and until his request is rescinded, he will not receive any change in his pay status.

This seems to me to be a manner in which those who have independent incomes and do not need additional money, or those who are on the speaking circuit and making income from other sources, can relieve themselves of the onus of receiving an adjustment in their salary, and those of us who devote full time to our duties in the Congress and who do not have outside income can receive a rate of pay that is comparable to that of persons in private industry.

To me, it is a fair arrangement, and we will not in that manner be our brother's keeper, but we could say for ourselves whether we feel that we do not want any adjustment in our salary.

We can go home and tell our constituents, "Well, I notified the Secretary of the Senate that I did not want that pay raise, so I am not receiving it, I am not paying any income tax on it, it is not a part of my emolument of office."

But those who feel they do earn the amount of money that is provided in the bill and that they are entitled to that money can accept it.

In other words, there will be a choice, Mr. President, among the Members of the Congress.

I hope that the distinguished Senator from South Carolina and the distinguished Senator from Pennsylvania will think about this and see if it is fair to be brought before the full Senate for consideration before the measure comes up tomorrow.

Mr. HOLLINGS. Mr. President, if I understand correctly, the proposed language would be a proviso by the Senator from Virginia that the Member would advise the Secretary of the Senate or the Clerk of the House, in either case, as a Senator or House Member, in writing that his salary should not be increased in any manner, and shall continue to receive the same salary until such time as he receives the decision in writing.

Mr. WILLIAM L. SCOTT. Until he rescinds it in writing.

Mr. HOLLINGS. Until he rescinds it in writing, I am sorry.

Mr. WILLIAM L. SCOTT. So anyone that feels offended by receiving an increase in salary would not have to take it. They would not have to pay any taxes on it. It would not be income because by virtue of law it would not be part of their salary.

Mr. HOLLINGS. Has anyone asked for this privilege?

Mr. WILLIAM L. SCOTT. That is up to the individual Senator to make that decision. We have received a lot of votes saying, "Let's exclude Members of Congress."

Mr. HOLLINGS. Right.

Mr. WILLIAM L. SCOTT. As the distinguished Senator knows, many years ago the Congress decided, coming through the Post Office and Civil Service Committee, that Government employees should receive salary comparable to those received in private industry. It seemed reasonable to me that every Government employee, whether he be in the lower ranks or the higher ranks, in the executive branch, whether he be a member of the judiciary or a Member of Congress, should receive this comparability feature.

I just think we are abusing ourselves by the actions that we take here saying, "everybody else receives a pay adjustment, but not me, not a Member of the Congress."

If an individual Member, however, feels so strong about this that he does not want to take the additional money, all he would have to do would be to drop a short note to the Secretary of the Senate, and if a Member of the House to the Clerk of the House, and say he does not want this increase and he would not receive it, he would stay right where he was.

Mr. HOLLINGS. Is that not the law today? Is that not permissible?

For example, I know the distinguished senior Senator from West Virginia made a record, just as we are making public record now on this floor, said he did not desire an increase or a cost-of-living increase.

I think his rationale was to the effect that what we should be doing is vote up or down in relation directly to that salary rather than bringing it indirectly as a cost of living thing with a general proviso. He said he did not like it coming in indirectly, and that Members should be voting directly up or down. He has told me that he has turned it down or he would turn it over to charity, that he would refuse to accept it.

He resisted that and, therefore, he returns, he does not receive it. He returns it. I think that is really the law today.

One can do exactly as the Senator from Virginia wishes.

Mr. WILLIAM L. SCOTT. I am not aware of that provision of law which permits this to be done.

Mr. HOLLINGS. Does the Senator know of any provision of law which prohibits it?

Mr. WILLIAM L. SCOTT. No, I do not, and yet I think it might have some objection taxwise, because when we re-

ceive money and then turn it back, I do not know what the tax consequences would be, I think it would be preferable and would get the individual Member of Congress off the hook by putting it in statutory law that he has a right to do this.

