oped, and first suggested to the county's school superintendents in 1974. Gover said at first there wasn't much response to the idea so he filed it away until the fall when he mentioned the idea to Morley who was "turned on" by the idea of a student constitutional convention.

Gover said his first hopes for the convention then began to take shape and were completed in the past three days. "This community should take heart and great pride in what you young men and women have accomplished. And to those in government who are here tonight, I say look around you, what you see most likely is your competition a few years down the road. I don't envy the future campaigns you are going to wage if you are to retain office."

A special tribute was paid to the convention's parliamentarian, Fred I. Chase, of Lansing who guided the convention through procedural haggles throughout. The entire banquet gathering stood and honored Chase with a pre-birthday song salute. Chase will be 79 in March.

Students will sign the completed Constitution next week when circulated to them at individual high schools. Today they have removed their convention delegates' hats and returned to classes, but as one delegate said as she donned her coat to leave convention center, "This has been something I will remember all my life."

IN MEMORIAM TO THE HONORABLE HENRY REDYKE, OUTSTANDING CITIZEN, MISSIONARY PILOT AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 5, 1976

Mr. ROE. Mr. Speaker, 2 weeks ago Henry ReDyke was killed in a plane crash in South America and this Sunday afternoon residents of my congressional district will assemble to commemorate the legacy of this outstanding citizen, missionary pilot, and great American who relinquished his worldly goods to seek life's fulfillment and purpose in service to God and his fellowman. Memorial services will be held at the Hawthorne Gospel Church, Hawthorne, N.J.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in memoriam to Henry ReDyke and extend our most sincere condolences to his wife, Margaret; their sons, James of Tulsa, Okla., and Jerry of Wichita, Kans.; their daughter, Mrs. Jill Crawford of Jamaica Plains, Mass.; their grandchildren; his brother, Peter D. of Fairlawn, N.J.; his sisters, Mrs. Betty FitzGerald of Teaneck, N.J.; Mrs. Trina Livingston of Mahwah, N.J.; and Mrs. Martha Cummings of Ballston-Spa, New York, N.Y.

During this Bicentennial year as we celebrate the history of our wonderful country and the purpose and progress that its people have forged to achieve preeminence of our representative democracy among all nations throughout the world, may we take a moment to reflect upon the achievements and exemplary good works of Henry ReDyke. His way of life was noble in cause, rich in wisdom, and far reaching in its effect on the way of life of millions of people—truly symbolic of a great American and all of the ideals and traditions we hold so dear in the American way of life and the "American Dream."

Mr. Speaker, 10 years ago Henry ReDyke, foresaking all things, became a missionary pilot flying missionaries and their supplies into remote corners of jungles and mountainous regions of the globe. During the past 5 years he piloted mercy and medical flights and transported seminary teachers and students to classes, aiding 2½ million Quechua Indians and 1¼ million Aymara Indians living in small villages, without roads, hidden deep in the valleys and the mountainous slopes of the Andes Mountains of Bolivia.

With your permission, Mr. Speaker, I would like to insert at this point in our historical journal of Congress Henry ReDyke's story as related to me by his good friend Bert Nawyn of Prospect Park, N.J., a most adroit news correspondent and executive secretary of the Eastern Christian School Association, as follows:

HENRY REDYKE'S STORY

Henry ReDyke of Wyckoff, New Jersey was a man who sacrificed all that he had to become an active disciple of his Lord and Savior. He was not an ordinary man; on the contrary, he was a man of extraordinary talents; a man whose personality was alive with concern for his fellowman. He wanted to bring them the gospel.

It was in the service of his fellowman that he was killed in an airplane crash on January 20, 1976 when his plane smashed into the Andes Mountains in the jungles of Bolivia.

Henry ReDyke was a successful businessman and as a contractor-excavator he became affluent. Just about ten years ago he realized that there was more to life than being involved in the business, social and civic areas. He must make life worthwhile, he decided.

Selling his business and his luxurious home in Wyckoff, he and his wife, Margaret, began learning the language spoken by the Bolivian native. His next step was to purchase a $50,000 airplane. The remainder of his funds he distributed to charity.

For the past ten years Henry ReDyke has been busy on missions of mercy in Bolivia. Landing strips were hewn out of the Bolivian jungle and Henry ReDyke delivered medical supplies from outpost to jungle camp. He transported missionaries so that the gospel could be brought to the natives. He brought provisions when natives were sick. Daily he busied himself on errands of mercy. Margaret, his wife, was the perfect mate for him. She busied herself daily helping native women.

Henry ReDyke died in the service of his Lord. There is no question that he will be missed but the work of the Lord will go on. There is no way that the gospel can ever be stopped from reaching eager and receptive hearts.

Mr. Speaker, I appreciate this opportunity to memorialize in the annals of Congress Henry ReDyke's meritorious service to mankind. We do indeed salute him and extend our Nation's gratitude for all of his good works. I trust that his wife, Margaret, and his family will soon find abiding comfort in the faith that God has given them and in the knowledge that Henry is now under His eternal care. May he rest in peace.

SENATE—*Friday, February 6, 1976*

The Senate met at 8:45 a.m. and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

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

Almighty God, who in times past hast watched over this Nation and brought us to the opening of a new century, we rejoice in that revolution which was first in the hearts of the people and then consummated as one nation under God.

Make our hearts grateful for the achievements of the past. Clarify our vision of the unfinished task. Spare us from fondling old failures or from lugging into the future the memory of sins long forgiven. Let Thy refining fire sweep through our Nation, rekindling our faith, mending our divisions, cleansing the roots of national life.

Grant to the President strength to lead, to the Congress wisdom to legislate, and to the people a sense of civic responsibility. Lead us from strength to strength in the power of the Spirit and in the creation of an order akin to Thy kingdom on Earth.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 6, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

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

Mr. GRIFFIN. Mr. President, I do not wish to use the time allocated. But if the Senator from Wyoming desires any time, I will be glad to yield to him.

Mr. MANSFIELD. If he desires additional time, he may have my time.

Mr. HANSEN. Thank you.

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

REQUEST TO VITIATE ALL ACTION OF THE SENATE YESTERDAY

Mr. HANSEN. Mr. President, I ask unanimous consent that all of the actions of the Senate yesterday be vitiated.

Mr. MANSFIELD. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Montana is recognized.

Mr. MANSFIELD. 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. GRIFFIN. 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.

ORDER OF PROCEDURE

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order of proceeding as between the Senator from Kentucky and the Senator from Florida be reversed.

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

The Senator from Kentucky is recognized.

A NEED FOR ADDITIONAL FEDERAL JUDGES

Mr. HUDDLESTON. Mr. President, the Federal courts are in serious trouble because they lack sufficient judges, and it is incumbent upon Congress to move with the utmost speed to provide the necessary relief.

This is not a new problem. In 1972, the U.S. Judicial Conference recommended the creation of 52 new Federal judgeships based upon its quadrennial survey of the district courts. By request, the distinguished Senator from North Dakota (Mr. BURDICK) introduced the omnibus judgeship bill, S. 597, which was representative of this recommendation. The following year, the Subcommittee on Improvements in Judicial Machinery conducted a thorough and exhaustive round of hearings and reported a bill to the full Committee on the Judiciary calling for the creation of additional judgeships. Unfortunately, S. 597 died at the end of the 93d Congress.

One year ago, Senator BURDICK again introduced legislation, S. 287, to provide the badly needed judgeships. As reported in September of last year, that bill would create 45 new Federal district judgeships—4 years and 7 judges behind anticipated needs.

We all realize that Congress has an unusually large number of pressing issues facing it. There are still serious economic problems for which we must find solutions; some fundamental problems relating to energy remain unresolved; and true tax reform has to be instituted if we are not to be confronted with a taxpayer revolt.

These issues, and others, are vitally important and time consuming. However, in dealing with them we cannot and must not overlook other matters that are just as vital in the long run to the continuation of a viable democratic form of government. The effective and efficient operation of the judicial system is one of those matters which we cannot afford to ignore.

The urgent need for new district judges is patently clear. There have not been any new judgeships created since 1970. However, statistics show that total case filings increased 26.2 percent between fiscal year 1970 and 1975. Total filings per judge jumped from 317 to 402 during the same period. And, in many districts the situation is even more serious. A prime example is the eastern district of Kentucky. The report of the Director of the Administrative Office of the U.S. Courts reveals that civil filings in the eastern district increased 114.8 percent between fiscal year 1970 and 1975 making this district fourth in the Nation insofar as percentage change in total filings. Because of the crushing load of cases last year, the Federal judges in this district were forced to suspend temporarily the setting of civil cases for trial. S. 287 would provide one additional district judge for the eastern district.

Recently passed legislation, such as the Speedy Trial Act of 1975, scheduled to begin taking effect this year, will place new stresses on the already overtaxed and understaffed Federal court system. This act sets time limits on the delay between arrest and trial, and exceeding the limits could result in dismissal of valid cases. Attempting to meet the time limits with inadequate staffs will undoubtedly reduce the quality of Federal justice.

Furthermore, changing economical and sociological conditions are placing new and unique burdens on the Federal judiciary. Citizens are looking to the judiciary for the redress of wrongs, such as environmental damage, which would not have been litigated a few years ago. Unless the judiciary can deal fairly and rapidly with these issues, confidence in our democratic form of government will be further undermined. Given the present mood of the American people, we cannot afford to have the confidence gap widen any further.

Mr. President, for many months I have been calling for the immediate consideration of S. 287 by the full Senate. It is my opinion that this bill is one of the more important pieces of legislation pending in Congress and there is substantial evidence that many others agree. On January 7, 1976, the Washington Post summarized Chief Justice Burger's yearend report on the state of judiciary. The editorial concluded "that Congress is, once again, letting the Federal courts drift towards serious trouble" by not promptly providing the additional judges for the district courts.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HUDDLESTON. I have always believed that a basic principle of our system of government is the right of prompt judicial action without unnecessary and unreasonable delay. At a time when we are experiencing such delays, the Congress cannot dally any longer. Chief Justice Warren Burger has stated that the judiciary stands ready to do the job if they have the tools. I am urgently recommending again today that we begin giving them the tools by calling up S. 287 for consideration as soon as possible when the Senate returns from its recess.

I thank the Chair.

EXHIBIT 1

THE STATE OF THE JUDICIARY

Chief Justice Warren E. Burger's "year-end report" on the state of the judiciary is a useful reminder that Congress is, once again, letting the federal courts drift towards serious trouble. By failing to act on repeated requests for additional judges, higher salaries and changes in jurisdictional requirements, Congress is helping to create a situation in which congestion and delayed justice will become commonplace in the federal judicial system. Indeed, the Chief Justice would have been warranted in using far sharper words to characterize the current problems of the courts.

In 1972, for example, the judiciary presented to Congress, at its request, projections of how heavy the judicial business would be through 1976. Those projections suggested that the judiciary needed almost immediately 52 additional judges in the district courts and 13 in the courts of appeal. It is now 1976 and the projections have come true. Yet Congress has still not created a single new judgeship. Absurd as it may seem, the same law which required the judiciary to submit projections in 1972 now requires it to submit projections through 1980. Maybe, if the country is lucky, sometime before 1980 the courts will be given the number of judges they should have had in 1972.

The numbers cited by the Chief Justice bear out his plea for help. Since judges were last added to the federal district courts in 1970, the number of cases pending per judgeship has increased from 285 to 355 even though the existing judges have increased the number of cases each disposes of each year by 27 per cent. At the appellate level, the number of cases per judge has risen from 282 to 515 since 1968 when the number of appellate judgeships was last increased. As a result, the number of appeals awaiting disposition increased from 6,615 in 1968 to 12,128 in 1975.

Congress has shown precisely the same kind of indifference to the problem of judicial salaries. Active federal judges, in common with 12,000 other high-level federal officials, have received a pay increase of only 5 per

cent since 1969 because that's as much as congressmen dared increase their own salaries for fear of political reprisals. Retired federal judges have received the same amount even though almost all other retired federal employees have received a 69 per cent increase in their pensions. Because of this, more federal judges have resigned to return to private practice in the last two years than in the preceding 35 years. And highly qualified replacements for them are becoming increasingly difficult to find because of the severe cut in income they would have to take if they chose to go on the federal bench.

The third area in which Congress should act to aid the courts concerns their jurisdiction. The Chief Justice recommends the abolition of the remaining category of three-judge federal district courts and the removal of all diversity cases from those courts. The former should clearly be done; three-judge courts from which appeals go directly to the Supreme Court may once have been useful. But the press of business now requires that these cases be handled like all others with appeals going first to the circuit courts. On diversity cases, we are not as sure as the Chief Justice is that all of these should be turned over to the state courts—though certainly the vast majority should be. These cases are in the federal courts only because the parties involved are citizens of different states, not because questions of federal law are involved. This jurisdiction was created when the Constitution was written because of the fear of local prejudice against out-of-staters in local courts. While it may have been vital to handle those cases in federal courts during the early years of the nation's history, it makes little sense now, for instance, to have an automobile accident case tried in federal court solely because one driver lives in Maryland and another in Virginia. There may be some narrow categories of cases in which local prejudice could still be a factor but Congress should sort those out and force the remainder of diversity cases into the state courts where they belong.

Congress should address these matters promptly. There is much truth in Chief Justice Burger's concluding comments: "No nation has done more to protect private freedoms while conducting successfully the experiment of self-government begun in 1776. As we try to look forward into what another century will bring, we can be optimistic about the prospects of justice in this country provided we relate the burdens placed on the courts to their capacity to perform and provide the necessary tools and personnel."

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. 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.

The Senator from Florida (Mr. STONE) is recognized for not to exceed 15 minutes.

BROADENED INTERNATIONAL AGGRESSION REQUIRES NEW POLICY RESPONSES

Mr. STONE. Mr. President, many nations throughout the world are striving to achieve self-determination, and a realization of their national potential. It is wrong, therefore, for outside forces to openly and jubilantly storm into these nations and attempt to alter and control the course of their destiny through armed intervention and terrorism—a new dimension in international aggression.

Yet, the armed forces of Cuba are spreading in unprecedented numbers throughout Africa, the Middle East, and other parts of this globe. Cuban troops in Angola now number approximately 11,000. They have doubled in strength since mid-December alone. Our United Nations delegation has confirmed that Cuban troops are present in six other African nations as well: Somalia, the Congo, Nambia, Guinea, Equatorial Guinea, and Guinea-Bissau. It has now been confirmed that Cuban troops fought in Syria against Israel in 1973 and may still be there. Press and intelligence reports suggest that there are 300 Cubans in Algeria training troops fighting against Morocco in the disputed Spanish Sahara. The Special Consultative Committee on Security of the Organization of American States has concluded that Cuba's Embassies in Europe are spearheads for Castro's intelligence activities directed against NATO forces. Only yesterday the Associated Press reported that secret reports have been submitted to members of NATO by their own intelligence and security agencies.

They confirmed that an international terrorist network is operating globally. This network receives its support from Syria, Iraq, Libya, South Yemen and Cuba. Recent speeches by Castro and his spokesmen indicate "satisfaction and pride" with his policy of open worldwide Cuban military involvement.

What has been the response of our Government? Up until recently we were embarked full speed ahead on a program seeking renewed relations with Castro. Now, after the world has finally seen the tip of the iceberg in Angola, Secretary Kissinger is reported to have concluded that Cuba is again in the business of "exporting revolution" on its own initiative throughout the world. He recently remarked "I believe the Cubans went in there with flags flying." Even a Soviet official remarked last week—referring to Angola: "We didn't even have to twist their arms. The Cubans wanted to go in." The very phrase "export of revolution" emanated from Cuban activities in Venezuela in 1964. Secretary Kissinger and President Ford have finally spoken out against Cuba's conduct in Angola and other parts of Africa. They finally realize that armed Cuban intervention is no longer imaginary—it is reality.

What is Secretary Kissinger's proposal other than deploring this conduct? What of the possible threat to our facilities in Panama from increased Panamanian-Cuban relations evidenced by General Torrijos' recent triumphant showcase in Havana. What does the administration propose to do about it if 5,000 Cuban troops turn up as advisers in Panama? What does the administration propose to do about it if the 500 Cuban military personnel now in the Sahara suddenly escalate to 5,000 or 10,000—enough to prevent peace from settling into this troubled region. There is a new shape to the table. Angola is not an isolated event. There is a new dimension to the menace of exported terrorism and aggression.

The question which must now be asked to those who are in direct charge of our foreign policy is: What do you propose to do in light of your own declarations? It is time for the State Department and the President to outline for Congress and the American people a reasonable plan for blocking, combating, and overcoming the expanding export of revolution and terrorism which has become the official, unchallenged policy of the Cuban regime. All that Secretary Kissinger and the President have done thus far is complain that Congress did not respond to their requests for covert assistance which was too little, too late, and focused on only one part of the problem in an improper manner. The problem is much greater. I, for one, suggest to Mr. Kissinger: Give us specific proposals that can overcome this new overall problem; do not just complain about it. Give us proposals that face up to the full scope of the threat and make these proposals openly and in full view of the American people.

For example, can the administration not consider the effectiveness of shutting off economic assistance and private trade to the aggressor, terrorist nations while compensating Americans for the loss of interrupted contracts? Could we not interrupt our grain sales to the Soviets—part of which, for all we know, may be feeding Soviets and Cubans in Angola? Such an interruption would allow us to obtain a larger grain reserve, a potentially necessary objective if our winter wheat forecast does not improve, and would act as insurance against rising prices to consumers.

Can we not openly commit to support people and nations resisting such terrorism or military aggression by providing sufficient equipment, training and financial support to overcome or deter their attackers—and without committing American troops?

Are there not other means known to the administration which could prove effective in the deterrence of such aggression, and which will not draw us into the quicksand of another Vietnam?

Secretary Kissinger is known for his creative policy proposals. He has won a Nobel Peace Prize. He is respected for his ingenuity and his willingness to speak out.