Again, I wrote this out in longhand here on the floor of the Senate. It may not be worded in the way it should be worded, but I think it would give the individual Senator, who might be embarrassed by voting for an adjustment of his salary along with that of all other Government employees, an escape hatch, and would do it in a statutory manner.

Mr. HOLLINGS. I understand the Senator, but I have not seen the embarrassment, and I do not think I am going to see that embarrassment. I think these Members would present themselves. They have been getting the pay as they wished, with the exception, of course, as the Senator from Virginia pointed out.

Mr. WILLIAM L. SCOTT. I have heard the phrase used, "Vote no and take the dough," and I expect the distinguished Senator from South Carolina has heard others say, " I am going to vote no, but I hope this bill passes."

I am saying that this would relieve any Senator of embarrassment.

Mr. HOLLINGS. Relieve them of money, not worried about embarrassment. What we are really concerned with is money and any that do not want it can go right now and give it to the Salvation Army, the Community Chest, I have got a long list. As Senator PASTORE said, the Catholic Charity. The Virginia is for Lovers Club, is that something the Senator has?

Mr. WILLIAM L. SCOTT. I am not sure that is tax-exempt.

Mr. HOLLINGS. We could find a tax-exempt charity, I am sure.

There is no taxation there.

In all candor, I just did not want to clutter the bill.

Mr. WILLIAM L. SCOTT. All I was asking is that the distinguished Senator think about it between now and tomorrow.

Mr. HOLLINGS. I will be glad to.

COPYRIGHT ROYALTY COMMISSION

Mr. McCLELLAN. Mr. President, the Committee on Appropriations has added to the Legislative Branch Appropriations bill an item of $268,000 for the Copyright Royalty Commission proposed in the House of Representatives version of the copyright revision bill, S. 22. I was consulted by the chairman of the Subcommittee on Legislative Appropriations, Senator HOLLINGS, concerning this item, and supported its inclusion in the bill despite my reservations as to both the proposed Commission and the manner in which this subject has been handled by the Library of Congress. In order that my position is clear on this subject, I wish to recite the chronology which led to the addition of this item.

In both the 93d and present Congress, the Senate determined that the periodic review of certain royalty rates should be accomplished by a Copyright Royalty Tribunal, consisting of ad hoc panels of arbitrators. The jurisdiction of the proposed Copyright Royalty Tribunal has expanded during the processing of the copyright legislation, and it may well be desirable to now provide a more formal structure.

The Senate bill provides that the Copyright Royalty Tribunal shall be located in the Library of Congress. The relationship between the Tribunal and the Library is set forth in both the bill and the committee report and was developed in full consultation with the Register of Copyrights. At no time did I ever hear from the current or former Librarian of Congress that they were not satisfied with the disposition provided.

I was informed quite recently that the Library of Congress was preparing a revised budget estimate because of the developments on the copyright bill in the House. I indicated that I would support appropriate funding in the legislative branch bill, subject to the enactment of S. 22. My office requested the Register of Copyrights to provide further clarification of the Copyright Royalty Commission, but the Register has not done so. Immediately prior to the markup of the Legislative Appropriations bill Senator HOLLINGS made available to me a copy of a letter which he had just received from the Librarian of Congress in which the Librarian was advocating a change in the relationship of the Copyright Commission to the Library. Although I am the chairman of the appropriate legislative subcommittee and the sponsor of the bill, I had not been consulted by the Library, and the Register of Copyrights had still not responded to my requests for clarification. Under these circumstances, I would normally have decided that no action should be taken on this item.

I supported the inclusion, however, because of the special problems in the other body of this appropriations bill. No funding for the Copyright Royalty Commission was provided in the Legislative Branch Appropriations bill reported by the House Appropriations Committee. Certain of the members of the House Judiciary Subcommittee who devised the proposed Commission were supporting a rule that would prevent amendments being presented to this bill in the normal manner. Thus, if I did not consent to the addition of this item no funding would have been available.