Congress and the American people are listening.

Mr. President, I ask unanimous consent that the following excerpts from a report entitled "Present Marxist-Leninist Subversive Activities in America," which was prepared by the Special Consultative Committee on Security of the Organization of American States, be printed in the RECORD, together with an article published in this morning's Washington Post.

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

EXCERPTS

PAGE 14

If we pass over the events like the "Cultural Congress", the "Declarations of Havana" and the meetings held by the Latin

American Continental Organizations of Students, between 1966 and the beginning of the seventies, taking notice of the apparent "inactivity" in Cuba, and disregarding the remaining areas of the globe, where we have indications that the menace still remains, we could conclude that the Marxist-Leninist danger ceased to exist in America.

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But it happens . . . that in the middle of this year, in the so-called "inactive" Cuba, a Congress of the Latin American communist parties took place, during which it was decided to raise the revolutionary activities to a new level, on the [Latin American] Continent. And the Congress took place in Cuba, that redeemed Cuba, because the international circumstances, which required sanctions, have changed. . . .

PAGE 16

In the middle of July 1975, Cuban diplomacy got seriously implicated in the "Carlos Affaire" (Illich Ramirez Sanchez, the Venezuelean) and because of it three Cuban diplomats, accredited at the Quai d'Orday were asked to leave France. Great Britain asked to recall the Second Secretary of the Cuban Embassy in London. They all were implicated in this affaire.

PAGES 19/20

Fidel Castro and its government foment numerous movements in Latin America and export terror and subversion activities to this area of the American Continent as they do to the United States, Africa and the Middle East, though to a lesser degree.

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It must be mentioned that the Headquarters of the Cuban Intelligence (D.G.I.) have been under the control of the Soviet K.G.B. during the last few years and that consequently, the K.G.B. supervises more or less directly the terrorists activities operating from Havana.

PAGE 27

At this time we observe, the Communist parties which respond to the Soviet line, follow its directives and present themselves, on the international scene as fervent followers of "peaceful coexistence". Yet in secret they foment armed struggle, terror or guerrilla warfare, etc. especially from the satellites like Cuba.

PAGE 32

There exist in Cuba many schools for training in subversive activities, under the direction of experts from the Soviet Union, Czechoslovakia and from Cuba itself. In these schools hundreds of Latin Americans (men and women) are taught subversive tactics and terror and guerrilla activities in urban and rural areas.

Cuba is the headquarters of the Tupamoros refugees and the training and supply center for subversive and terror activities on the American Continent.

The Communist aid to terrorist and guerrilla groups in Argentine is channeled through Castro's Cuba. . . .

One of the most ominous events with eventually dire consequences for all our countries was the transfer made by Castro of the Cuban Intelligence Headquarters to the Soviet Secret Police, the K.G.B., Castro's agents have infiltrated Latin America and the United States, employing Latin American and United States agents for their spying and sabotage activities, in full cooperation with the K.G.B. agents and representatives.

A cooperation between Cuba and the Soviet Union on the military field presents a serious menace to the security and peace in the countries of America.

PAGE 34

The Cuban military connection with an extra-continental power, as imperialist and aggressive as the Soviet Union, calls for preventive measures. . . .

PAGE 40

There is an overwhelming evidence that Cuba, through its diplomatic missions, continues to serve as a springboard for spreading revolution in America.

All countries, except Cuba, condemn subversive and terrorist activities. . . .

WORLD TERRORISTS HELP ARAB RADICALS

(By Peter Niesewand)

BAGHDAD, IRAQ.—Militant Palestinian Rejection Front organizations are strengthening their links with revolutionary groups in Europe and Latin America in a move likely to bring increased international guerrilla activity.

Delegations were sent abroad last year to make contact with Arab groups and "freedom-seeking movements," and Rejection Front sources here made it clear that foreign participation in the Palestinian struggle is welcome.

This is expected to bring an increase in raids on Israeli and international targets—not only attacks masterminded by foreigners, such as the kidnaping in Vienna of the Organization of Petroleum Exporting Countries' oil ministers by Venezuelan guerrilla leader Carlos Martinez and his group, but also actions by one organization on behalf of another.

A young leading member of the Popular Front for the Liberation of Palestine, whose code name is "Talal," said: "There are numerous revolutionary groups not unknown to Europe or America that are ready to offer facilities to whoever wants to carry out an operation which will serve the interests of both parties in their struggle against imperialism.

"On the Arab and international levels, we have raised the slogan of chasing the enemy everywhere, and consequently all imperialist interests in the Arab area and outside are exposed to the attacks of our rebels."

The determination of the Rejection Front organizations to resist any recognition of Israel, or to contemplate establishing a Palestinian state on the West Bank of the Jordan, is undiminished. The guerrilla actions they plan now are part of a policy to wreck any attempt by the Palestine Liberation Organization leadership to compromise with Zionism; they remain convinced that, ultimately, armed force will topple the Israeli structure.

The official position of the Iraqi government is some distance behind that outlined by the PFLP and other Rejection Front sources.

Iraqi Information Minister Tariq Aziz said recently that in his opinion as a revolutionary, the Rejection Front would be better employed fighting within the occupied lands, and organizing the masses outside by a process of political education.

"You start now, and you gain victory in 20 or 30 years," he said. "In Iraq, we started our revolutionary struggle in the 1950s when we were all students organizing demonstrations and fighting with the police in the streets of Baghdad and other Iraqi cities, going to prison, publishing pamphlets and so on."

Although the Iraqi government publicly criticized international guerrilla operations, such as the Vienna siege and many hijackings, it understands the emotions and sentiments that lie behind them, Aziz said.

"I think the solving of the Zionist problem will be an extremely long one. You need time. You need more organization of the masses, more theoretical and political work. You need more armed struggle in the occupied lands," he said.

The Rejection Front groups themselves say they choose their targets "responsibly," and don't hit out indiscriminately. Yet there are powerful sub-groups—such as the Carlos organization—whose links with the main Rejection Front bases are obscure, and who are understood to select their own targets for operations undertaken in their own time.

The Rejection Front groups decide on the basis of the results whether to give Carlos public support, or condemn a particular operation as harmful to the Palestinian cause.

It is a convenient situation for many of them. If a guerrilla action goes sour and provokes unpleasant international repercussions, there is nothing more than suspicion to link Carlos with their organizations.

It seems clear, however, that the Carlos group maintains fairly close links with the PFLP. While other Rejection Front organizations have still not finally decided whether to support the Vienna operation, the PFLP spokesman, Talal, had no doubts.

"We should fight against the surrendering regimes and give our masses a lesson in calling this leadership to account. We calculate everything before calling them to account, and we believe that the Arab nationalist movement has the foremost duty of liberating itself and getting rid of these reactionary regimes."

Talal said that the PFLP is never ashamed or afraid of carrying out any operation it considers in its interests, but added that the Popular Front had already declared it had no connection with Carlos. "Some of the younger people could be expected to cooperate with any groups which carry out operations serving our nationalistic aspirations," Talal added.

"The OPEC operation served our struggle and is an expression of our people to all surrendering regimes. We must not forget that OPEC is not a revolutionary system but a mixture of progressive and reactionary regimes in which imperialists make a direct contribution."

Abu Nidal, the head of the Rejection Front branch of the Fatah organization, said in Baghdad that the OPEC siege was "a kind of protest in the Palestinian style."

It could, he said, lead to a reassessment of support for the rejection forces by some of the less-committed Arab oil states.

"We believe the Kuwaiti minister of oil was very pleased with this operation," Abu Nidal said. "Those who carried it out put him next to the Iraqi and Algerian and Libyan ministers. They were able to explain to him what the Rejection Front's point of view is."

This wry touch obviously amused the Palestinian militants.

Abu Nidal said that the aim of the OPEC siege was not to raise a ransom from the "reactionary" oil states but to express dissatisfaction.

"Financial support is not a crucial factor for the Palestinians," he said. "After all, the Palestinians have the ability to destroy all the Arab wells. We have easy access to financial support."

NATO REPORT CITES TERRORIST NETWORK

LONDON, Feb. 5.—Secret NATO reports say an international terrorist network is operating globally with help from radical governments.

A summary shown confidentially to the Associated Press claims the terrorist network counts on support from Iraq, Syria, Libya, South Yemen and Cuba, and has access to arms from Eastern Europe.

A major force in the network reportedly is the Popular Front for the Liberation of Palestine headed by George Habash. This Middle East link reportedly has supplied funds, East European arms, training and escape routes.

ORDER OF BUSINESS

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

Mr. HANSEN. Mr. President, if the

Senator from Florida will withhold that request, I should like to make a brief statement on a matter totally unrelated to that which has been the basis for his remarks.

The ACTING PRESIDENT pro tempore. The Chair advises the Senator from Wyoming that unanimous consent is required for him to make a statement.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Wyoming be allocated the time which would have been alloted to the joint leadership.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Wyoming is recognized.

EXPLANATION OF SENATOR HANSEN'S REQUEST TO VITIATE ALL ACTION OF THE SENATE ON YESTERDAY

Mr. HANSEN. Mr. President, I express my appreciation to the distinguished majority leader for his unfailing kindness and thoughtfulness. I also appreciate his efforts and those of the Democratic leadership generally in making it possible for me to be here when the bill on Santa Monica, which was introduced by the Senator from California (Mr. TUNNEY), was considered and acted upon, as it was yesterday.

Because of the illness and subsequent death of my mother, I was not able to be here earlier, after we returned from the Christmas recess, as I had hoped to be. Only because of the constantly generous nature of the majority leader and of people generally on the majority side was I accommodated.

Earlier today, during the morning hour, I asked unanimous consent that all actions taken by the Senate yesterday be vitiated. There was objection to that unanimous-consent request. I think I owe it to the Senate to explain why I made the request I did.

I alluded earlier to the Santa Monica bill. I know that a number of Senators have been keenly interested in that bill, one of whom is my good friend, the chairman of the Subcommittee on Parks and Recreation, the junior Senator from Louisiana (Mr. JOHNSTON). Mr. JOHNSTON and I, personally and through our staffs, from time to time, have discussed different elements in that bill, and we have tried as best we could to work out a resolution of our problems.

I suggested yesterday, following a meeting with members on the majority staff of the Senate Committee on Interior and Insular Affairs and Harrison Loesch, the minority staff director for that same committee, that language be worked out that I hoped would be acceptable to Senator JOHNSTON. During hearings on the Shenandoah National Park wilderness proposal yesterday morning, I knew that Senator JOHNSTON and I were not in complete accord on the language in the amendment that I had suggested to him. I was called yesterday afternoon—I do not recall the precise time, but I suspect that might be documented if there is any merit in its being documented—to come to the floor, because the Santa Monica bill—as I got the message—was then the pending business. I came directly to the floor. I do not recall who may have been on the Democratic side. I know that the distinguished majority leader (Mr. MANSFIELD) was there, as was Senator TUNNEY of California, the sponsor of the Santa Monica bill. Absent was Senator JOHNSTON of Louisiana.

I did not make inquiry as to Mr. JOHNSTON's whereabouts, because the bill was introduced by Senator TUNNEY. I suspected that arrangements had been worked out—I had no reason to think that arrangements had not been worked out—on that side of the aisle. Certainly, whatever Senator TUNNEY did, inasmuch as it was his bill, I presumed had the tacit approval of the members of the Committee on the Interior, or at least, particularly, Senator BENNETT JOHNSTON.

By unanimous consent, an amendment offered by Senator TUNNEY, which I cosponsored, was made the pending business and was approved. An amendment I offered, which was cosponsored at the time by Senator TUNNEY, was made the pending business through unanimous consent. Both of these actions were taken prior, as I recall, to the approval en bloc of the committee amendments. Any objection, of course, could have been raised to the consideration of the Tunney amendment, cosponsored by me, and the Hansen amendment, cosponsored by Senator TUNNEY, prior to the approval of the committee amendments en bloc had we failed in getting unanimous consent.

Following third reading of the bill and its approval, Senator TUNNEY, as I recall, moved that the action of the Senate be reconsidered. I moved that that action be laid on the table. The vote was taken on the motion to lay on the table and the bill was passed and the motion to reconsider was duly tabled. At that time, I left the floor and returned to my office to do some other work.

At just about the time, as I recall, that we adjourned—it may have been a few minutes before, but just about that time, I received a call from the distinguished minority whip, informing me that the distinguished majority leader had made a unanimous-consent request asking that the action that had been taken with respect to the Santa Monica bill be vitiated.

I was informed—I have not read that part of the RECORD—that there was no objection, and the action upon the Santa Monica bill had been vitiated.

I was surprised that the action would have been taken as it was. I was, I must admit, a little bit hurt to think that I would not have been notified that such an action was contemplated. Not knowing what the situation was on the Democratic side, if my good friend, my very good friend, the distinguished majority leader, had apprised me that things had not been worked out on the Democratic side, I certainly would not have objected to the vitiation of yesterday's action, because, by all means, I am fully aware of the thoughtfulness and the willingness always to go an extra mile that is unfailingly displayed by the majority leader.

I did feel, since the action taken by the Senate seemed to me to conform in every respect with the way we pass bills around here and the way motions are offered to reconsider and those motions are duly tabled, that I did deserve to be notified. I was not, and it was because of the situation that arose yesterday that I ask unanimous consent, as I have done earlier this morning, that all action taken by the Senate yesterday be vitiated.

The point I was trying to make in offering that unanimous-consent request was to call attention of the Senators generally to something that I know has been one of the cardinal principles always displayed by the distinguished majority leader. That is that, whatever else we may be, we are men of honor. If we give our word or if we have a commitment to somebody, we keep that. That, of course, is the glue that holds this body together and, I think, more than any one thing, obliterates and obscures party lines. I know, from long experience, that every commitment, every assurance that the distinguished majority leader has ever made to me, he has kept.

I am trying to say that, not being aware that things, apparently, had not been worked out on the Democratic side, as I now conclude was the case, I felt that I did deserve at least a phone call before action was taken. The point is that if we were not to follow what I think seems to me to be a pretty clearcut case of what honorable men might expect from their colleagues, then this body, of course, could be reduced to a complete mockery insofar as the legislative process goes.

If all that was necessary in order to void the action that was duly taken was to wait until Members of the opposite party were not present and then ask unanimous consent that an action be vitiated, I am certain that the distinguished majority leader would be the first to assert that nothing could be more destructive and more damaging to this process and this great institution that he so dearly loves and to which he has contributed so much.

I thank the majority leader for his kindness.

Mr. MANSFIELD. Mr. President, may I say that everything the distinguished Senator from Wyoming has enunciated is correct. I do feel that I owe him an apology, because, not thinking about my action on yesterday, I did forget to notify the distinguished Senator from Wyoming, which is the usual procedure in this body.

May I say that I had hoped it would be possible for the interested parties to get together to see if something could be worked out. But that is neither here nor there as far as the action taken on yesterday was concerned. But I do hope it will be possible to work out a solution to the situation which confronts us and, may I say to the distinguished Senator from Wyoming, I sent for the Senators from California and Louisiana, hopeful that they will get together with the Senator from Wyoming so that this matter can be thrashed out if at all possible.

Again I want to express my deep apol-

ogies to the Senator for not being aware of my responsibilities at the time I made the unanimous-consent request on yesterday, and to assure him I do not intend to let such an event occur again.

Mr. HANSEN. Mr. President, may I say to my good friend from Montana he has done nothing that lessens one bit my great admiration, respect, and real affection for him. I appreciate it more than I can say. I thank the Senator.

Mr. MANSFIELD. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Is there a morning hour? Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to exceed beyond the hour of 9:45, and that there be a time limitation of 5 minutes attached to speeches and statements made therein.

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. 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. GOLDWATER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

Mr. GOLDWATER. Mr. President, it is necessary that I absent myself from the Chamber for possibly an hour and a half this morning. I would like to ask my colleague, the Senator from Texas, if he will be here during the full morning period.

Mr. TOWER. The Senator from Texas plans to stay here until some disposition is made of S. 2662, or some agreement arrived at to put it over for action until after the recess.

Mr. GOLDWATER. I appreciate that. I would like to make a request of my friend from Texas. My staff is busy preparing quite a few amendments to this bill which I offer. I do not want any time agreements entered into during my absence. In fact, I would hope that we can convince the leaders of this bill that the Armed Services Committee, not having seen this bill nor heard of it—although we might be derelict there a bit—should see it because there are some items in the bill that have very far-reaching effects on the future of the preparedness of our country.

There are items in this bill which will cause more unemployment in this country than we have experienced in many years. There are items in this bill which will allow other nations now becoming competitive with the United States to be very competitive to the point of hurting us in the only area where we now dominate the rest of the economic world, and that is the airframe and engine industy.

I would appreciate it if my friend from Texas, or someone he sees fit to appoint during his absence, would object to any unanimous-consent agreements relative to controlled time. This bill must not be passed today. In fact, as far as I am concerned, until we have had further full explanation of it so that the whole Senate can understand it, I think we must resist it, although I understand the moralistic background of those people who are proposing it.

I would fully hope that progress could be made as a result of our meeting yesterday, which I believe the Senator from Minnesota would agree was very friendly. I wrote him a letter last night and said I would not oppose the passage of this bill if we had time to learn something about it, to hear from some people who might be affected by it.

As I said before the Senator arrived in the Chamber, I have to be away for about an hour and a half but I will be back. During that time, I ask my friend from Texas to object to any unanimous-consent agreements.

Mr. TOWER. If I may respond to the Senator from Arizona, I will certainly protect his interests in the matter of any time agreements on today's debate and will notify him if any such time agreement is in the offing. I would suggest to the Senator from Arizona that hopefully we can work out an arrangement whereby we will put the bill over until after the recess and then agree on controlled time after the recess, in which to deal with amendments and deal with the bill.