I shall support in the conference the position of the Librarian of Congress that whatever royalty review structure is created shall be an independent agency in the legislative branch. My agreement on this point is reflected in the committee report on this bill. As to the other issues relating to the royalty review process, it is the intent of this item that the sum of $268,000 shall be available to whatever royalty review body is established in the legislative branch. The inclusion of funds for the Copyright Royalty Commission is not intended as concurrence in the disposition of this matter by the House Judiciary Committee, nor any change in the previous legislative actions of the Senate on this subject.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the transaction of routine morning business, with statements limited therein to 5 minutes each.

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

SENATE CONCURRENT RESOLUTION 177 THROUGH SENATE CONCURRENT RESOLUTION 200—SUBMISSION OF CONCURRENT RESOLUTIONS OBJECTING TO PROPOSED SALE OF CERTAIN WEAPONS

(Referred to the Committee on Foreign Relations.)

Mr. PROXMIRE (for himself and Mr. DURKIN) submitted the following concurrent resolutions:

S. CON. RES. 177

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of torpedoes to Pakistan (transmittal number 7T–24, transmitted to Congress on September 1, 1976).

S. CON. RES. 178

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of Sidewinder missiles to Pakistan (transmittal number 7T–48, transmitted to Congress on September 1, 1976).

S. CON. RES. 179

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of ammunition to Pakistan (transmittal number 7T–30, transmitted to Congress on September 1, 1976).

S. CON. RES. 180

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 25 M88A1 recovery vehicles to Pakistan (transmittal number 7T–50, transmitted to Congress on September 1, 1976).

S. CON. RES. 181

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain vehicles to Pakistan (transmittal number 7T–49, transmitted to Congress on September 1, 1976).

S. CON. RES. 182

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of ammunition to Iran (transmittal number 7T–28, transmitted to Congress on September 1, 1976).

S. CON. RES. 183

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain aircraft to Iran (transmittal number 7T–36 (a) and 7T–36(b), transmitted to Congress on September 1, 1976).

S. CON. RES. 184

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain

missiles to Iran (transmittal number 7T-34, transmitted to Congress on September 1, 1976).

S. CON. RES. 185

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of repair parts for RH-53D aircraft to Iran (transmittal number 7T-29, transmitted to Congress on September 1, 1976).

S. CON. RES. 186

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of helicopter repair parts to Iran (transmittal number 7T-31, transmitted to Congress on September 1, 1976).

S. CON. RES. 187

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Iran (transmittal number 7T-32, transmitted to Congress on September 1, 1976).

S. CON. RES. 188

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Iran (transmittal number 7T-46, transmitted to Congress on September 1, 1976).

S. CON. RES. 189

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain torpedoes to Iran (transmittal number 7T-25, transmitted to Congress on September 1, 1976).

S. CON. RES. 190

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 11 F-5E aircraft to the Philippines (transmittal number 7T-44, transmitted to Congress on September 1, 1976).

S. CON. RES. 191

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of 18 F5E aircraft, 3F-5F aircraft and 200 AIM-9J1 missiles to Singapore (transmittal number 7T-18, transmitted to Congress on September 1, 1976).

S. CON. RES. 192

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain Air Force headquarters construction to Saudi Arabia (transmittal number 7T-22, transmitted to Congress on September 1, 1976).

S. CON. RES. 193

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Saudi Arabia (transmittal number 7T-21, transmitted to Congress on September 1, 1976).

S. CON. RES. 194

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of a Naval Training Center to Saudi Arabia (transmittal number 7T-20, transmitted to Congress on September 1, 1976.)

S. CON. RES. 195

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain missiles to Saudi Arabia (transmittal number 7T-15, transmitted to Congress on September 1, 1976).

S. CON. RES. 196

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of Armored Personnel Carriers to Saudi Arabia (transmittal number 7T-35, transmitted to Congress on September 1, 1976).

S. CON. RES. 197

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of National Guard Training and Modernization to Saudi Arabia (transmittal number 7T-40, transmitted to Congress on September 1, 1976).

S. CON. RES. 198

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain air defense weapons to Saudi Arabia (transmittal number 7T-38, transmitted to Congress on September 1, 1976).

S. CON. RES. 198

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sales of certain missile systems to Saudi Arabia (transmittal number 7T-39, transmitted to Congress on September 1, 1976).

S. CON. RES. 200

Resolved by the Senate (the House of Representatives concurring), That the Congress objects to the proposed sale of certain aircraft to Saudi Arabia (transmittal number 7T-37, transmitted to Congress on September 1, 1976).

Mr. PROXMIRE. Mr. President, today I am submitting 24 resolutions of disapproval to pending arms sales. These resolutions are introduced pursuant to section 36(b) of the Arms Export Control Act—the Nelson amendment.

There are nine resolutions on Saudi Arabia totaling $613.60 million. There are nine resolutions on Iran totaling $4.45 billion. There are five resolutions on Pakistan totaling $79.5 million and one each for the Philippines and Singapore. The grand total is $5.32 billion.

Mr. President, I have submitted these resolutions for a number of specific reasons. First, I firmly believe that the Senate should review these matters with great caution. There are too many unanswered questions for these proposed sales to go into effect.

For example, what are the implications of providing Israel and various Arab States with identical equipment? How is the issue of transferability being handled? Will these weapons turn up in other countries if in the worst circumstances there is another outbreak of war in the Middle East?

What will these massive sales do to the existing balance of forces in the Middle East. Is it United States policy to turn Iran into the major military power in the Middle East? If so, why and to what end?

If there is a future oil embargo will our own weapons be turned against us? Will there be a technology flow from these countries to the Soviet Union or the Peoples Republic of China?

Do these countries have to have first line military equipment just now entering the U.S. force structure? If so, what is the compelling military rationale?

What effect will these massive sales have on internal development? Under what circumstances would U.S. equipment be used for domestic activities or internal security purposes?

Will these sales encourage a regional arms race between Pakistan and India or Iran and Saudi Arabia? Are there any hidden agreements attached to or a part of any of these sales? Is there a quid pro quo?

How many U.S. personnel will have to be stationed in the recipient country and for what period of time? Are U.S. personnel subject to being held hostage in any future domestic or regional hostility?

Mr. President, my second point is one of concern that much of the data about these arms sales has been classified. Why it has been classified is a mystery. Surely everyone in the Middle East will know as soon as the equipment is shipped. Why then should the details be kept secret from the American public? Why should the Congress allow the Defense and State Departments to restrict our right to a full and free debate on the merits of these proposed sales?

Third, where are these sales heading? Is this just the beginning of a new round of arms sales to the Middle East? What are the long range projections? What U.S. policy guides arms sales?

For all of these reasons, and many more, I have drafted these resolutions, along with my friend the Senator from New Hampshire (Mr. DURKIN) and today submit them to the Senate for consideration.

PROTECTION OF SPOUSES OF MAJOR PRESIDENTIAL AND VICE-PRESIDENTIAL NOMINEES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 15371.

The PRESIDING OFFICER laid before the Senate H.R. 15371, an act to provide for protection of the spouses of major Presidential and Vice-Presidential nominees.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, this bill was unanimously passed by the House of Representatives on September 2, 1976, and is supported by the administration.

It amends Public Law 90-331, which authorizes Secret Service protection for major Presidential and Vice Presidential candidates. Public Law 90-331 presently does not authorize the protection of candidates' spouses.

On August 12, 1976, Gov. Jimmy Carter wrote Secretary of the Treasury William E. Simon requesting Secret Service pro-

tection for Mrs. Carter and Mrs. Mondale, inasmuch as they contemplate campaigning in the fall separately from their husbands. Secretary Simon referred the request to the Candidates Advisory Committee—consisting of the Senate majority and minority leaders, the Speaker of the House, and the House minority leader—and it unanimously recommended such protection be provided.

The present bill is designed to remedy the lack of statutory authority to provide such protection. It would commence not sooner than 60 days prior to the general Presidential election. In addition, the House bill would provide continuation of Secret Service protection for the spouse of the President-elect between the date of the election and the date of inauguration.

The authority contained in this bill is an appropriate extension of the protective function of the Secret Service in the light of present day campaigning practices by spouses of Presidential and Vice Presidential candidates, and I urge its immediate adoption.