Mr. GOLDWATER. I would have no objection to that. I might say I was planning to go home to be with my wife this afternoon, but I have canceled that trip. I want the Senator from Minnesota to know that when I cancel a trip to Arizona, I am cemented in concrete right here.

Mr. HUMPHREY. Will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. HUMPHREY. If I had known the Senator was going to cancel his trip, that would have been the most persuasive argument for me to arrive at some understanding here. I know how much it means to the Senator from Arizona to go to his home and his lovely wife, and I would not want to stand in the way of anything like that.

Mr. GOLDWATER. I know the Senator would not.

Mr. HUMPHREY. I would suggest that the Senator firm up his reservations. My heart goes out to him.

Mr. GOLDWATER. I canceled the reservations last night in spite of the fact that my wife said, "Appeal to Hubert. He will understand. Muriel will understand."

Mr. HUMPHREY. Yes, she would.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. FORD) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

REPORT OF DEFERRALS OF BUDGET AUTHORITY AND REVISIONS TO A RESCISSION PROPOSAL AND DEFERRALS PREVIOUSLY TRANSMITTED—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. FORD) laid before the Senate the following message from the President of the United States, which was referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Banking, Housing and Urban Affiairs, the Committee on Agriculture and Forestry, and the Committee on Interior and Insular Affairs, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority and revisions to a rescission proposal and four deferrals previously transmitted.

New estimates increase by $2 million the amounts associated with my earlier proposal to rescind the uncommitted balances of the Rehabilitation Loan Fund administered by the Department of Housing and Urban Development. Other reestimates cause a net reduction of $8.7 million in deferrals previously reported for the General Services Administration and the Departments of Agriculture and Interior. The new deferrals total $37.6 million in budget authority which would be used beyond 1976 to fund three programs of the Departments of Agriculture and Interior.

The details of the revised rescission and the revised and new deferrals are contained in the attached reports.

GERALD R. FORD.

THE WHITE HOUSE, *February 6, 1976.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION TO AUTHORIZE CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

A letter from the Deputy Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION TO AMEND THE FOREIGN SERVICE BUILDINGS ACT

A letter from the Assistant Secretary for Congressional Relations, Department of

State, transmitting a draft of proposed legislation to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations (with accompanying papers); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report entitled "The Government's Role in East-West Trade—Problems and Issues" (with an accompanying secret report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Government's Role in East-West Trade—Problems and Issues" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report on mandatory petroleum price regulations (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT OF THE NATIONAL ACADEMY OF SCIENCES

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, the Annual Report of the National Academy of Sciences for fiscal year 1975 (with an accompanying report); referred to the Committee on Labor and Public Welfare, and ordered to be printed.

REPORT ON AGE DISCRIMINATION IN EMPLOYMENT

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on age discrimination in employment (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION TO PROVIDE FOR FEDERAL FINANCIAL ASSISTANCE IN CONSTRUCTION OR ALTERATION OF BRIDGE PROTECTION SYSTEMS

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the act of June 21, 1940, as amended, to provide for Federal financial assistance in the construction or alteration of bridge protection systems, and for other purposes (with accompanying papers); to the Committee on Public Works.

PETITIONS

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

A resolution adopted by the Statewide Committees Opposing Regional Plan Areas, State of Oregon, relative to redress of grievances under section 5 of rule VII, U.S. Senate. Referred to the Committee on Government Operations.

A resolution adopted by the General Assembly of the State of Georgia; to the Committee on the Judiciary:

[General Assembly of the State of Georgia]

"H.R. No. 469–1267

"A resolution applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States; and for other purposes.

"Be it resolved by the General Assembly of Georgia:

"That this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.

"Be it further resolved that this application by the General Assembly of the State of Georgia constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Resolution before January 1, 1977, this petition for a Constitutional Convention shall no longer be of any force or effect.

"Be it further resolved that the Clerk of the House of Representatives is hereby authorized and instructed to transmit a duly attested copy of this Resolution to the Secretary of the Senate of the United States Congress, the Clerk of the House of Representatives of the United States Congress, to the Presiding Officer of each House of each State Legislature in the United States, and to each member of the Georgia Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 2447. A bill to amend title 4 of the United States Code to make it clear that Members of Congress may not, for the purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected (Rept. No. 94–631).

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

S. 953. A bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts (together with additional views) (Rept. No. 94–632).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Galen L. Stone, of the District of Columbia, to be the Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Mitchell P. Kobelinski, of Illinois, to be Administrator of the Small Business Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. JAVITS:

S. 2943. A bill to amend the Higher Education Act of 1965 to provide for information activities by institutions of higher education and eligible institutions to recipients of Federal student financial assistance programs, to provide payments to such institutions for administrative expenses of carrying out such information activities, and other expenses associated with administration of Federal student assistance program authorized by title IV of that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

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

S. 2944. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 2945. A bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations for the Smithsonian Institution for carrying out the purposes of said Act. Referred to the Committee on Rules and Administration.

S. 2946. A bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations. Referred to the Committee on Rules and Administration.

By Mr. METCALF (for himself and Mr. HATFIELD):

S. 2947. A bill to amend the Federal Advisory Committee Act and for other purposes. Referred to the Committee on Government Operations.

By Mr. JAVITS:

S. 2948. A bill for the relief of Milos Forman. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 2949. A bill to authorize the Smithsonian Institution to construct museum support facilities. Referred to the Committee on Public Works.

By Mr. MONDALE (for himself, Mr. HUGH SCOTT, Mr. GLENN, Mr. WILLIAMS, Mr. HUMPHREY, Mr. MCGOVERN, Mr. METCALF, Mr. CURTIS, Mr. MOSS, Mr. RIBICOFF, Mr. PHILIP A. HART, Mr. GRIFFIN, Mr. CASE, Mr. MANSFIELD, Mr. HARTKE, Mr. EAGLETON, Mr. STAFFORD, Mr. ABOUREZK, Mr. TAFT, Mr. FORD, Mr. PELL, Mr. CLARK, Mr. CULVER, Mr. HRUSKA, Mr. WEICKER, and Mr. MUSKIE):

S. 2950. A bill relating to the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets, and for other purposes. Referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs, by unanimous consent.

By Mr. PHILIP A. HART:

S. 2951. A bill to authorize the documentation of the vessel, Barbara Ann, as a vessel of the United States with coastwise privileges. Referred to the Committee on Commerce.

By Mr. BROOKE (for himself and Mr. MCGEE):

S. 2952. A bill to amend the Foreign Assistance Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. WEICKER:

S.J. Res. 167. A joint resolution to amend the Railroad Revitalization and Regulatory Reform Act of 1976. Considered and passed.

By Mr. HUGH SCOTT:

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution. Referred to the Committee on Rules and Administration.

By Mr. MOSS:

S.J. Res. 169. A joint resolution to authorize and request the President to issue a proclamation designating the first Monday in May of each year as "National 70 Plus Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 2943. A bill to amend the Higher Education Act of 1965 to provide for information activities by institutions of higher education and eligible institutions to recipients of Federal student financial assistance programs, to provide payments to such institutions for administrative expenses of carrying out such information activities, programs authorized by title IV of that act, and for other purposes.

STUDENT CONSUMER INFORMATION ACT OF 1976

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill, the Student Consumer Information Act of 1976. This new act would provide all appropriate information about student aid programs seeking to advance their education. Currently, a student wishing to know more about available assistance is faced with a jumble of information sources which sometimes overlap, sometimes contradict, and sometimes omit vital facts. It is the purpose of this bill to enable students to be informed and intelligent consumers of educational services. I strongly believe that students and prospective students can make intelligent choices about financing their education only if they have sufficient information. For many young people, education after high school represents the largest expenditure they have ever made. With the information provided through the mechanism of this bill, a prospective student becomes a well informed "comparison shopper" in the educational marketplace.

The bill would achieve these goals by providing educational institutions with financial and administrative assistance in providing prospective applicants and current students with complete and accurate information on available student aid. My bill would provide funds to schools based on the number of students participating in Federal aid programs. It would also mandate that the U.S. Office of Education provide technical assistance to schools, including a uniform statement of student rights and responsibilities regarding student aid. Complete disclosure and understanding of students' rights and responsibilities in participating under Federal aid programs should result in reduction of the abuses which are damaging these programs.

NEED FOR PROGRAM

Some schools have been improving their own dissemination and counseling efforts but most schools lack sufficient funds to provide an exemplary information effort. Budget stringency on many campuses is forcing schools to reduce these services, in spite of a clear necessity that they be expanded.

In December, the Senate Committee on Government Operations completed an extensive series of oversight hearings on administration of the Federal student aid programs. I took particular interest in these proceedings, because I am the single member of this committee who also serves on the Labor and Public Welfare Committee, which is responsible for the authorizing legislation for student aid programs. The central finding of these hearings was a case study of how an unscrupulous school operator can cheat students and the Federal Government through improper, and allegedly criminal, participation in Federal aid programs. These hearings focused on the causes of program abuse. Testimony included numerous citations of poor program administration.

One unconscionable abuse illustrated in testimony was that some students are provided with a federally guaranteed loan, but are misled to believe they are receiving a Federal grant. My bill would eliminate this and similar abuses by assuring that every student was fully aware of his own rights and responsibilities when participating in a Federal loan program, and that schools can afford to provide these services.

Some Federal student aid programs already pay administrative allowances to participating educational institutions. Currently, the two largest programs, the guaranteed student loan program and the basic educational opportunity grants program, have no such allowances. Schools of participating students in these two programs must undertake significant administrative tasks, but receive no direct compensation for their services. A persuasive argument can be made that schools are the ultimate recipient of funds available under Federal student aid programs, and thus need no additional compensation. However, experience has shown that schools currently lack the resources to provide adequate informational services to their students, the educational consumers. Throughout the country, colleges are experiencing the unwelcome necessity of reducing expenditures to meet lower levels of available resources. Recognizing that education is their primary mission, schools inevitably reduce administrative and support services before they reduce direct educational services.

BENEFITS TO STUDENTS

The Student Consumer Information Act would assure that every student participating in Federal aid programs had full knowledge of the following important facts: First, financial aid programs available at his institution; second, how awards are made; third, how to apply; fourth, rights and responsibilities of students and institutional participants including schools and private lending organizations; fifth, costs of attendance; sixth, refund policy; seventh, descriptions of the school's programs, faculty, facilities, and program completion data; and eighth, whom to contact to answer their questions. My bill for the first time will make this data available in a relatively uniform format. By requesting this information from a number of alternative educational institutions, the student consumer can wisely spend his education dollar based on realistic comparisons of costs and benefits.

In some cases a student has difficulty in gathering necessary information because it is available only from several separate offices in his institution. My bill provides for full-time availability of the officials who will be responsible for carrying out this program of information dissemination. Small schools need not have a full-time person, but must designate the individuals who have these responsibilities. Because designated Federal funds are provided to assist institutions in carrying out these duties, the students have a right to an adequately staffed office which is the source of student aid information.

Often the greatest need for student aid information is among people who are not yet enrolled, who want to compare alternative courses of study and their costs prior to enrollment. This bill provides that any person considering enrollment who specifically requests student aid information will receive the complete disclosure described above. Thus, my bill will advance an important purpose of Federal student aid programs in encouraging all qualified persons to pursue postsecondary education.

My bill directs that the Commissioner of Education spell out in a uniform manner a full description of available Federal student aid programs. In addition, the Commissioner will publish in the Federal Register a statement of the rights and the responsibilities of students and institutional participants in these programs. While these statements shall not be Federal regulations, I anticipate that the Commissioner will engage in a participatory process with affected parties while developing these materials. Specifically, I intend that a draft statement covering this requirement be published in the Federal Register for a period of public comment proceeding any final version.

This process, which is similar to the current HEW procedures for developing regulations, will insure that the statements of rights and responsibilities reflect the advice and consideration of all affected parties. This provision will have a positive effect on clarifying issues in the administration of aid programs which are currently confusing to participants. I am confident that such clarification will have a significant impact on reducing program abuses, particularly in the student loan programs.

BENEFITS TO INSTITUTIONS

A number of leaders in higher education have recently drawn attention to what has been characterized as unnecessary Federal Government intrusion into the affairs of educational institutions. I believe these warnings highlight the important issue that Federal legislation must be drawn in full recognition of its implications for the autonomy of our educational system. One of the benefits of the Federal Government providing support through the means of student aid is that control of educational institutions is minimized. As financial resources tighten at colleges and universities, they are less able to provide necessary services in spite of their desire to do so. In light of these considerations, my bill includes several provisions which enable institutions to carry out their responsibilities of fully informing students about aid programs.

It is estimated that this bill would

provide between $60 and $70 million in administrative cost payments for students at current appropriation and program participation levels. This roughly doubles previously available funds for administration of these programs. It is important to note that this significant sum is a very small proportion of the total program funds, which currently exceed $2 billion per year. Reduction of abuses in student loans could save more than the amount expended in these administrative allowances. I believe that schools need help in carrying out their intention to provide these services. My bill will guarantee that assistance, both financial and administrative, is available to these schools. Many schools are already providing this information but can use additional funds to expand their services to students. This will be particularly helpful where information already assembled is not adequately disseminated to students and prospective students.

Schools of small size or with small numbers of aid program participants are permitted a waiver from the requirement for a full-time availability of the student aid officer. While schools must provide adequate services, funds would not be wasted where a full-time person is unnecessary. Rather than each school assembling its own definitions of available programs and rights and responsibilities, they will be assisted by materials published by the U.S. Office of Education. This will increase the uniformity of information now being distributed and clarify policy issues which are now a cause of confusion within the student aid community. Because no school can immediately comply with the new provisions of a law, a 1-year period following enactment is provided for schools to comply with provisions of the bill.

I firmly believe that the provisions of the Student Consumer Information Act have carefully measured the impact on educational institutions, and provided much needed aid to schools in carrying out exemplary programs of disseminating information to students, the consumers of education.

SUMMARY

In conclusion, Mr. President, the Student Consumer Information Act provides benefits to all persons interested in the Federal student aid programs. Current and prospective students will have accurate and clear information readily available to them. Education institutions are provided with the means to establish strong programs of information dissemination. Through greater clarity as to rights and responsibilities of participants, abuses of student and programs will be reduced. I intend to seek to incorporate the provisions of my bill in the omnibus education bill currently under consideration in the Labor and Public Welfare Committee. I am hopeful that my Senate colleagues can support this much needed effort to improve ability of students to participate responsibly as informed consumers in Federal student aid programs. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Student Consumer Information Act of 1976".

(b) Statement of Findings and Purpose: The Congress recognizes that—

(1) students who participate as educational consumers in Federal programs of financial assistance require information on rights and responsibilities of both student and institutional participants in order to make intelligent choices among education programs and available forms of financial assistance,

(2) educational institutions enrolling students who participated in Federal programs have a responsibility to provide such information to students, and

(3) the goals of the Federal student assistance programs will be advanced by providing educational institutions with financial support and technical assistance to enable these institutions to provide students and potential students with fully adequate consumer information.

Therefore, it is the purpose of this Act to provide payments to eligible institutions to support programs of consumer information for students, and to support other necessary costs of administering Federal student aid programs.

SEC. 2. (a) Section 411 of the Higher Education Act of 1965 (hereinafter in this Act referred to as "the Act") is amended by adding at the end thereof the following new subsection:

"(c) In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of $15 per academic year for each student enrolled in that institution who is receiving a basic grant under this subpart for that year. Payments received by an institution under this subsection shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary."

(b) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Each eligible institution shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 493A of this Act and then for such additional administrative costs as that institution determines necessary."

SEC. 3. (a)(1) Section 493 of the Act is amended by inserting "(1)" following "1958," and by inserting a comma and the following new clause before the period: "and (2) shall be used by such institution to carry out the provisions of section 493A of this Act".

(b) Subpart 1 of part F of title IV of the Act is further amended by inserting immediately after section 493 the following new section:

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 493A. (a)(1) Each institution of higher education and each eligible institution which receives payments under sections 411(c), 428(e) or 493 of this title, as the case may be, shall carry out information dissemination activities to prospective students and to enrolled students who request information regarding financial assistance under parts A, B, C, and E of this title. The information required by this section shall be disseminated in written form as well as personal interviews, where reasonable. The information required by this section shall accurately describe—

"(1) the student financial assistance programs available to students who enroll at such institution,

"(2) the methods by which such assistance is distributed among student recipients who enroll at such institution,

"(3) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such applications and the review standards employed to make awards for student financial assistance,

"(4) the rights and responsibilities of students receiving financial assistance under parts A, B, C, and E of this title,

"(5) the cost of attending the institution, including (A) tuition and fees, (B) books and supplies, (C) estimates of typical student room and board costs or typical commuting costs, and (D) any additional cost of the program in which the student is enrolled or expresses a specific interest,

"(6) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (5) of this subsection,

"(7) the academic program of the institution, including (A) the current degree, other educational and training programs, (B) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (C) the faculty and other instructional personnel, and (D) data regarding student retention at the institution and, when available the number and percentage of students completing the programs in which the student is enrolled or expresses interest.

"(8) the person or persons designated under subsection (b) of this section, and the methods and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection.

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an institution of higher education or an eligible institution requesting information for the purpose of enrolling in that institution, and who has specifically designated an interest in receiving information on financial assistance.

"(b) Each institution of higher education or eligible institution, as the case may be, which receives payments authorized under section 411(c), or 428(e) or section 493 of this title shall designate an employee or group of employees who shall be available on a full time basis to assist students or potential students in obtaining information as specified in the preceding subsection. The Commissioner may waive, by regulation, the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution of higher education or eligible institution, as the case may be, in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisons of this section.

"(c)(1) The Commissioner shall establish such regulations as he deems necessary to carry out the provisions of this section, and to ensure that institutions of higher education and eligible institutions receiving payments under this section expend such payments in a manner which is consistent with the provisions of this section.

"(2) The Commissioner shall make available to institutions of higher education and eligible institutions, by way of publication

in the Federal Register and by other means he deems appropriate, descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, (2) assist institutions in carrying out the provisions of this section, and (3) create greater uniformity in the administration of programs assisted under this title so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"(d) During the one year period following the date of enactment of the Student Consumer Information Act of 1976, the Commissioner may waive any provision of this section whenever the institution of higher education or the eligible institution, as the case may be, provides, in the manner and at the time he shall request, assurances satisfactory to him that the institution is making progress in compliance and will fully comply with the provisions of this section within such one year period."

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

S. 2944. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes. Referred to the Committee on 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 amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the chairman of the Pennsylvania Avenue Development Corporation, and I ask unanimous consent that the executive communication and section-by-section analysis accompanying the proposal from the chairman be printed in the RECORD.

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

PENNSYLVANIA AVENUE
DEVELOPMENT CORP.,
Washington, D.C., January 26, 1976.

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

DEAR MR. PRESIDENT: Transmitted herewith for referral to the appropriate committee is a draft bill prepared by the Pennsylvania Avenue Development Corporation "To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes". The proposed legislation is designed to authorize the capital funding needed to carry out the comprehensive plan for revitalizing the Avenue and its northern environs between Third Street, Northwest, and the Executive Precinct. The draft bill would also update the Corporation's enabling act through minor technical amendments.

The Pennsylvania Avenue Development Corporation was established as a wholly owned instrumentality of the United States by Act of Congress on October 27, 1972. It is vested with powers both to prepare a development plan and to carry it out by acquiring and managing property, regulating development, and undertaking projects for public improvements. After completing preparation of the "Pennsylvania Avenue Plan—1974", the Corporation submitted it with supporting documents to Congress for review. The plan was approved effective May 19, 1975.

In summary, the draft bill would amend the Pennsylvania Avenue Development Corporation Act of 1972 (Pub. L. 92–578, 86 Stat. 1266, as amended) in the following ways: (1) The provision of section 6 which authorizes borrowings from the United States Treasury would be amended to increase the debt limit from $50 million to $200 million and, the period during which the Corporation may borrow would be revised to terminate at the end of fiscal year 1990, rather than 1980; (2) A new paragraph would also be inserted in section 6 to authorize the Corporation to make construction loans; (3) A new paragraph would be added to section 17 to authorize the appropriation of up to $130 million to carry out public development activities and projects in accordance with the development plan; and (4) Several minor amendments would be made in the PADC Act to reflect organizational changes in the local government under the District of Columbia Home Rule Act of 1973.

Specifically: references to the Commissioner of the District of Columbia would be changed to references to the Mayor of the District of Columbia; reference to the Chairman of the District of Columbia Redevelopment Land Agency would be changed to reference to the Director of the District of Columbia Department of Housing and Community Development; and, references to the Redevelopment Land Agency would be deleted.

A comprehensive section-by-section analysis of the enclosed proposed legislation will be forwarded shortly, under separate cover.

The authorizations proposed in this draft bill are necessary to allow full capital funding of the Pennsylvania Avenue Plan, including the requests made in the President's Budget for Fiscal Year 1977. The proposed legislation would have no budgetary impact on Fiscal Years 1975 and 1976 and the period July 1, 1976 through September 30, 1976. If enacted, the proposed legislation would result in the following net outlays (figures in thousands):

Fiscal year 1977	$24,835
Fiscal year 1978	28,847
Fiscal year 1979	35,213
Fiscal year 1980	25,819
Fiscal year 1981	30,870

The Office of Management and Budget has advised that, there is no objection to the submission of this draft legislation and that its enactment would be in accord with the program of the President.

Sincerely,

E .R. QUESADA,
Chairman.

SECTION-BY-SECTION ANALYSIS

(To accompany a bill to amend the Pennsylvania Avenue Development Corporation Act.)

Section 1. The first section of the bill proposes a number of technical amendments, primarily to conform the language of the Pennsylvania Avenue Development Corporation Act of 1972 (the "Act") to organizational changes made in the District Government by the District of Columbia Home Rule Act of 1973. Specifically, references to the Commissioner of the District of Columbia would be changed to references to the Mayor of the District of Columbia; reference to the Chairman of the District of Columbia Redevelopment Land Agency would be changed to reference to the Director of the District of Columbia Department of Housing and Community Development, and references to the Redevelopment Land Agency would be deleted. Additionally, the erroneous citation in section 4(a) of the Act to a provision of Title 5, United States Code, would be corrected.

Section 2. This section of the bill would increase from $50,000,000 to $200,000,000, the authority of the Corporation in section 6 of the Act to borrow from the United States Treasury. It would also extend the period during which borrowing may take place from June 3 [sic], 1980, to September 30, 1990. Other aspects of the borrowing provision are unaffected. For example, actual borrowings may only be in the amounts included in appropriation Acts; and, the terms of each borrowing are to be set by the Secretary of the Treasury. The amendment would provide the Corporation with borrowing capacity necessary to carry out the development and financial program approved by Congress in the "Pennsylvania Avenue Plan—1974." Sums to be borrowed are to purchase, assemble, and prepare land for re-sale or lease to private developers. All borrowed money would be repaid by the Corporation out of the lease and sale revenues and would be secured by the land. The use of the borrowed money to prepare and lease development parcels is expected to generate private investment of approximately $350 Million, as projected in the approved Plan.

Section 3. This section of the bill would: (1) eliminate paragraph (9) of section 6 of the Act, which provides for the preparation of certain financing analyses as part of the development plan to be submitted to Congress (action which has been completed and renders the provision obsolete); (2) redesignate present paragraph (10) to paragraph (9); and adds a new paragraph (10). The new paragraph would authorize the Corporation to use up to $50,000,000 of the $200,000,000 which may be borrowed from the Treasury, to make construction loans to private developers (in such amounts as may be authorized in appropriations acts). The loans would be made, under limited terms and conditions for periods of up to five years, to developers undertaking projects in accordance with the development plan.

Authority in this new paragraph would furnish the Corporation with another financial tool to encourage investments in development by private enterprise. By making construction loans, the Corporation could: speed the development of key parcels if necessary; provide incentive for a developer to provide special amenities on a particular site; and encourage the participation of minority entrepreneurs. The paragraph provides that loans may not be made if financing is otherwise available on reasonable terms, including under other Federal programs. This limitation will prevent the Corporation from competing with private financial institutions willing to make construction loans, and avoid redundancy with other Federal programs which make similar assistance available. The Corporation's loan agreements must require a substantial equity investment by the borrower of 20%, or more, of total project cost. The substantial investment minimum is in accord with applicable tax provisions, and will prevent the borrower from casually withdrawing from the enterprise, once committed. Other provisions of the paragraph require the Corporation to use good commercial practice and to secure loans through a first lien. Loans made by the Corporation may not be at a rate lower than the cost of the money to the Corporation, including the expenses related to making loans.

Section 4. This provision of the bill would establish a new revolving fund within the Treasury of the United States (the "Penn-

sylvania Avenue Development Fund"), into which all funds appropriated to the Corporation, borrowed by it, or derived through receipts, are to be deposited (except salaries and expenses). Activities of the Corporation, including payments of interest to the Treasury, would then be financed by withdrawals from this fund. This section of the bill does not add to the substantive authority of the Coporation or effect the amounts of money to be appropriated or borrowed under other sections of the Act. It does provide a financial management tool for the Corporation to conduct its activities in a business-like manner, and to comply with the accounting and budgetary requirements of the Government Corporation Control Act.

Section 5. The last section of the bill would amend the authorization of appropriations section of the Act to authorize up to $130,000,000 for public development projects and activities. Amounts appropriated under this new authority could remain available without fiscal year limitations, until September 30, 1990. The authorization proposed by this amendment would make available the full funding for public improvements detailed in the approved plan. Money appropriated under this authority is to remain available over the project lifetime of plan implementation—twelve to fourteen years.

By Mr. HUGH SCOTT:

S. 2945. A bill to amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations for the Smithsonian Institution for carrying out the purposes of said act. Referred to the Committee on Rules and Administration.

NATIONAL MUSEUM ACT

Mr. HUGH SCOTT. Mr. President, the authorization of appropriations for the National Museum Act will expire at the end of fiscal year 1977 and it is proposed that authority for further appropriations be sought.

Since its founding in 1846 the Smithsonian Institution, as custodian of the national collections, has endeavored, within the limits of its resources, to be responsive to the needs of other museums. In the early days these efforts consisted of exchanges of information and publications and in more recent times have included short-term training of museum professionals, consultation services on specific problems, and small grants for special studies.

The National Museum Act of 1966 reaffirmed the Smithsonian's traditional role of assisting museums with specific reference to the continuing study of museum problems and opportunities; training in museum practices; the preparation of museum publications; research in museum techniques; and cooperation with agencies of the Government concerned with museums.

In 1970 legislation providing for a 3-year extension of National Museum Act funding was approved. The extension authorized appropriations not to exceed $1,000,000 annually through fiscal year 1974, of which $300,000 each year was specifically allocated to be expended for training programs, in one-third shares, by the National Endowment for the Arts, the National Endowment for the Humanities, and the Smithsonian. An additional amendment clarified grant and contract authority for training in museum practices.

In fiscal year 1972, the first year in which funding was available, $600,000 was appropriated and a modest program was initiated. In fiscal year 1973 $798,000 was appropriated, and $901,000 was appropriated in fiscal year 1974. In each year the required transfers totalling $200,000 were made to the endowments.

In 1974 an additional 3-year extension was enacted, which eliminated the transfer requirement, but carried the proviso that not less than $200,000 annually was to be allocated to research on and development of museum techniques with particular emphasis on museum conservation.

$802,000 was appropriated in fiscal year 1975; $769,000 in fiscal year 1976; and $807,000 is being requested in the fiscal year 1977 budget.

Funds appropriated to the Smithsonian for the implementation of the National Museum Act are made available, primarily by grants and contracts, to museums, professional associations, and individuals. Such funding is made after review by the National Museum Act Advisory Council, appointed for this purpose by the Smithsonian. The membership of the Advisory Council encompasses the principal museum disciplines—art, science, and history—and is broadly representative of the various regions of the United States. The Council advises and assists the Secretary of the Smithsonian Institution in determining priorities and assessing the quality of individuals and programs seeking support under the act. In funding proposals the Advisory Council has insisted that all proposals clearly demosntrate how the project will improve the profession—its techniques, methods and approaches.

Among the major activities supported recently under the National Museum Act is the National Conservation Advisory Council, a body composed of leading figures in the field, which has undertaken a series of studies and reports on the current status of museum conservation in America. Its primary report focuses on the training of conservators, education of users, scientific support, standards, and facilities, and includes a proposal to meet national conservation needs.

The Smithsonian Institution, the National Endowment for the Arts, and the National Endowment for the Humanities, through their respective offices of museum programs, regularly consult and review programs and proposals in order to prevent duplication and to meet, insofar as possible, the increasing needs of museums and museum professionals from the point of view of their individual programs. The programs of the endowments focus on the public aspects of specific museums such as exhibitions, renovations, catalogs, and purchases, while those that the Smithsonian administers under the National Museum Act are designed to serve the needs of the museum profession generally.

By Mr. HUGH SCOTT:

S. 2946. A bill to amend the act of July 2, 1940, as amended, to remove the limit on appropriations. Referred to the Committee on Rules and Administration.

BARRO COLORADO ISLAND

Mr. HUGH SCOTT. Mr. President, the act of July 2, 1940 (54 Stat. 724), which set aside Barro Colorado Island in the Canal Zone in order to preserve and conserve its natural features for research purposes, authorized the appropriation of $10,000 for necessary administrative and maintenance expenses related to the island. Subsequently, Public Law 89–280, approved October 20, 1965, amended the authorization to $350,000.

Although current obligations are within the statutory limit, increasing costs and needed improvements suggest that the limit will be reached in the near future.

To meet the requirement of the Congressional Budget Reform Act of 1974 of obtaining authorization a year ahead of appropriations, to provide flexibility in appropriations requests, and to avoid the necessity of repeated amendments the proposed legislation seeks to eliminate altogether the ceiling on appropriations authorized.

By Mr. METCALF (for himself and Mr. HATFIELD):

S. 2947. A bill to amend the Federal Advisory Committee Act and for other purposes. Referred to the Committee on Government Operations.

FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 1976

Mr. METCALF. Mr. President, today I introduce the Federal Advisory Committee Act Amendments of 1976, 3 years and 1 month after the effective date of the Federal Advisory Committee Act—Public Law 92–463.

That act set standards and prescribed uniform procedures to govern the establishment, operation, administration and duration of the committees, boards, commissions, councils, task forces and other citizen panels which advise the President or agencies or officers of the Federal Government. It also stipulated that each advisory committee meeting be open to the public unless it is "concerned with matters" which the Freedom of Information Act exempts from mandatory disclosure.

The amendments I introduce today would extend the act's coverage to additional units of Government, open the advisory committee membership selection process to public scrutiny, delete exemption 5 of the FOIA—dealing with interagency or intragency memorandums or letters—as grounds for closing an advisory committee meeting, and, in the fashion of the FOIA, provide for administrative review and court challenge of a determination to hold a closed advisory committee meeting.

I also announce that the Subcommittee on Reports, Accounting and Management will hold hearings on these amendments on March 8, 9 and 10 in room 3302 Dirksen Senate Office Building. The amendments embody considerable thought and experience, yet are offered in the spirit of a discussion draft. The subcommittee would like to receive as wide a range of comment and sugges-

tion as possible, and persons wishing to testify are invited to communicate with subcommittee staff.

Mr. President, the subcommittee has watched over the Federal Advisory Committee Act from the beginning. It conducted oversight hearings in 1973–74, and last summer held a hearing on the role of energy advisory committees in general and that of the President's Labor-Management Committee in particular. Appendixes to the printed hearing on energy advisory committees contain virtually all of my correspondence with departments and agencies from January through September, 1975, on administration of the act, as well as a summary of separate correspondence with 43 agencies on balancing advisory committee membership and opening advisory committee meetings.

Other examples of congressional oversight of the act include the recent report by the House Committee on Government Operations on the use of advisory committees by the Food and Drug Administration, based on a study by the Intergovernmental Relations and Human Resources Subcommittee, and the report by the Congressional Research Service in April 1975, on the role of advisory committees in U.S. foreign policy, prepared at the joint request of the Senate Committee on Foreign Relations and the House Committee on International Relations.

THE FACA AFTER 3 YEARS

In general, the administration of advisory committees has improved substantially since the Federal Advisory Committee Act took effect on January 5, 1973. The agencies have lived up to their responsibility to designate an Advisory Committee Management Officer to exercise control and supervision over the establishment, procedures and accomplishments of the agency's advisory committees. Most agencies now routinely publish meeting notices 15 days in advance in the Federal Register, and some—most notably the Department of Health, Education, and Welfare—consistently provide 30 days or more advance notice.

Over the 3 years the Office of Management and Budget has improved its performance of the duties assigned it by the act. OMB rewrote and simplified the administrative guidelines it prescribes for agency handling of advisory committees, and it has strengthened its Committee Management Secretariat, which is responsible by law for all matters relating to advisory committees. The Committee Management Secretariat functions more as a traffic manager than a policeman, but is trying to exercise all the authority that goes with the job. Meanwhile, OMB's budget examiners are becoming increasingly active in quizzing agencies about their advisory committee operations.

For all the improvement, there are persistent problems. For example, from December 31, 1972, when the first advisory committee inventory was taken to May 1, 1975, a span of 28 months, the number of advisory committees fell to 1,250 from 1,439, a net decrease of 189. Since 525 or more advisory committees were newly created or belatedly discovered during that period, the act in its first 28 months actually disbanded or forced the merger of more than 700 advisory committees. However, there has been a resurgence, and as of October 1, 1975, the total stood at 1,341, a net increase of 99 from the 1974 year-end total of 1,242.

Further, the open-meeting average for all advisory committees seems mired at about 55 percent, with 20 percent of all meetings wholly closed, and the remaining 25 percent partially closed—which can mean anything from 15 minutes to 8 hours. The average has been stuck at that level from the start, and there is no evidence of significant improvement during 1975, although the figures are still being compiled. This contrasts mightily with the performance of congressional committees, which, according to the annual survey by Congressional Quarterly, "opened their doors to the public and press in record numbers in 1975," opening 93 percent of their meetings.

Mr. President, in drafting these amendments I have tried to avoid the pitfall of codifying an administrative remedy for all of the problems encountered in 3 years of close oversight of the Federal Advisory Committee Act. That could easily compound the problems instead of solving them.

EXTENDING THE ACT'S COVERAGE

These amendments would extend the act's coverage to advisory committees of the Federal Reserve System, which at present is expressly exempted, to the advisory committees of the National Railroad Passenger Corporation and the U.S. Postal Service, and to those of the various units of the legislative branch, apart from the Congress itself, including the General Accounting Office, Library of Congress, Office of Technology Assessment, Government Printing Office, Congressional Budget Office, and the Architect of the Capitol.

They would open up the advisory committee membership selection process, about which we still do not know enough, by requiring that members be publicly solicited and that the charter which is filed when an advisory committee is established specify the number of members to be appointed, the method of selection and appointment of these members, and the qualifications to be sought.

I might note that the Consumer Product Safety Commission, the FDA, the Department of Housing and Urban Development, and the Coast Guard, among others, seek public recommendations and nominations of advisory committee members. This is a healthy development which can take some of the mystery and delay out of the selection process, and the practice should be expanded by statute to all advisory committees.

DELETING FOIA EXEMPTION 5

Among the FOIA's nine exemptions from mandatory public disclosure which the Federal Advisory Committee Act recognizes as lawful justification for closing advisory committee meetings, the one least applicable to meetings—and the one most often abused—is exemption 5, dealing with interagency or intraagency memorandums or letters. In attempting to apply an exemption meant for agency documents to committee discussions to be held in the future, the original OMB/Department of Justice guidelines implementing the act indulged in some bureaucratic embroidery which handed agency officials an all-purpose alibi for barring the public from meetings.