The PRESIDING OFFICER. If there are no amendments to be proposed, the bill will be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 15371) was passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a letter addressed to the Honorable William Simon, Secretary of the Treasury, from Gov. Jimmy Carter, dated August 5, 1976.

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

ATLANTA, GA., *August 5, 1976.*

Hon. WILLIAM SIMON,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: It is my understanding that protection by the Secret Service is not automatically provided to the wives of the nominees for President and Vice President of the United States.

My wife Rosalynn and Mrs. Mondale will be campaigning this fall separately from me and Senator Mondale, and each will be traveling with only a few staff aides. This lack of protection from large crowds and other potential threats is of great concern to us.

I respectfully request that protection be provided both wives when the election campaign begins on a full-time basis around the first of September. A definite date will be known and provided in the near future.

I will very much appreciate your favorable consideration of this request.

Sincerely,

JIMMY CARTER.

LEGISLATIVE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

Mr. ALLEN. Mr. President, having supported today the prevailing side on the vote by which the first committee amendment to the legislative appropriation bill was rejected, and having cleared the matter with the distinguished manager of the bill (Mr. HOLLINGS), I ask unanimous consent that it be in order to move to reconsider the vote by which the first committee amendment was rejected.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the first committee amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL 10 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 10 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR HELMS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, the Senator from North Carolina (Mr. HELMS) be recognized for not to exceed 15 minutes, preceding the recognition under a special order of the Senator from Oklahoma (Mr. BARTLETT).

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from North Carolina (Mr. HELMS) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Oklahoma (Mr. BARTLETT) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which period the Senate will resume the consideration of the legislative appropriation bill, at which time the pending question will be on agreeing to the amendment by Mr. BARTLETT, on which the yeas and nays have been ordered, and on which there is a time limitation of not to exceed 1 hour. Consequently, a rollcall vote is expected to occur at some time around 11:30, or somewhere between 11:30 and 12 noon.

Following the disposition of the amendment by Mr. BARTLETT, and no later than 12 o'clock noon, the Senate will proceed to consider the amendment by the Senator from Iowa (Mr. CULVER), on which there is a time limitation of 3½ hours, 2 hours of which will run from 12 o'clock noon until 2 o'clock, and at 2 p.m. the Senate will resume the consideration of the antitrust measure. At 3 o'clock, after 1 hour of debate, votes will occur on the antitrust measure; I believe the first vote is to occur on the amendment (No. 2232) by the Senator from Alabama (Mr. ALLEN); and then, if that amendment is rejected, a vote will occur on the motion submitted by the junior Senator from West Virginia. A rollcall vote will occur on that motion immediately.

On the disposition of those rollcall votes, the Senate will resume the consideration of the Culver amendment to the legislative appropriation bill, with 1½ hours remaining for debate on that amendment, at the conclusion of which time, or at such time as any portion of that time is yielded back, a vote will occur on the Culver amendment, and I am confident that will be a rollcall vote.

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

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I do not believe the Senator was in the Chamber when the legislative appropriation bill was called up. There was objection to agreeing to the Senate committee amendments as original text, and consequently, what the distinguished Senator has referred to as the Culver amendment actually will be the second committee amendment.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thought the Senator might want to make that clear.

Mr. ROBERT C. BYRD. Yes; I thank the distinguished Senator for calling this to my attention. The time will be on the committee amendment. I think Mr. CULVER is opposing the committee amendment.

Mr. ALLEN. Opposing, yes.

Mr. ROBERT C. BYRD. Half the time will be under the control of Mr. CULVER and half the time will be under the control of Mr. HOLLINGS.

So there will be rollcall votes tomorrow. It is hoped that the Senate will be able to complete action on the legislative appropriation bill tomorrow; and in any event I have been asked by the Senator from Maine (Mr. MUSKIE) to follow the legislative appropriation bill with Senate concurent resolution 139, the concurrent resolution revising the congressional budget for the fiscal year 1977.

UNANIMOUS-CONSENT AGREEMENT

I, therefore, ask unanimous consent that tomorrow, upon the disposition of the legislative appropriation bill, the Senate proceed to the consideration of Senate Concurrent Resolution 139.

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

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance

with the order previously entered, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:15 p.m. the Senate adjourned until tomorrow, Wednesday, September 8, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 2, 1976:

DEPARTMENT OF STATE

Charles A. James, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Executive nominations received by the Senate September 3, 1976:

DEPARTMENT OF STATE

Julius L. Katz, of Maryland, to be an Assistant Secretary of State.

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

DEPARTMENT OF DEFENSE

David Robert Macdonald, of Illinois, to be Under Secretary of the Navy, vice David Samuel Potter, resigned.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. John P. Flynn xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. George H. Sylvester, xxx-xx-xx... xxx... FR (brigadier general, Regular Air Force), U.S. Air Force.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel:

James M. Chance
Harold A. Erwin
Gerald L. Gill
Herbert C. Johnson
Robert E. Lorch
Kenneth E. Noland
Joseph R. R. Paquette
Roger P. Pilcher
Kenneth E. Shelton
Igor R. Valentine

The following-named women officers of the Marine Corps for permanent appointment to the grade of major:

Kathleen V. Ables
Elaine M. Bowden
Marguerite J. Campbell
Nancy A. Davis
Diane L. Hamel
Ellen T. Laws
Lorraine M. Sadler
Gloria E. Smith
Barbara Weinberger
Carol A. Wiescamp
Carolyn K. Wiseman

The following-named officers of the Marine Corps for temporary appointment to the grade of major:

James J. Ainsworth
Travis M. Aiton
Laney D. Alexander
Cecil J. Amparan
Byron A. Anderson
Lawrence R. Anderson
O. V. Anderson
Ralph C. Anderson
Victor V. Ashford
Raymond P. Ayres, Jr.
Peter R. Badger
David L. Baker
Michael L. Baker
George D. Barnett
Richard L. Barton, Jr.
Benjamin E. Basham
William A. Beebe, II
David E. Belatti
Stephen C. Berg
Richard W. Berger
Kenneth W. Berkey
Timothy L. Berry
Allan C. Bevilacqua
Hubert D. Bible
Walter Robert Bishop
Patrick C. Blackman
Marvin S. Blair, Jr.
Frank R. Blakemore
Jerry M. Blanton
David W. Blizzard
Paul J. Bloom, Jr.
Robert E. Boerner
Jay F. Boswell
Robin R. Bowen
John W. Bowman, Jr.
Thomas A. Braaten
Kenneth L. Bradley
Wayne H. Brandon
Charles D. Breme
John L. Brennan
George L. Brewer
William R. Brignon
Larry W. Britton
Constantinos T. Brown
Jon L. Brown
Michael B. Brown
Thomas E. Brown, Jr.
William R. Bunker
Joseph H. Burney
Glenn F. Burgess
Thomas Buscemi, Jr.
William K. Callahan
Richard L. Callihan
Walter J. Camp
Larry E. Campbell
James M. Canario
Robert J. Carroll
James A. Cathcart
James M. Chapin
James E. Charrier
Jerry D. Chase
Clarence B. Cheatham, Jr.
Richard J. Choate
Clayton C. Christensen
Franklin J. Cizerle
Henry J. Clark
Vernon L. Clark
Dennis C. Clayton
James G. Conard
Roy A. Connelly
Patrick J. Connor
Stephan L. Constantine
Edwin J. Cooke
Robert W. Coop
Robert A. Cornell
Allen M. Coward
Ronald E. Crane
Chandler C. Crangle
John Crone
Eugene J. Cruickshank
Louis A. Culbertson
Timothy J. Cunningham
Terrence R. Dake
Howard D. Daniel
Richard C. Daugherty
Jimmie F. Davis
William J. Davis
Ottie B. Deane
Ronald K. Delabarre
Dennis G. Delmauro
Thomas R. Delux
Henry A. Detering
Eric D. Dick
Harry L. Dietz
Wilbur C. Dishman
Francis J. Donnelly
Charles B. Drake
Paul F. Drnec
Robert J. Eisenlohr
Richard H. Ellis
Gary L. Elsten
Clark D. Embrey
William F. Ellis, Jr.
Robert S. Evasick
Clifford L. Fagen
David E. Feiring
Don W. Fishero
Ronald D. Fleming
Morris O. Fletcher
George S. Ford
James E. French
Barton J. Friebolin
William H. Frizell
Donald E. Frost
Arthur J. Furtney, Jr.
Michael H. Gavlick
Robert P. Gehrdes
Vincent L. Gennaro, Jr.
George E. Germann
Michael L. Gilman
Robert C. Godfrey
Thomas C. Goodwin
Thomas Gotta
Lee C. Gound
Michael J. Graf
U.S. Grant, Jr.
Charles L. Griffin
Robert G. Gulley
Paul S. Hamilton
Thomas J. Hankins
Bruce L. Harjung
Robert J. Harper
John R. Harris
Charles E. Hatch
Edward Hatton III
Jerome D. Hayes
William T. Hayes
Robert B. Haynes
Donald R. Head
Henry Heidbreder Jr.
Frederick P. Heller
David F. Herr
Robert Hickerson
James E. Hillman
Judson D. Hilton, Jr.
Marshall G. Hodges
Terry L. Hodges
George G. Hoffman, Jr.
Richard F. Hoogerwerf
Richard G. Hoopes
Theodore D. Hopper, Jr.
Carl T. Hover
James R. Hughes
Charles J. Hutcheson
Homer G. Hutchinson, III
Larry W. Hutson
Walter L. Jabs
Laurens J. Jansen
Richard M. Jessie, Jr.
Albert P. Johns
Melford M. Johnson
James L. Jones, Jr.
Thomas A. Keene
George R. Keller, Jr.
Thomas E. Kelly
Ronald R. Kersey
Daniel W. Kessler
Richard C. Kindsfater
John S. Kinsman
Novatus N. Kirby
Gerald P. Kirchgessner
John J. Kispert, Jr.
Richard T. Kohl
Donald E. Koppenhaver
Lester A. Kroeger
Earl A. Kruger
John J. Lacy
Scott M. Lamberth
Elbridge W. Lang
Jacob L. Larue
Fred C. Lash
Donald E. Laughner
Robert C. Laverty
William N. Lowe
Michael R. Layman
Robert C. Lewis
Frank LiButti
Frank E. Littlebury
Andrew M. Lloyd, III
Everett Long III
Paul J. Lowery
James T. Lucken, Jr.
Thomas E. MacDermant
Gary W. MacLeod
Vernon R. Maddux
James G. Magee
Gerald O. Mallette
Charles J. Maloney, Jr.
James D. Manley
Gaylord J. Marek
Eugene F. Mares
Ronald W. Marsteller
Michael P. Mastroberti
Lee R. Marsh
James J. Marshall
Thomas D. Martin
E. T. Mattke
Joseph H. Matusic
Carl R. McClain
James F. McCool, III
Daniel J. McCormick
James E. McDaniel
Patrick J. McDonald, Jr.
Francis M. McDonough
Patrick J. McElhinney
Michael M. McElwee
Harold S. McGinnis, Jr.
Alvin McGrath
John M. McInnes
James L. McIntyre, Jr.
James J. McKnight
Raymond J. McManus
John T. Mero
Richard E. Miller
David L. Mix
Charles D. Morgan
Carleton H. Morrison, Jr.
Lawrence W. Moss
Alvin C. Murray, III
John R. Murray
Richard E. Musser
Arthur G. Nadeau
Thomas E. Nadolski
Frank Natt Jr.
Thomas S. Nelson, III
James H. Nelson
Allen D. Nettleingham
Frank E. Odell
Brian J. O'Donnell
Ronald N. O'Leary
George P. Olin
John O. Olsen
Robert J. O'Rourke
Richard E. Ouellette
Nicholas J. Outrakis
Peter Pace
Leslie M. Palm
James D. Panknin
John A. Panneton
Larry D. Parsons
William T. Pedersen, Jr.
James A. Pelli, Jr.
Earl Pennington
Thomas J. Pentony
William N. Perkins
Ralph Pike
Gordon L. Pirtle
Sam Pisacreta
Frank M. Platt III
John R. Pope
Alexander W. Powell
William B. Powell, Jr.
William S. Price, Jr.
William J. Quigley
James E. Quinn
Ronald C. Rachow
Perry A. Ramey
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William M. Rice
Charles E. Richardson
Orin J. Riddell IV
Robert E. Rider
Manfred A. Rietsch
Charles N. Riley
Edward J. Ritchie
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Martin J. Samuel
Carleton F. Saunders, Jr.
John A. Sawyer, Jr.
James H. Schaefer, Jr.
Klaus D. Schagat
William W. Scheffler
Erwin W. Schomisch
Klaus D. Schreiber
Frank W. Schultz
Peter G. Schutz
Gene D. Schwartzlow
Jerome C. Scott
Frederick H. Seage, Jr.
James W. Seal
Arthur J. Seaman
T. D. Seder
David J. Seeley
Benny R. Sepulveda
Fred D. Seth, Jr.
Terry K. Shaw
Jerry M. Shelton
Bobby L. Sherrow
Dennis D. Shockley
Robert J. Short, Jr.
Thomas J. Singleton
Thomas D. Sizemore
Leonard L. Skatoff, Jr.
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James C. Smith
Larry E. Smith
Michael Z. Smith
William J. Spangler
James L. Spence
Harry B. Sprague III
John P. Staffieri
Norman S. Stahl
Craig R. Steinmetz
Myles C. Still
Terry W. Stone
Kenneth R. Stuber
James M. Strickland
Richard D. Sullivan
Terry P. Swanger
George P. Sweeney III
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Aubrey M. Taylor
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Jack R. Wagner
Edward P. Wahl, Jr.
Richard G. Walls