The subsequent rewrite of the guidelines, as OMB Circular No. A–63, Revised, rescinded and superseded the offending language, but you would never know it to read the regulations and closed meeting rationales of such agencies as FDA, the National Endowment for the Arts and the Nuclear Regulatory Commission. That discredited and discarded language should have disappeared in the more than 22 months since the revised circular was issued, but it has not.

Furthermore, four district court decisions have laid the wood to exemption 5, the most recent—by Judge Charles B. Richey on October 31, 1975, in Wolfe against Weinberger—holding that exemption 5 is inherently inapplicable to advisory committees. Despite the verdicts and clear reasoning behind them, agencies are still using exemption 5 to shield advisory committee deliberations.

The only solution appears to strike the exemption. If there is valid reason for closing an advisory committee meeting, the case should be made and justified under some other exemption, although all agencies and their committees should be reminded that the exemptions are permissive, not mandatory, and are to be used sparingly. The act says and means that each advisory committee meeting shall be open to the public.

SEEKING TO OPEN A CLOSED MEETING

Witnesses at the subcommittee's oversight hearings and other persons have urged that the Federal Advisory Committee Act provide for administrative review of a determination to close an advisory committee meeting, in the same way that the FOIA provides for such review of a denial of access to agency records. There are two difficulties in providing for parallel procedure:

First. Even when an agency provides a full 15 days notice of a closed meeting in the Federal Register, there is not much time for a citizen to learn of the meeting, obtain from the agency a copy of the required written determination justifying closure, and then make the strongest possible case for an administrative remedy.

Second. Under FOIA, the agency head reviews a citizen appeal from a denial of access to records, but under the Federal Advisory Committee Act it is the agency head who authorizes the closed meeting in the first place. It would be somewhat optimistic to expect the same bureaucrat who made the closure determination to reverse himself on appeal.

To adjust for these differences, the amendments provide, first, that 30 days public notice be given of a closed meeting. The agencies already realize, of course, that it is simpler and cheaper to arrange an open meeting than a closed one, and they will not welcome the administrative stretchout required to meet this statutory definition of timely notice of a closed meeting. Nonetheless, the ad-

ditional time is necessary if there is to be a meaningful administrative remedy.

The amendments also provide that there can and will be a review by the agency head if he delegated the power to make the original determination to close a meeting. Where a subordinate made the determination, the agency head himself will review the matter.

Then, if either the agency head himself made the original determination, so that review is not feasible, or if he is eligible to make the review but does not act to open the meeting, the citizen challenger is given a direct statutory right of action in the same fashion that it is given under the FOIA.

Mr. President, these amendments as introduced are silent on a number of problems—for example, that of advisory committees which permit invited guests to attend a closed meeting while barring other members of the public, or that of letting business competitors sit in on a session that is closed to others on grounds that FOIA exemption 4—dealing with trade secrets and commercial or financial information obtained from a person and privileged or confidential—applies to the matters to be discussed. That is not to mention that agencies gain an advantage by quoting the exemptions, leaving it to the reader of the notice of closed meeting to find out whether court interpretations of the exemptions have limited their applicability with respect to the subject matter of the meeting.

It is my hope that these and other related issues will be explored fully at the subcommittee's hearings on March 8, 9, and 10, to insure the emergence of a solid set of amendments.

Mr. President, I ask unanimous consent that the text of the Federal Advisory Committee Act Amendments of 1976 be printed in the RECORD.

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

S. 2947

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

SEC. 2. Paragraph (2) of section 3 of the Federal Advisory Committee Act is amended—

(1) by inserting after "thereof" the following: ", or any ad hoc group, including any group which has any responsibilities of an administrative, executive, or operational nature within an agency other than providing advice and information,";

(2) by inserting after "Federal Government," the following: "and, without regard to the means of establishment, which provides advice or information to or is utilized by the United States Postal Service, the General Accounting Office, the Library of Congress, the Office of Technology Assessment, the Government Printing Office, the Congressional Budget Office, the Architect of the Capitol, or the National Railroad Passenger Corporation, or any other entity which provides information to or advises the Congress,"; and

(3) by striking out ", (ii) the Commission on Government Procurement, and (iii)" and inserting in lieu thereof "and (ii)".

SEC. 3. Section 4(b) of the Federal Advisory Committee Act is amended by striking out all after "by" and inserting in lieu thereof "by the Central Intelligence Agency.".

SEC. 4. Section 5(b) of the Federal Advisory Committee Act is amended—

(1) in paragraph (2)—

(A) by inserting after "to be" the first place it appears therein the following: "publicly solicited and"; and

(B) by inserting before the semicolon the following: "and require at least one-third of the membership to be drawn from citizens in private life who shall represent the interests of the public with respect to the subject matter before the advisory committee";

(2) in paragraph (4) by striking out "; and" and inserting in lieu thereof a semicolon;

(3) by striking out the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(6) require that the names and business affiliations of advisory committee members be publicly announced at the time they are appointed.".

SEC. 5. Section 6 of the Federal Advisory Committee Act is amended—

(1) in subsection (b)—

(A) by striking out "public" both places it appears; and

(B) by adding at the end thereof the following new sentence: "Subsequently, at least once every year, the President shall report to the Congress on the status of actions taken or proposed to be taken to carry out accepted recommendations. A final report shall be submitted when all such recommendations have been carried out to the extent practicable within the President's authority."; and

(2) by adding at the end thereof the following new subsections:

"(d) The President shall maintain in the Committee Management Secretariat in the Office of Management and Budget a comprehensive and complete and current list of the names of all members, past and present, of all advisory committees together with such indices as will contain cross references by the name, business affiliation, occupation, and membership on an advisory committee of such members. The list of all current members together with all indices of such members shall be published in the annual report required under subsection (c).

"(e) At the same time the report required under subsection (c) is transmitted to the Congress the President shall transmit to the Congress a report covering the same period as the report required under subsection (c) and containing the names and affiliations of all persons employed as consultants or experts under section 3109 of title 5, United States Code, or under any other provision of law other than experts employed for the purpose of providing testimony on behalf of the Government in cases before the courts of the United States or agencies.".

SEC. 6. (a) Section 7 (b) of the Federal Advisory Committee Act is amended—

(1) in clause (4) by striking out "is" and inserting in lieu thereof "it";

(2) in the fourth sentence by inserting before the period a comma and the following: "and shall include therein a comprehensive review of every advisory committee the duration of which is less than one year"; and

(3) by inserting between the fourth and fifth sentences the following: "Such an annual review shall include a determination as to whether an advisory committee has any responsibilities of an administrative, executive or operational nature, other than providing advice or information, and shall list all such advisory committees and state whether each such advisory committee has filed a charter as required by section 9(c).".

(b) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(f) At the time an advisory committee is established, but before any members are appointed and before an advisory committee charter is filed as required by section 9(c), the Director shall determine whether any such advisory committee has any responsibilities of an administrative, executive or operational nature other than providing advice or information. Such a determination shall be published in the Federal Register not later than 10 days before any member is appointed.".

SEC. 8. Section 9(c) of the Federal Advisory Committee Act is amended—

(1) by striking out "with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency" and inserting in lieu thereof the following: "with the Congress by transmitting a copy of such charter to the President pro tempore of the Senate and the Speaker of the House of Representatives";

(2) in clause (I) by striking out "and" after the semicolon;

(3) in clause (J) by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding the following new clause:

"(K) the number of members to be appointed, the method of selection and appointment of any such members, and the qualifications to be sought.".

SEC. 9. Section 10 of the Federal Advisory Committee Act is amended—

(1) in subsection (c) by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) A complete audio or audio and visual recording shall be made of every advisory committee meeting which is closed. Every such recording shall be deposited with the Librarian of Congress not later than twenty-four hours after the closed meeting has been completed. At the request of any member of any advisory committee which has met in a closed session the recording of the closed session may be reduced to typescript which shall be deposited with the Librarian of Congress.";

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by striking out "section 552(b)" the first time it occurs therein and inserting in lieu thereof the following: "paragraphs (1) through (4) or (6) through (9) of section 552(b)"; and

(C) by striking out the second and third sentences thereof and adding at the end thereof the following:

"(2) Any such determination shall be in writing, shall contain the reasons for such determination, and shall be published in the Federal Register at least 30 days before the proposed date of any such advisory committee meeting.

"(3) Any such determination made by a delegate of the President or a delegate of the agency head shall be reviewed by the President or the agency head, as the case may be, upon application of any person, not later than 48 hours after such application is received. If any such application for review is received later than 48 hours before any such meeting, such meeting shall be delayed to permit the review and determination by the President or the agency head and notification of the person applying for such review. The President or the agency head shall advise the person applying for review in writing of his determination to require that any such meeting be held in open session or to sustain or modify the determination made by the delegate. The President or the agency head may direct that any such meeting be held in open session.

"(4) If a determination is made to close any portion or all of any meeting of an advisory committee such advisory committee shall file a report of its activities including setting forth a summary of its activities, a detailed list of its meetings, and such related matters, including a detailed agenda

for each meeting as would be informative to the public consistent with the policy of this section no later than the last day of the quarter immediately following any quarter during which a meeting of any such advisory committee is closed and in each of the next three succeeding quarters.

"(5) On complaint the District Court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the advisory committee routinely holds its meetings or may hold its meetings, or in the District of Columbia, has jurisdiction to enjoin the closing of the meeting of any advisory committee. In such a case the court shall determine the matter de novo, and may conduct an inquiry in camera to determine whether any meeting of any advisory committee should be closed under any of the provisions of this subsection and the burden is on the agency to sustain its action.

"(6) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within 10 days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

"(7) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

"(8) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

"(9) Whenever the court orders any advisory commitee meeting to be held open and assesses against the United States reasonable attorney's and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the closing of any such meeting raise questions whether agency personnel or advisory committee members have acted arbitrarily or capriciously with respect to the closing, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee or member who is primarily responsible for the closing. The Commission, after investigation and consideration or the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned, and shall send copies of the findings and recommendations to the officer, employee, or member or his representative. The administrative authority shall take the corrective action that the Commission recommends with respect to officers or employees and shall refer the matter to the Department of Justice for appropriate disposition if any member of the advisory committee with respect to whom corrective action appears necessary is not an employee or officer of the Federal government.

"(10) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee or member and in the case of a uniformed service, the responsible member.

"(11) The Attorney General shall submit an annual report on or before March 1, of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the matters involved in each case, the disposition of such case, and the cost, fees, and penalties assessed thereunder. Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.".

By Mr. HUGH SCOTT:

S. 2949. A bill to authorize the Smithsonian Institution to construct museum support facilities. Referred to the Committee on Public Works.

MUSEUM SUPPORT FACILITIES

Mr. HUGH SCOTT. Mr. President, on September 19, 1975, the President signed into law Public Law 94–98 authorizing the Regents of the Smithsonian Institution to prepare for museum support facilities which will be designed to restore as much Mall building space as possible to public use; provide for the long-range needs of the Institution's collections; and to integrate them and associated work space with activities on the Mall. The facilities would also incorporate space for on-site research, computer support for documentation, exhibits preparation, registrarial functions, document distribution, conservation, and maintenance support. Being requested in the budget is $500,000 for fiscal year 1977 to initiate architectural and engineering planning for the facilities.

The Smithsonian's activities in the Washington area are concentrated around the Mall, an area dedicated to the use, education, and enjoyment of the American public. These activities, which encompass exhibits, education, collections, conservation, research, and support, fully occupy available Mall space. Despite deliberate and selective acquisition policies, the national collections of specimens and artifacts continue to grow and to compete for space on the Mall with the public functions of the Institution.

Availability of the collections for study and exhibition requires documentation and preservation, activities which also require space. While space economies are being pursued the continuation and expansion of public services indicate a need for additional facilities to house the necessary but less visible services of collections management, conservation, documentation and publication.

A suitable site is being assembled adjacent to the Institution's current holdings at Silver Hill, Md. Thirty five acres currently under the jurisdiction of the General Services Administration are immediately available for transfer to the Smithsonian. Full deveopment of the entire site is viewed as a 25-year program, successive stages of which would be constructed when approved by Congress. The posed legislation seeks construction authority for the initial phase of this program.

By Mr. MONDALE (for himself, Mr. HUGH SCOTT, Mr. GLENN, Mr. WILLIAMS, Mr. HUMPHREY, Mr. MCGOVERN, Mr. METCALF, Mr. CURTIS, Mr. MOSS, Mr. RIBICOFF, Mr. PHILIP A. HART, Mr. GRIFFIN, Mr. CASE, Mr. MANSFIELD, Mr. HARTKE, Mr. EAGLETON, Mr. STAFFORD, Mr. ABOUREZK, Mr. TAFT, Mr. FORD, Mr. PELL, Mr. CLARK, Mr. CULVER, Mr. HRUSKA, Mr. WEICKER, and Mr. MUSKIE):

S. 2950. A bill relating to the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets, and for other purposes. Referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs, by unanimous consent.

ALASKAN NATURAL GAS PIPELINE AUTHORIZATION ACT OF 1976

Mr. MONDALE. Mr. President, I am pleased to introduce today, on behalf of myself, Senators HUGH SCOTT, METCALF, GLENN, WILLIAMS, CURTIS, MOSS, HUMPHREY, RIBICOFF, MCGOVERN, PHILIP A. HART, GRIFFIN, STAFFORD, CASE, ABOUREZK, MANSFIELD, TAFT, HARTKE, FORD, EAGLETON, PELL, CULVER, HRUSKA, CLARK, WEICKER and MUSKIE, a bill relating to the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets in the United States.

Briefly, this bill would direct Federal agencies promptly to issue necessary governmental authorizations to the arctic gas project, to construct the Alaskan and various "lower 48" portions of the system. With similar approvals from the Government of Canada, the project will transport northern Alaska gas to the "lower 48," and deliver Mackenzie Delta gas to markets in Canada.

Under this proposal, the Federal Power Commission would be directed to issue necessary authorizations within 60 days of enactment, while the Secretary of the Interior would similarly be directed to issue a right-of-way permit over Federal lands. Finally, the period and grounds for judicial review would be limited, using the same approach adopted in the Trans-Alaska (Oil) Pipeline Act.

Over the past year, there has been intensive debate in the Congress about what our national policy should be with respect to natural gas pricing and distribution; however, on three major points, there has been almost no disagreement.

First, natural gas is our premium energy source. We pay the least environmental price to produce it from wells, transport it through buried pipelines and make use of its clean-burning characteristics.

Second, more natural gas is needed. This gas is required not only for environmental reasons, but also so that we can reduce the economic and strategic costs associated with America's reliance on imported oil.

Third, northern Alaska contains the largest proven, and most readily available, source of natural gas in the United States. After only limited exploration, more than 24 trillion cubic feet of natural gas have been proven in the Prudhoe Bay field alone. This represents more than 10 percent of our Nation's known gas reserves. Potential reserves in northern Alaska are estimated at 100 to 200 trillion cubic feet, which could be enough to double America's present gas supply.

Given the desirability and need for North Slope gas, it is our duty to find the fastest, most environmentally sound, inexpensive, reliable and energy-efficient method of transporting northern Alaskan gas to consumers in all regions of the United States.

After intensive study, I believe that the transportation method which meets each of these standards is a conventional

buried natural gas pipeline which would run from northern Alaska directly to markets in the Northwest, West, Midwest, and East. This same pipeline could carry Canadian gas from the Mackenzie Delta to consuming provinces in Canada.

First, consider the benefits to the United States of a joint United States-Canadian pipeline if Canada decides to participate with us in a cooperative project. The pipeline would be the quickest and least expensive way for both Canada and the United States to obtain access to their natural gas in the Arctic. If both countries grant approval to such a pipeline system this year, gas could be flowing to markets in both countries by 1981. In 1974 dollars, it is estimated that U.S. consumers would pay several hundred million dollars less annually in transportation charges, than the cost of the alternative LNG tanker method. A major factor responsible for the savings is the higher volume of gas that can be carried in a joint United States-Canada pipeline, reducing the unit transportation costs.

Next, the conventional pipeline uses far less gas to power the transportation system. Estimates reveal that the liquefaction-LNG tanker method would consume over 78 percent more energy in transportation than the pipeline. The savings of gas would provide enough additional daily energy to supply the residential needs of any one of 38 States in America.

When many of our States are desperately short of natural gas, we should pay special attention to the way in which gas from nothern Alaska is distributed. The pipeline we are proposing today would bring gas directly to consuming regions throughout the Nation. It would serve the Pacific northwest, the west coast, the Midwest and East through pipelines to major delivery centers. The LNG tanker alternative, on the other hand, would rely on a vast system of displacement that has yet to be shown legally possible or technically feasible except at great cost. Under this system, gas from the Southwest would be diverted to areas that lack access to Prudhoe Bay Gas. The cost of the displacement method must be measured not only in the new pipelines that would have to be built immediately, but also the construction that will inevitably be required as supplies from Texas and New Mexico dwindle. These costs have not yet been fully evaluated, but I believe it would be a very poor bet for any major consuming region to rely entirely on displacement for its future gas supplies.

The pipeline approach also provides greater reliability and security of supply than the liquefaction tanker method The buried gas pipeline involves conventional engineering and technology, the reliability of which has been proven over many years. The LNG tanker system involves construction of a highly complicated liquefaction plant to be located on the southern Alaskan coast in one of the world's most sensitive earthquake zones. This plant would be several times the size of any that has yet been built, stretching the technology beyond present limits. The ocean-going LNG tankers will be much larger than any now in operation and would be exposed to the hazards of navigating in difficult international waters. These tankers would have to be unloaded on the southern California coast, raising serious environmental and safety problems. The liquid would then have to be converted back to gas. It is this process of converting gas to liquid, hauling it by tanker and reconverting it back to gas that creates less efficient use of gas.