Jon M. Walters	John Wegl	John K. Wetter	Joseph H. Williams	William C. Wolfe	Dale F. Wyrauch, Jr.
Thomas D. Walters	Daniel L. Welker	James A. Wiley	Michael J. Williams	Larry A. Wood	John S. Zdanowski
David J. Watson	Marshall R. Wells	Thomas L. Wilkerson	John P. Wilson	Edward F. Wright, Jr.	Lawrence R. Zinser
Robert W. Weeks	Donald T. Welsh	John F. Williams, Jr.	William H. Wilson	William S. Wright	

HOUSE OF REPRESENTATIVES—*Tuesday, September 7, 1976*

(The House was not in session today. Its next meeting will be held on Wednesday, September 8, 1976, at 12 o'clock noon.)

CONFERENCE REPORT ON H.R. 14262, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

[The conference report on H.R. 14262, Department of Defense appropriations bill, filed in the House September 3, 1976, pursuant to its previous order, reads as follows:]

CONFERENCE REPORT (H. REPT. No. 94–1475)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 13, 17, 28, 31, 32, 33, 37, 57, 71, 74, 75, 106, 109, 110, and 113.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, 7, 8, 9, 14, 15, 23, 29, 30, 38, 41, 47, 48, 49, 50, 51, 52, 53, 54, 56, 58, 62, 72, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 101, 102, and 103, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,564,011,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$6,002,268,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$1,854,334,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$7,136,706,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$7,898,285,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$9,565,164,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$897,130,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$242,800,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$839,800,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$622,270,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,718,900,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$356,100,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"MARINE CORPS STOCK FUND

"For the Marine Corps stock fund, $6,200,000."

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$58,800,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

"DEFENSE STOCK FUND

"For the Defense Agencies stock fund, $22,800,000."

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$541,900,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$497,400,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$902,900,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$1,366,600,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,173,400,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment insert: "Until February 1, 1977, the obligation of funds appropriated in this Act for the procurement of the B–1 bomber shall be limited to a cumulative rate of not to exceed $87,000,000 per month."

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,309,700,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$250,100,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$2,280,816,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$3,722,792,000"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$3,749,530,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: In lieu of the sum proposed by