In my judgment, there are also serious doubts about the reliability of such a system. Should America depend, for 10 percent or more of the gas we need, upon a system that could be disrupted for several months or more by a major failure in the plant, by an earthquake, or by a breakdown in the system for bringing the gas on shore?

There is virtually no risk of significant interruption of gas flows through an underground pipeline. But those with a special interest in the LNG option have raised the bogus issue of Canada's reliability in a cooperative Canada.

The Government and people of Canada must, of course, reach their own decision about whether they would like to join in a cooperative pipeline project. Canada has its own procedures for reaching a decision on pipeline permits and an application for approval of the Canadian arctic gas pipeline, as well as a competing application are now under consideration by the National Energy Board and by the Department of Indian Affairs and Northern Development. The bill we are introducing today is in no way intended to prejudge what the Canadians will do.

Nonetheless, should the Canadians decide that they would like to cooperate with us, it is absurd to charge that they would then impose discriminatory taxes or otherwise unfairly treat American gas that is destined for the United States.

To underscore this point, I would add that a new treaty was just initialed on January 29, 1976, by officials of our State Department and of the Canadian Ministry of External Affairs. This treaty should soon be submitted to the Senate for ratification. It contains provisions by which both nations would agree never to interrupt the transit of the other's oil and gas across their respective sovereign territories; would agree never to tax the oil and gas of the other Nation while in transit, and; would agree never to discriminate against such international transit systems in taxation or regulation of those systems.

The treaty would bind the Federal Governments of both countries. Once it has been ratified, the existing laws of both Canada and the United States would prevent either States or Provinces from discriminating in taxation or from regulating such an international pipeline system.

While Canada has given no official indication of what final action will be taken on the pipeline applications, I believe there are a number of compelling reasons why she would want to participate in a joint project with the United States. A report last July of the National Energy Board highlighted Canada's need to obtain access to its own frontier gas reserves, particularly in the Mackenzie Delta. Proven and probable reserves in this region are now estimated at 6 trillion cubic feet, well below the level regarded by experts as necessary to make feasible a Canada-only pipeline.

Without the added Delta reserves, the NEB estimates that by 1985 Canadian demand will exceed Canadian supply by roughly 1 trillion cubic feet. That is almost the exact level of exports of natural gas from the Canadian provinces to the United States, exports which contribute $2.6 billion to Canada's balance of payments and provide a major energy source for the Northwest and upper Midwest in the United States. Thus, it is likely that Canada will further curtail exports to the U.S., unless a way can be found to develop the frontier gas reserves.

Obviously, both Canada and the United States must reach independent decisions on the basis of what is best for their own people. Accordingly, the Alaskan Natural Gas Pipeline Act which we are introducing today would provide a vehicle by which the Government of the United States would express its finding that a cooperative Trans-Canada pipeline is in the best interests of the United States. This bill would merely say to Canada: If, at the conclusion of your proceedings you decide such a project is in your national interest, we are ready to proceed with its construction.

I'd like to take a minute to discuss the environmental aspects of this bill. I realize that the Sierra Club, the Friends of the Earth and other environmental organizations are deeply concerned about the consequences of this pipeline for wildlife in northern Alaska and also about preserving the integrity of the National Environmental Policy Act—NEPA. I have a great deal of personal respect for those organizations, and I certainly do not take their concerns lightly.

The bill we are introducing today is not attempting to abandon NEPA. Unlike the sponsors of the rival Alaska LNG system, the gas companies that propose to build the pipeline have applied to the Secretary of the Interior for right-of-way permits. Several months ago, the Department of Interior issued a draft Environmental Impact Statement—EIS—on these permits, public hearings were held, and the comments of interested parties have been considered at length. The final EIS will be issued shortly, well in advance of any dtae the Congress could act on this bill.

In future congressional deliberations on this issue, it is my hope that it will be possible for me personally, and for the Senate as a whole, to work closely with concerned environmental groups to insure that any serious environmental problems are not overlooked. I have attempted to review as carefully as possible the environmental questions that have been raised thus far. There is obviously no perfect solution. Undoubtedly, construction of the pipeline will have an effect on the Arctic National Wildlife Range. But the use of a chilled, buried pipeline, use of temporary ice road and limitations on construction to the winter

season when animals are not present, can help to minimize these effects.

A much longer route has been suggested by way of Fairbanks. This route would disturb more terrain, cross a more complex and delicate mountainous environment and cut through areas with high animal population density. Beyond these effects, this route could add $2.5 billion to the cost of the project, lessen the Canadian interest in a joint venture, and make financing impossible.

The LNG tanker alternative, in my judgment, is much more alarming from an environmental point of view. It will disturb new areas in Alaska's interior where more wildlife is found than in the far north. A liquefaction plant would be constructed in a major fault zone at great risk to both the environment and the security of America's energy supply. Worse yet, a large fleet of LNG tankers will be added to the already heavy traffic of oil vessels serving the Alaska pipeline. As a representative of a Midwest State that is desperate to gain access to Alaskan oil, I have found no community actively seeking the opportunity to have those tankers dock near its beaches. Environmentalists in the State of California have told me that the last thing they want is a major docking facility to handle these highly explosive tankers.

I have considered these arguments as I have considered the costs to the Nation's consumers of delay in approval of this pipeline system. Applications have been pending before the Federal Power Commission—FPC—since March of 1974. Unfortunately, delay is unavoidable if proceedings before the Federal Power Commission, with the inevitable litigation that would follow are permitted to work their slow way through to completion. The costs of that delay would fall on the American consumer, a cost of 8 to 10 percent more each year. To these costs must be added the national cost of continuing to buy OPEC oil to meet the energy demands which gas from Alaska would satisfy—over $2 billion per year.

The Commission recently told a committee of the House that they might be able to complete their proceedings before the end of this year. However, experts who are experienced with FPC hearings doubt that schedule can be met. Their doubt is supported by the history of major contested applications since World War II. In a letter dated November 12, 1974, former Chairman Nassikas advised Senator JACKSON that the average time in the FPC for certification proceedings for such applications has been 3½ years. To the FPC time must be added the time for court appeals. That same letter advised that the average time for court appeals has been about 1 year. With respect to this project, appeal time might extend to 2 or 3 years.

With respect to delay, it is also important to note that the pipeline project contemplated in this act can be put in place at least a year earlier than the alternative liquefaction-LNG tanker system. It will be built by a group of United States and Canadian companies These transmission companies would be the same firms that would have to reorganize to build the liquefaction-LNG tanker system if that method were forced upon them. We are not confronted by a major dispute between competing private interests. The same private companies will inevitably be involved in construction of either alternative. However, the vast majority of these companies have reached a judgment regarding the system that makes the most sense from an economic and technical point of view.

It is clear that the national interest of the United States lies in fast approval by Congress of a pipeline system to carry Alaskan gas to markets all across this country. That is why we are introducing this bill today. While the Government and people of Canada will await the outcome of their own regulatory and governmental processes process in deciding whether they would like to join in this cooperative project, and while this legislation makes clear that we have no intention of interfering in those processes, I am hopeful her Government will reach a favorable ruling. In the interim, Congress should make clear our readiness to proceed as quickly as possible when and if a favorable decision is reached at Ottawa.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed at this point in the RECORD.

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

S. 2950

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 "Alaskan Natural Gas Pipeline Authorization Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that:

(1) A natural gas supply shortage exists in the United States.

(2) Such natural gas supply shortage, unless corrected, threatens the economic and environmental well-being of the Nation through higher levels of unemployment, diminished economic activity, increasingly adverse effects upon the Nation's international balance of payments, increased reliance upon energy produced in other countries, and greater utilization of less environmentally desirable alternatives to this clean-burning energy source.

(3) There exists in the northern areas of the State of Alaska large proven and potential reserves of natural gas which can reduce significantly the Nation's natural gas shortage if a transportation system for delivery of such natural gas to the United States markets is constructed and placed into operation.

(4) A natural gas pipeline system from northern Alaska, across Canada, to the lower 48 States is the most efficient and economical method available for the transportation of northern Alaskan natural gas to domestic markets. Compared to alternative methods proposed for transporting such natural gas, such pipeline system will distribute this essential source of energy more directly to consumers, provide the lowest cost of transportation of the natural gas, consume less natural gas in the transportation process, and provide similar benefits to Canada, all of which effects are in the national interest of the United States.

(5) Immediate construction of a natural gas pipeline system to transport natural gas from northern Alaska across Canada to the contiguous United States is required by the national interest.

(6) A cooperative effort with the people and Government of Canada would advance the development of United States energy resources and could offer substantial return benefits to Canada; and the Congress clearly recognizes that it is the responsibility of the appropriate Canadian authorities to make their own determinations regarding Canada's interests in any cooperative project and this Act is in no way intended to interfere with the decision-making process of the Government of Canada.

(7) The procedures provided in the Natural Gas Act (15 U.S.C. 717 *et. seq.*) and the Mineral Leasing Act of 1920 (30 U.S.C. 185), if complied with fully, will not allow the authorization and construction of a transportation system for natural gas from northern Alaska as promptly as is required by the public convenience and necessity, the national interest, and the requirements of international cooperation.

(8) It is appropriate and necessary for the Congress, in the interest of furthering national energy policy, national economic and environmental well-being, and international relations, to authorize the expeditious construction of a transportation system for natural gas from northern Alaska.

DECLARATION OF PURPOSE

SEC. 3. The purpose of this Act is to insure that, in view of the extensive governmental and other studies already made of the Alaskan Natural Gas Pipeline, as defined herein, and the national interest in the earliest feasible delivery of natural gas from northern Alaska to domestic markets, the Alaskan Natural Gas Pipeline be constructed promptly, without further administrative or judicial delay or impediment. To accomplish this purpose, it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and in limiting judicial review of ths Act and of actions taken pursuant thereto.

DEFINITIONS

SEC. 4. As used in this Act:

(a) The term "Secretary" shall mean the Secretary of the Interior.

(b) The term "Commission" shall mean the Federal Power Commission.

(c) The term "Alaskan Natural Gas Pipeline" shall mean that natural gas pipeline system described in the applications filed with the Federal Power Commission which are listed hereinbelow, identified by date of filing thereof and Federal Power Commission Docket Number assigned thereto, including any amendments thereto filed more than thirty days prior to the enactment of this Act, and shall include the facilities lying within the United States of the natural gas pipeline system across northern Alaska, to connect with a pipeline in Northern Canada, and from border points between the United States and Canada to market areas in the contiguous United States, described therein, shall include the therein proposed natural gas pipeline facilities at such border points, shall include the export from the United States, at a point on the border between the State of Alaska and Canada, of natural gas to be transported by such natural gas pipeline system, and the import of such natural gas into the United States at points on the border between Canada and the States of Idaho and Montana, which has been proposed in docketed proceedings before the Federal Power Commission which have been consolidated with the docketed proceedings listed hereinbelow more than thirty days prior to the enactment of this Act, shall include the facilities, transportation and sales proposed in applications, including amendments thereto filed more

than thirty days prior to the enactment of this Act, by purchasers of gas to be transported by such pipeline system for authorization to construct and operate facilities to transport, and to sell, such gas and the sale of such gas to such purchasers by the owners thereof, and shall include such other facilities and activities as shall be necessary for the transport and sale of the natural gas to be transported by such pipeline system.

(1) Application for Certificate of Public Convenience and Necessity filed May 14, 1974, in Docket No. CP74–239;

(2) Application for Certificate of Public Convenience and Necessity filed March 21, 1974, in Docket No. CP74–241;

(3) Application for Certificate of Public Convenience and Necessity filed May 14, 1974, in Docket No. CP74–290;

(4) Application for Certificate of Public Convenience and Necessity filed May 14, 1974, in Docket No. CP74–292.

CERTIFICATION AND RELATED ACTIONS

SEC. 5. The Congress hereby authorizes and directs the Commission, within sixty days after the date of enactment of this Act, to issue to the Applicants involved in the Alaskan Natural Gas Pipeline, and their successors, to take all necessary actions to administer and enforce, all certificates, permits, and other authorizations necessary for or related to the construction, operation, maintenance and implementation of facilities and activities of and relating to the Alaskan Natural Gas Pipeline. The holders of such certificates, permits and other authorizations shall also have the powers of eminent domain provided by section 7(h) of the Natural Gas Act to holders of a Certificate of Public Convenience and Necessity issued pursuant to section 7(c) of such Act. Such provisions of the Natural Gas Act as may be inconsistent with this Act shall not apply with respect to the Alaskan Natural Gas Pipeline. In all other respects, including rate regulation, the provisions of the Natural Gas Act shall apply.

RIGHTS-OF-WAY

SEC. 6. The Congress hereby authorizes and directs the Secretary and other appropriate Federal officers and agencies not otherwise specified in section 5 herein, within sixty days after the date of the enactment of this Act, to issue and take all necessary actions to administer and enforce all rights-of-way, permits, leases and other authorizations necessary for or related to the construction, operation, and maintenance of the Alaskan Natural Gas Pipeline: *Provided, however*, That the rights-of-way, permits, leases, and other authorizations issued pursuant to this Act by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended, except subsections (h), (j), (k), (q), (s), (u), and (w) (2) thereof.

SUSPENSION OF ADMINISTRATIVE PROCEEDINGS

SEC. 7. (a) All authorizations issued by the Secretary, the Commission, and other Federal officers and agencies pursuant to this Act shall include the terms and conditions required by the provisions of law that would otherwise be applicable if this Act had not been enacted, and may include those terms and conditions, including those required for the protection of the environment, which are permitted by such provisions of law so long as such terms and conditions do not change the basic nature and route of the Alaskan Natural Gas Pipeline and are not inconsistent with the purposes of this Act. The Secretary, the Commission and such other Federal officers and agencies may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accomplish the purposes of this Act, and may grant requests of any person which shall construct or operate any portion of the Alaskan Natural Gas Pipeline for modifications of the route or facilities thereof which are not inconsistent with the purposes of this Act.

(b) The directions contained in section 5 and section 6 of this Act shall supersede the requirements and provisions of any law or regulation relating to or prerequisite to an administrative determination as to whether the authorizations for construction and operation of the Alaskan Natural Gas Pipeline shall be issued.

JUDICIAL REVIEW

SEC. 8. The actions of Federal officers or agencies taken pursuant to this Act, and the legal or factual sufficiency of any environmental statement prepared relative to the Alaska Natural Gas Pipeline pursuant to the National Enivronmental Protection Act (42 U.S.C. 4321, et. seq.) shall not be subject to judicial review under any law, except that claims alleging the invalidity of this Act may be brought within 60 days following its enactment, and claims alleging that any such action will deny rights under the Constitution of the United States, or that any such action is beyond the scope of authority conferred by this Act, may be filed within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any claim raised in such complaint, whether in a proceeding instituted prior to, on or after the date of enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any certificate, right-of-way permit, lease, or other authorization pursuant to this Act except in conjunction with a final judgment entered in a case involving a complaint filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

INTERNATIONAL COOPERATION

SEC. 9. This Act recognizes that approval by the government of Canada, in addition to that of the government of the United States, will be necessary in order to implement the Alaskan Natural Gas Pipeline. It is therefore a purpose of this Act to declare it to be in the national interest of the United States to cooperate with the government of Canada in authorizing the construction of the international pipeline system contemplated by this Act, in the event that the government of Canada determines that it should approve, on a compatible basis, the construction and operation of that portion of such international pipeline system located in Canada.

ANTITRUST LAWS

SEC. 10. The grant of a certificate, right-of-way, permit, lease, or other authorization pursuant to this Act shall grant no immunity from the operations of the Federal antitrust laws.

SEPARABILITY

SEC. 11. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS

ALASKAN NATURAL GAS PIPELINE AUTHORIZATION ACT OF 1975

The basic purpose and result of the Act is to direct federal agencies promptly to issue necessary governmental authorizations to the Arctic Gas Project, to construct the Alaskan and various "lower 48" portions of the system. The Arctic Gas Project will transport northern Alaskan gas to the "lower 48," together with gas from the Canadian Arctic areas.

Section 1. This section sets forth Congressional findings concerning the need for natural gas from northern Alaska and the desirability of transporting it in a joint U.S.-Canadian pipeline.

Section 2. This section contains findings which stress the need for the gas and desirability of the proposed pipeline system. As stated, legislation is required because progress through the normal regulatory procedures has been and will be far too slow.

Section 3. This section declares the purpose of the Act and expresses the intent of Congress to utilize its full powers to achieve those purposes.

Section 4. This section defines the proposed pipeline system and related aspects and activities which require federal authorization and other terms.

Section 5. This section directs the Federal Power Commission to issue necessary authorizations within 60 days after the Act becomes law, but leaves the Natural Gas Act in effect to the extent not inconsistent with this Act.

Section 6. This section directs the Secretary of the Interior and other federal authorities similarly to issue a right-of-way permit over federal lands, and other necessary authorizations, subject to several provisions of the Mineral Leasing Act.

It should be noted that the Department of Interior plans to complete its final Environmental Impact Statement, relative to the Arctic Gas Project, in February, 1976. Thus, the procedures of the National Environmental Protection Act will be followed.

Section 7. This section directs the federal agencies to impose conditions required by law and allows those not inconsistent with this Act, including conditions providing for environmental protection. Applicants may also request amendments which are not inconsistent with the Act. The provisions of the Act supersede other provisions of law.

Section 8. This section shortens the period for, and grounds for, judicial review of the Act and the authorizations directed, using the basic language enacted as part of the Alyeska oil pipeline legislation.

Section 9. This section states that this Act shall grant no immunity from Federal antitrust laws.

Section 10. This section recognizes the sovereignty of Canada and the necessity for its approval, as well as that of the United States, of this international pipeline.

Section 11. This section is the standard severability clause.

Mr. JOHNSTON subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier by Senator MONDALE (for himself and others), entitled the Alaskan Natural Gas Pipeline Authorization Act of 1976, be referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs.

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

By Mr. PHILIP A. HART:

S. 2951. A bill to authorize the documentation of the vessel, *Barbara Ann*, as a vessel of the United States with coastwise privileges. Referred to the Committee on Commerce.

Mr. PHILIP A. HART. Mr. President, the private relief bill which I am introducing today would allow the *Barbara Ann*, a 100-foot diesel vessel built at Balboa, Canal Zone in 1936 and sold by the

U.S. Government in 1970 to Mr. Keith Malcolm of Marine City, Mich., to be documented a vessel of the United States with the privileges of engaging in coastwise trade.

I urge speedy consideration of this bill so that the vessel, which will be used for towings, can begin operation in the Great Lakes and help stimulate the depressed Michigan economy.

By Mr. BROOKE (for himself and Mr. McGEE):

S. 2952. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

LEBANON RELIEF AND RECONSTRUCTION ACT OF 1976

Mr. BROOKE. Mr. President, today I am introducing, with Senator McGEE, a bill to authorize funds for relief and reconstruction in Lebanon. The conflict in Lebanon has disrupted the lives of the Lebanese people, regardless of their ethnic or religious background. With the present cease-fire, there finally is hope that a lasting resolution of this unfortunate conflict is at hand.

I believe it appropriate that the United States make a positive gesture to all of the Lebanese people by helping them rebuild their lives and homes. It is also in our interest to see stability reestablished in Lebanon, an essential element in achieving a lasting settlement in the Middle East.

My bill will authorize such sums as may be necessary for providing relief and contributions to reconstruction activities in Lebanon. The bill urges the President to provide this assistance in concert with other donors and to establish a consortium of donors—especially the Arab and Western European nations. This provision emphasizes the importance of a cooperative, collaborative approach to the reestablishment of a viable Lebanon by the parties whose interests are most affected by developments in the Middle East.

The bill also permits extension of guaranties for U.S. investment in a housing reconstruction program in Lebanon up to a total of $20 million over roughly a year and a half.

By Mr. MOSS:

S.J. Res. 169. A joint resolution to authorize and request the President to issue a proclamation designating the first Monday in May of each year as "National 70-Plus Day." Referred to the Committee on the Judiciary.

A NATIONAL 70-PLUS DAY TO HONOR OUR SENIOR CITIZENS

Mr. MOSS. Mr. President, for the past few years the citizens of my State have observed 70-Plus Day in high school. In each of the past 3 years senior citizens have been invited to visit high schools in Utah and interact with teenagers.

These observances have proven to be beneficial to both the old and young alike. So much so that Utah's Governor, the Honorable Calvin L. Rampton recently designated October 22 as "70-Plus Day in High School." A State legislator, my good friend Weldon Mathews, introduced a concurrent resolution in the State legislature to make this observance an annual event.

The enthusiasm for this project has been so great in my own State that I am introducing this Senate joint resolution which would authorize the President to issue a proclamation designating the fourth Wednesday in October of each year as National 70-Plus Day.

I would like to urge the adoption of this resolution to honor our senior citizens.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2446

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. MONDALE), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. HARTKE), the Senator from Florida (Mr. CHILES), the Senator from Vermont (Mr. STAFFORD), the Senator from Indiana (Mr. BAYH), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 2446, a bill to amend the Social Security Act to freeze medicare deductibles.

S. 2679

At the request of Mr. CASE, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 2679, a bill to establish a Commission to monitor the Helsinki agreement on security and cooperation.

S. 2832

Mr. MANSFIELD. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that the Senator from Florida (Mr. STONE) be added as a cosponsor to S. 2832, a bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations.

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

S. 2845

At the request of Mr. McINTYRE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2845, a bill to reorganize the activities of the executive branch of the Federal Government to insure greater participation by small business concerns and individual inventors in the activities of the Energy Research and Development Administration, and for other purposes.

S. 2869

At the request of Mr. RANDOLPH, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2869, a bill to amend the Federal Nonnuclear Energy Research and Development Act of 1975.

S. 2910

At the request of Mr. SCHWEIKER, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2910, a bill to establish the National Diabetes Advisory Board and to insure the implementation of the long-range plan to combat diabetes.

S. 2912

At the request of Mr. CLARK, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2912, a bill to abolish the office of member of the Federal Election Commission, to establish the office of member of the Federal Election Commission appointed by the President by and with the advice and consent of the Senate, to provide public financing of primary elections and general elections to the Senate, and for other purposes.

S. 2926

At the request of Mr. RANDOLPH, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2926, the National Forest Timber Management Reform Act of 1976.

S. 2939

At the request of Mr. SCHWEIKER, the Senator from Massachusetts (Mr. BROOKE), the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of S. 2939, a bill to provide for financial assistance to Opportunities Industrialization Centers in order to provide 1 million new jobs and job training opportunities, and for other purposes.

SENATE JOINT RESOLUTION 76

At the request of Mr. DOLE, the Senators from California (Mr. CRANSTON and Mr. TUNNEY), the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Carolina (Mr. THURMOND), the Senator from Tennessee (Mr. BAKER), and the Senator from Utah (Mr. Moss) were added as cosponsors of Senate Joint Resolution 76, a joint resolution to designate a "National Beta Sigma Phi Week."

SENATE CONCURRENT RESOLUTION 86

At the request of Mr. CHURCH, the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. BAYH), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PASTORE), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Massachusetts (Mr. BROOKE), the Senator from Illinois (Mr. STEVENSON), the Senator from Indiana (Mr. HARTKE), the Senator from California (Mr. TUNNEY), the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. MONDALE), the Senator from Montana (Mr. MANSFIELD), the Senator from Florida (Mr. STONE), the Senator from Vermont (Mr. STAFFORD), the Senator from Montana (Mr. METCALF), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of Senate

Concurrent Resolution 86, a concurrent resolution to express congressional opposition to proposals to increase out-of-pocket payments by medicare beneficiaries.

SENATE RESOLUTION 383—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. McCLELLAN) submitted the following resolution:

S. RES. 383

Resolved, That the Committee on Appropriations is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $200,000 in addition to the amounts, and for the same purposes specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 138, 94th Congress, agreed to May 14, 1975.

SENATE RESOLUTION 384—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF "SPECIAL BRIDGE REPLACEMENT PROGRAM, FIFTH ANNUAL REPORT TO THE CONGRESS"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 384

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144, title 23, United States Code) entitled "Special Bridge Replacement Program, Fifth Annual Report," be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed 500 additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 385—SUBMISSION OF A RESOLUTION DISAPPROVING THE DEFERRAL OF CERTAIN BUDGET AUTHORITY RELATING TO THE YOUTH CONSERVATION CORPS

(Referred to the Committee on the Budget, the Committee on Appropriations, and the Committee on Labor and Public Welfare, jointly, pursuant to the order of January 30, 1975.)

Mr. ABOUREZK (for himself, Mr. JACKSON, and Mr. MAGNUSON) submitted the following resolution:

S. RES. 385

Resolved, That the Senate disapproved the proposed deferral of budget authority for the Youth Conservation Corps (numbered B 76-101).

YCC IMPOUNDMENT EXAMPLE OF ADMINISTRATION MISUSE OF BUDGET LAW

Mr. ABOUREZK. Mr. President, earlier this week Director James Lynn of the President's Office of Management and Budget, was before our Budget Committee. He took the opportunity to repeat again his assurance that this administration fully supports the new congressional budget process. I am sure we should welcome that expression of support and I suppose it is churlish to suggest that we could do with more tangible evidence of it. But; frankly, I find some of the administration's actions completely inconsistent with those expressions of support for the congressional budget process. Specifically, I have in mind the administration's continuing record of impoundments and of its refusal to accept the results of that congressional budget process for which it says it has such strong support.

There are several aspects of this record on impoundments that I think can fairly be said to be in contradiction of the congressional budget process. First, there is the scale of the impoundments. The cumulative report on impoundments filed by Mr. Lynn early in January showed more than $2 billion in rescission proposals and more than $3 billion in deferrals as pending at that time. Since then, two more special messages from the President have added about $1 billion in rescission proposals and $1.5 billion in deferrals—to bring the grand total of current impoundments to more than $8.7 billion—and that is not counting another $1 billion in earlier impoundments for this fiscal year which have since been overturned. I submit that continued impoundment of congressionally approved funds on a scale of this magnitude is excessive and amounts to a deliberate refusal to accept congressional spending decisions.

Second, the character of many of the impoundments underscores the latter point. I do not know precisely how many of the pending impoundments are reruns of earlier impoundments or of earlier administration recommendations which have been considered by Congress and rejected, but I know that it is a very large share of them and quite probably a large majority. I notice, for example, that at least 8 out of 13 pending rescission proposals affecting the Department of Agriculture are of a "rerun" character.

In the case of the water bank program, the forestry incentive program, the rural community fire protection grants, the rural water and sewer grants, the farm labor housing program, and the self-help housing program, they are second, third, and fourth reruns. Time after time after time, the administration has proposed cutting back or completely terminating these programs and time after time after time Congress has rejected the President's recommendation. Still, he refuses to accept our decision and I submit that it is impossible to square that refusal with any protestation of support for the congressional budget process.

More relevant at the moment, the impoundment of Youth Conservation Corps funds reported now—albeit rather belatedly—is another rerun. We voted more funds for this program than the President recommended; he tried to impound some of them last summer; we overturned that impoundment; we voted still further increases in the program to underscore our rejection of his recommendation; and now he is back again impounding YCC funds. At what point, we must ask, does his supposed support for the congressional budget process extend to accepting its results?

There is a third—and admittedly less clear—aspect of the impoundment picture which disturbs me. The chronic delays which seem to affect appropriations bills and spending programs with which the administration is not in sympathy seem to me so frequent as to suggest the possibility of deliberate footdragging. They at least strike this Senator as contrary to the spirit and the intent of the Antideficiency Act and the Impoundment Control Act. I note, for example, that in the case of four of this year's appropriations bills—those for Agriculture, HUD, State, Justice, and Commerce, and for Public Works, the President waited until the last day permissible under section 7 of article I of the Constitution to sign the bills into law. Whether this is the result of sluggish procedures or the reflection of a desire to wait until the last moment, I do not know.

But I do know that in virtually every case where the administration plans to impound funds, they wait the maximum 30 days permitted by the Antideficiency Act to carry out the apportionment of funds required by that act. Thus, what was intended as a maximum, becomes a minimum whether the full time is needed or not. I doubt that this is really in accord with the spirit of the Antideficiency Act.

And, having squeezed every available minute of delay out of the law before formally executing an impoundment—an impoundment, I might add, which all too frequently had been decided on even before the Congress completed action on the appropriation process—the Office of Management and Budget then takes another week or even two before it formally notifies Congress of the impoundment as required under the Impoundment Control Act. All of this might seem minor, Mr. President, except that every day of delay in the process is a day of delay in permitting the operation of the legislative procedures for overturning the impoundment. Again, the impression I get is that the administration prefers to take advantage of every formal and informal leeway to achieve its impoundment goals. While that may be understandable, I do not think it can be claimed as evidence of support for the congressional budget process.

In the final analysis, Mr. President, what is at issue is a fundamental aspect of our system of government. It is the aspect that is the whole point of the congressional budget process and the Impoundment Control Act. The President heads the executive branch. As an executive and as the nationally elected head of his political party, the President has a responsibility to make policy recommendations to the Congress on spending as on other governmental matters. But the legislative responsibility is with the Congress. When we have rendered our considered judgment on his recommendations then the President's responsibility is to implement those judgments, not to thwart them. The point of the new congressional budget process is to improve our machinery for considering his rec-

ommendations and making our decisions and the point of the Impoundment Control Act is supposed to be to improve our ability to secure implementation of our decisions. Misuse of the provisions of the latter in order to avoid implementation of those decisions is a strange way indeed to exhibit support for the principles of the former.

I am submitting today a resolution to reject the proposed deferral of funds for the Youth Conservation Corps. I am pleased to be joined by Senators JACKSON and MAGNUSON as cosponsors.

The Youth Conservation Corps is one of the most successful of all Government programs. Run jointly by the Forest Service and the Department of the Interior, the YCC has provided summer jobs for thousands of high-school-age young people doing needed conservation work in our national forests and on other public lands—Federal, State, and local. The benefits reach every State through the "State grant" program, administered by State and local governments.

Most of the young people who participate in the YCC would otherwise be unemployed for the summer. But unlike some other grueling, low-paying, short-term jobs, the YCC attracts a large number of able and deserving applicants from families of all economic levels. With sufficient leadtime, the Forest Service and Department of the Interior have indicated they could easily expand the program over what it has been in previous years, and provide rewarding, productive jobs for high school students who might have a hard time finding other work this summer.

Recognizing this, the Congress voted to significantly increase the appropriation for this summer's Youth Conservation Corps. In fact, the final figure is somewhat less than the amount passed by the Senate November 20. Now, the administration has recommended a cut of more than half of the fiscal year 1976 funds, $23.68 million, leaving only $16 million for this summer's youth jobs. With the very impressive ratio of one new job created for every $1,500 of appropriated funds, the YCC deserves our continued confidence and support.

AMENDMENTS SUBMITTED FOR PRINTING

AIRPORT AND AIRWAYS DEVELOPMENT ACT AMENDMENTS OF 1976

AMENDMENT NO. 1390

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

Mr. WEICKER (for himself, Mr. BAYH, Mr. CASE, Mr. PROXMIRE, Mr. RIBICOFF, Mr. BUCKLEY, and Mr. BROOKE) submitted the following amendment:

AMENDMENT No. 1390

At the appropriate place, add a new section as follows:

PROHIBITION OF COMMERCIAL OPERATION OF CIVIL SUPERSONIC AIRCRAFT IN THE UNITED STATES

SEC. 17. Section 303(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1344(a)) is amended by striking the (.) at the end thereof and adding the following: *"And provided further,* That except in an emergency, or unless hereafter expressly authorized by Act of Congress, no expenditures may be made to take any action to authorize or permit the operation of a civil supersonic aircraft in air transportation in the United States."

Mr. WEICKER. Mr. President, when the full Senate considers the Airport and Airways Development Act Amendments of 1976, I intend to introduce an amendment to prohibit the operation of civil supersonic aircraft in air transportation in the United States. The Senate Commerce Committee is scheduled to report out this legislation on February 17.

During committee consideration, this amendment was defeated by a vote of 9 to 10. Specifically, this amendment would prohibit any expenditure of funds authorized under section 303 of the Federal Aviation Act, to be made that would authorize or permit, except in an emergency, the operation of civil supersonic aircraft in the United States.

On February 4, Secretary Coleman decided to allow the Anglo-French Concorde to land at J. F. K. and Dulles Airports on a limited basis for the next 16 months.

In testimony before Secretary Coleman, the Environmental Protection Agency concluded that—

Introduction of Concorde service runs directly counter to the noise abatement and other environmental policies and programs of the United States. Such service will subject people to significant environmental impacts and will undermine and negate essential abatement efforts now underway.

Serious questions still remain with respect to the environmental impact of SST flights in the United States. The Concorde is noisier and dirtier than conventional jet aircraft. According to the environmental impact statement, the noise levels produced by the Concorde will be perceived as at least twice as loud as the Boeing 707 or the McDonnell Douglas DC–8. The SST ranks as one of the worst polluters of all time. On the average, the Concorde exceeds proposed EPA emission standards—which all planes must meet by 1979—by almost 250 percent.

The decision by Secretary Coleman to permit Concorde landings opens the door to health and environmental dangers which we deemed unacceptable when we stopped the American development of the SST 2 years ago.

Until those dangers are arrested, Congress should go on record in opposition to the operation of the Concorde in the United States.

This amendment is not an attempt to thwart technological progress. The amendment specifically prohibits the operation of civil supersonic aircraft "in air transportation" in the United States. As defined in the Federal Aviation Act of 1958, air transportation would "mean the carriage by aircraft of persons or property as a common carrier for compensation or hire." Thus, the amendment would continue to allow for flights to test any technological improvements in the Concorde.

Should the Congress become satisfied that Concorde can operate in an environmentally sound manner it can take specific action authorizing the operation of this plane in the United States.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976—S. 2662

AMENDMENT NO. 1391

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

Mr. KENNEDY. Mr. President, I am submitting an amendment to the pending International Security Assistance and Arms Export Control Act of 1975, to clarify the provision in section 101 that says the President "shall take into account"—in giving aid—"the positions taken by such countries in international organizations which affect important U.S. interests."

My amendment indicates that such considerations "shall not be taken into account in determining the level of humanitarian and related developmental assistance authorized in this or any other act." It is repugnant to me, and I know many Americans, to suggest that how a country votes in the U.N.—such as an African nation facing starvation—will affect American food aid and humanitarian relief assistance.

This amendment is in keeping with the clear intent of the Congress in passing H.R. 9005, the International Development and Food Assistance Act. As stated in the report of the Foreign Relations Committee:

The resources provided for in this bill are not to be regarded as tools for the pursuit of short-term political objectives.

My amendment will reinforce this intent of the Senate.

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

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

AMENDMENT No. 1391

On page 42, line 13, immediately after the period insert the following:

"These matters shall not be taken into account in determining the level of humanitarian and related developmental assistance authorized in this or any other act."

NATIONAL RESOURCE LANDS MANAGEMENT ACT—S. 507

AMENDMENT NO. 1392

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

Mr. HANSEN submitted an amendment intended to be proposed by him to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

ANNOUNCEMENT OF HEARINGS ON TRANSPORTATION OF ALASKAN NATURAL GAS

Mr. JACKSON. Mr. President, I wish to announce that the Senate Commerce and the Senate Interior and Insular Affairs Committees will conduct a joint

oversight hearing on issues relating to the transportation of Alaskan natural gas to markets in the lower 48 States.

The hearing will begin at 9:30 a.m. on February 17 in room 3110 of the Dirksen Senate Office Building. Witnesses will include representatives from the Federal Power Commission, the Federal Energy Administration, and from the Departments of the Interior, State, Treasury, Transportation, and also the State of Alaska. Other persons are invited to submit written statements for the RECORD.

Any person wishing to submit such a statement or seeking further information on the hearings should contact Henry Lippek at 224–9351 or Thomas Platt at 224–0611.

ANNOUNCEMENT OF HEARINGS ON THE ERDA AUTHORIZATION REQUEST

Mr. CHURCH. Mr. President, for the information of the Senate and the general public, the Senate Interior Committee's Subcommittee on Energy Research and Water Resources will conduct 3 days of hearings on the fiscal year 1977 request for the Energy Research and Development Administration. The hearings have been scheduled for February 23, 25, and 27, to be held in room 3110 of the Dirksen Senate Office Building beginning at 10 a.m. The Administrator of ERDA, Dr. Robert Seamans and his associates will present testimony on the first day and expert witnesses will be invited to testify on the 2 succeeding days.

Anyone wishing to present oral or written testimony to the subcommittee should get in touch with the subcommittee counsel, Ben Yamagata at (202) 224–9894.

MEDICAID FRAUD HEARINGS

Mr. MOSS. Mr. President, on February 16 my Subcommittee on Long-Term Care will conduct hearings on possible medicaid fraud and abuse. These hearings continue our present series of examining problems related in one way or another to long-term care. The specific subject is clinical laboratory services.

The hearing will be held in room 318 of the Russell Senate Office Building beginning at 9:30 a.m.

The subcommittee investigations have focused on the States of New Jersey, Illinois, Michigan, and California. A witness list will be announced directly.

ANNOUNCEMENT OF HEARINGS ON FEDERAL ELECTION CAMPAIGN ACT

Mr. PELL. Mr. President, I wish to announce that the Subcommittee on Privileges and Elections of the Committee on Rules and Administration will hold hearings on Wednesday, February 18, and if necessary on Thursday, February 19, 1976, on proposals to amend the Federal Election Campaign Act of 1971 as amended in 1974, as a result of the January 30, 1976, decision of the Supreme Court in Buckley against Valeo.

The hearings will include, but will not be limited to, consideration of S. 2911, S. 2912, and S. 2918 and will be held at 10 a.m. in room 301 of the Russell Senate Office Building.

Interested persons are requested to contact the subcommittee staff in room 310, Russell Senate Office Building, telephone: 224–5647.

NOTICE OF HEARINGS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold hearings on the role of the Irving Trust Co. in the General Cable Co. proposed tender offer for stock of Microdot, Inc. and the effectiveness of Federal regulation of banks involved in corporate takeovers.

The hearings will be held on February 16, 1976, at 10 a.m. and 3 p.m. in room 5302, Dirksen Senate Office Building.

For further information, please get in touch with Clifford Alexander at 224–9150.

DISTRICT OF COLUMBIA COMMITTEE TO HOLD HEARINGS ON DEMOGRAPHIC AND ECONOMIC PROJECTIONS FOR AREA

Mr. EAGLETON. Mr. President, I wish to announce that the District of Columbia Committee will begin a series of hearings on the financial problems which are facing the District of Columbia on Tuesday, February 17, 1976, at 9:30 a.m. in the committee hearing room 6226, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

SALT AND THE DEFENSE BUDGET: DANGEROUS ASSUMPTIONS

Mr. HARRY F. BYRD JR. Mr. President, under questioning by me in a Senate Armed Services Committee hearing on Thursday, January 29, Secretary of Defense Rumsfeld asserted that the new defense budget presupposes an arms limitation agreement with the Soviet Union.

On page 44 of the official transcript is this colloquy with Secretary Rumsfeld:

Senator BYRD. Is this budget based on the assumption that there will be a Salt Agreement?

Secretary RUMSFELD. The answer is "yes."

At a Finance Committee hearing on Friday, January 30, I queried Secretary of State Kissinger, our chief negotiator with the Soviets, and he, likewise, confirmed that the new budget is predicated on obtaining an agreement with Russia.

To me, it is startling that the defense budget recently submitted to the Congress is based on the assumption that there will be an arms agreement with our chief adversary, Russia.

How can our defense budget be based on an agreement which it is assumed will be forthcoming, unless the substance of such an agreement is known?

Secretary Kissinger denied that an agreement has already been reached. Perhaps our negotiators already have decided what concessions they will make to achieve agreement?

Press reports have indicated that the administration will not submit any new SALT treaty to the Senate for ratification until after the November elections.

Yet the Congress is being asked to approve a defense budget that is based on the outcome of these negotiations.

For some time I have had concern that in the name of détente unmatched concessions would be made to the Russians by our State Department negotiators.

My concern is increased when the Congress is being asked to approve a defense budget that is based on the outcome of negotiations with Russia.

This puts the Secretary of State in a position to whipsaw Congress by saying, "Either you must approve what I negotiate, or the administration will seek additional appropriations."

THE PRESS AND CONFLICT OF INTEREST

Mr. GOLDWATER. Mr. President, it seems to me that some segments of the liberal press in this country will go to no ends in attempting to dredge up little instances of conflict of interest between public officials, Members of Congress and corporate entities. All you have to do these days is accept an invitation to go duck hunting and you stand a great chance of being pictured in the public press as the guy eager and willing to sell his country's interests to a defense contractor. I submit that it is becoming dangerous to send a Christmas card to someone doing business with the Government. Half of the time I find myself afraid to say hello to an individual I know to be a registered lobbyist or a manufacturer's representative.

Now, Mr. President, as I explained at the beginning, the liberal press has been having a field day with this kind of trivia. You would almost think its members had been constituted by an official authority of the Creator to ride herd on corporations who have the temerity to be polite, courteous, and helpful to their friends on Capitol Hill and in Government.

So where does the press stand? Is it so pure that it never accepts a gratuity or a kindness from people or organizations interested in what they publish? I say "baloney." I say the press in many instances has its hand out for favors quicker than any other group. But do not take my word for it. I would merely ask my colleagues to read the following account of parties and freebies and other questionable tactics—by the liberal press' standards—which attended the celebration of Super Bowl X. I urge the Members to read about the gourmet dinners, the free Hertz automobiles, and other things supplied in endless quantities for the press by the National Football League. It is well to remember this story appeared in the "bible" of the American newspaper industry, the magazine Editor and Publisher. The story is highly instructive and I ask unanimous consent that it be printed in the RECORD.

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

IN THE PRESS BOX AT SUPER BOWL X

(By Carla Marie Rupp)

Super Bowl X is over, but the memories linger on: the cooler than usual tempera-

tures in Miami, the Friday night feast with stone crabs, beef and many other assorted goodies, all the drinks you would down in the Press Lounge at the Konover Hotel, a more exciting game than usual for 1,735 NFL accredited press people and free use of NFL-arranged Hertz cars—if you could get one, if not—being bussed everywhere—to press conferences with coaches and players.

It was, of course, a big week again for sportswriters. A glorious one. A tiring one. It might have looked like fun, but there was work to get out; stories to write daily: new angles of pictures to shoot, these guys are pros, or they wouldn't have made it to Super Bowl. Most writers worked in the wee hours after the January 18 game.

A few hundred typewriters clacked away in the press workroom of the Konover. Writers who missed seeing the end of the game still grumbled. With five to six minutes left, 200 or so writers left the Upper Press Box area to go downstairs to the locker room and interview areas.

On the way down about half of the writers lost contact with their guide. Many writers missed Steeler Lynn Swann's long touchdown. When they got to the interview area, the television monitors set up to see the end of the game weren't working so a number of writers stood in a big drafty area without knowing what was happening on the field. Some managed to jam into the end zone in a mob scene with fans. A New York writer and one from Dayton ducked into a side room labeled UPI Audio and huddled over a small set.

The Miami Herald did a lavish job of covering Super Bowl. Twenty-plus from the Herald covered; seven sports writers, nine photographers, two cityside persons, and two editors—including sports editor Ed Storin and also Ken Finkel—handling pictures at the game. After a check with Pittsburgh and Dallas newspapers, it was confirmed the Herald had the largest Super Bowl-covering contingency. "We got the best seats in the house, other than CBS' Pat Summerall," Storin said. He sat in the photo booth on the 50-yard line. "We had our own game plan. We tried to saturate the Orange Bowl. Everybody knew exactly what they had to do." There was a man on Chuck Noll, one on Tom Landry, one each to the Cowboy and Steeler players and a swing man who would cover the winning team. Sports editor Edwin Pope did analysis of the game. Gary Long stayed in the Press Box doing a factual account of the game.

Less than two hours after the game ended, the first edition came out with Long's lead story, several pages of color and B&W pictures, and a "Super Bowl notebook" by Bill Bracher. The second copy deadline was 9 p.m. and the Herald edition coming out at 10:30 p.m. contained a dozen stories and six large color pictures positioned on page one and throughout the sports section, and eight B&W's. The next edition at 4 a.m. was grabbed up by tourists off newsstands around Miami winding down from partying.

Writers recalled previous years' Super Bowl press party bashes. In '73, the party was on the Queen Mary in Long Beach, Calif., the next year writers entered the Houston Astrodome through saloon swinging doors on a carpet of red sawdust and feasted on spitted steers and hog. Last year in the New Orleans' Convention Hall, big enough to hold six football fields, the party cost $150,000.

But this year, at the Friday press conference Commissioner Pete Rozelle said that of about $500,000 spent to put on the Super Bowl, $75,000 was spent on the Friday night promotion. Don Weiss, director of public relations for the NFL, said it's "primarily a celebration for the people who mean so much to pro football." Some sportswriters confessed they slipped out as many bottles as they could of champagne and wine.

Photographer Don Stetzer of the *Pittsburgh Press* really felt the pressure after the game. With his rolls of film and some of Al Herrman Jr.'s (who sent most of his via UPI), Stetzer had a police escort from the game to the Miami airport to try to make his plane to deliver the rolls to the paper. He had made a dry run of the drive on Saturday. Sweating Stetzer caught the right plane Sunday evening, but it was late anyway and he got to Pittsburgh about 1 a.m.

The Press put out a "souvenir edition" Monday (January 19) which had 13 pages of sports. Color, seldom used, brightened a cartoon, and there were 20 Super Bowl pictures. Because the Steelers were victorious last year, there was also a special edition, with 60,000 extra copies sold. So this year it was expected that between 70 to 75,000 extras would be bought. But the Press was still getting orders by the middle of this past week.

Don Dillman, Press executive sports editor, worked all night Sunday making up pages. Sportswriter Mike Marino tended the pages in composing at 6 a.m., and Ray Kienzul read for typos at 7 a.m. Monday. Sam Spatter, real estate editor—who happened to be at a convention in Dallas, sent in a story on reaction to the game there. The newspaper's editor, John Troan, was in Miami at the game for the week, but didn't have to work. Four sportswriters, including sports editor Pat Livingston, who did a daily column, covered in Miami, with Phil Musick eyeing the Steelers and Glenn Sheeley tailing the Cowboys. On the game, they each did five or six stories. Former sports editor Roy McHugh, now a columnist-at-large, did a sidebar column Tuesday through the following Monday. Four city reporters did Super Bowl-related stories out of Pittsburgh the night of the game. And there were photos on about 12 pages of the news section of celebrations in Pittsburgh on a 11-degree night with 6,000 turning out and 171 arrests. Next day 100,000 turned out to celebrate in a continuing story.

The Pittsburgh Post-Gazette sent three writers to Miami, with Vito Stellino doing the game story, Al Abrams a column and Dave Finkl on sidebars. When the paper went to press at noon on Monday (the 19th), there were Steeler helmets in gold and black in each corner of the front page, with "Steelers Steal Super" in 120 pt. type and "Champs Whip Dallas in Cliffhanger-21-17" in 60 pt. Stellino's story followed, with an index to Super Bowl stories on six other pages. Toward the end of the week, the paper was delving into investigations of the bilking of local fans by travel agency representatives.

Dallas newspapers sent their share of reporters to Miami, also. For instance, the Dallas Times Herald had sports editor Blackie Sherrod, whose column ran page one January 19 on the game, and Cowboy beat man Frank Luksa's story led off the sports section, while Randy Harvey had focused on Pittsburgh. The writers went to Miami Monday (January 12), but the three photographers and a city reporter arrived on Friday. An "epilogue" column covered different facets—"key play," "quarterback" say, "coaches corner" and "player quote-hanger."

Paul Zimmerman, New York Post, runs an annual "Writers Pool" at the Super Bowls. It's $1 a man, winner take all, but you must pick the score. Before this year Zimmerman had taken 9,243 different predictions and no sportswriter had ever picked the right score. But in Miami, for the first time, a guy from Sports Illustrated beat the newspapermen out and guessed the actual score. Zimmerman had collected $104, with 162 writers signing up: 18, he said had "stiffed." The first year he engaged the writers in the "pool," Zimmerman got into a little trouble with the NFL: in the 1968 Super Bowl in Miami, the league's office tried to ban it because offcials said it was "gambling." But they couldn't make the ban attempt stick.

Last year six sportswriters had their pockets picked at the Super Bowl in New Orleans. So this year at the two league championship games the NFL gave all of the writers heavy suede wallets two weeks before the Super Bowl so they'd be prepared with wallets that would create friction so the thieves couldn't get the wallets out of their pockets. Some of the writers were sporting their new wallets.

Zimmerman was one of the writers who had his wallet lifted, but he had gotten it back later last year minus $130 in "Pool" money. He ended up paying Bruce Lowitt of the AP out of his own pocket in a personal check.

A bartender was on duty from noon to early morning in the press hospitality room. Complimentary tickets to horse racing, jai-alai and other events were available. There was a press-celebrity golf tournament January 15, sponsored by Schick. Besides the free wallet, every accredited media person was given a $24 wrist watch—and few were rejected.

"We're not trying to buy anyone," said Don Weiss, the NFL's director of publicity who, along with Rozelle masterminds the public relations operation.

"We're just giving people a souvenir of the game. People need a press kit. We think it's a service to provide you with a briefcase. We're not going to buy anyone with a watch. I respect the people who are here, and nobody's on our payroll. We don't tell anyone what to write. That's not why we do it," Weiss said.

Even so, there are some reporters who never set foot in an interview room and never talk to a player relying instead on NFL handouts or quotes from local papers, according to Leonard Shapiro, Washington Post.

Practice sessions of the teams were closed to press, except on Tuesday (January 13).

Shapiro, Washington Post, views the closing of practice sessions as "one of the major obstacles to enterprise reporting."

The NFL issues brief practice reports, posted daily on the press-room bulletin board. The information, Shapiro said, is provided by the NFL press people, who report what the coaches tell them to report.

Shapiro believes that there have been legitimate news stories at past Super Bowls. "But a vast majority," he noted, "deal with personalities, analyses of the shotgun or the flex and other assorted 'featurettes.'"

"The whole scene is orchestrated by the league, designed to give football the most exposure and it succeeds," Hal Bock, AP reporter, commented. It brings the teams on Monday before the Sunday game, and "so the wires have to be here." If I were a sports editor, there's no way I'd send a man here until Thursday or Friday. It's foolishness; there's not that much to write. Anything of any newsworthiness is covered by the wires.

Wick Temple, AP sports editor, who arrived Friday ready to do the editing for the Sunday coverage, said AP had six writers besides himself and a photo crew headed by Tom Di Lustro, four of the writers were from New York and three from the Miami bureau. While Bock wrote for the A.M.s, Bruce Lowitt, the other regular pro football writer wrote for P.M.s. "This may sound strange," said Temple, "but we have these two guys competing with each other. Lowitt must do something fresh for the afternoon papers. We don't want Bruce to do a rehash of a.m. stories. Morning papers get the break, so the guys on the P.M.s must be more imaginative."

Milt Richman, UPI sports editor and columnist, said UPI tries to do its best job on Super Bowl, because even though many papers are represented, "It's not economically feasible for some papers to send men. As a columnist I try to get stories that may be overlooked."

Richman assigned Joe Carnecelli and Rick Gosselin out of New York and Mike Rabun,

SW division sports editor out of Dallas to help the UPI Miami bureau, and three photographers—Doug Roberts, John Anderson and Peter Cosgrove—assigned. "Overkill," is the word Richman uses to describe Super Bowl coverage. "I would be in favor of us spending less time and energy on the Super Bowl. Time is a far more precious commodity than money. I'd say 800 million Chinese communists couldn't give a damn whether this game is even played or not."

The only black sportswriter visible in the press workroom was Huel Washington, an editorial writer for the *San Francisco Chronicle*, who has taken a vacation from the Chronicle for the past five Super Bowls so he can cover for the *San Francisco Sun Reporter*, a twice-a-week paper on which he is sports editor. He had written four stories by Thursday. Writing editorials at the Chronicle is a lot harder, he noted.

From one of the smaller papers at the Super Bowl and sitting next to E&P in the press section was Will Price, of the *Meridian* (Miss.) *Star*, who had arrived Wednesday before the game. After attending five Super Bowls, he said he thinks the NFL "really goes all out to improve each one and make the media feel at home."

Leo Pinckney, sports editor of the *Auburn* (N.Y.) *Citizen-Advertiser*, in covering his eighth Super Bowl, said, "It's getting better every year. The party was great. I love the hospitality and that the press is treated real good."

BUDGET RECEIPTS, EXPENDITURES, AND DECEITS

Mr. CHURCH. Mr. President, on February 4 Dr. Alice Rivlin, Director of the Congressional Budget Office, complimented the administration on its articulate budget presentation for fiscal year 1977. Dr. Rivlin's compliment was obviously addressed to the form rather than the substance of the Ford budget.

Fortunately for the Congress and the taxpayers of the country, our distinguished colleague, the junior Senator from South Carolina (Mr. HOLLINGS), a member of the Senate Budget Committee, was paying attention to the substance of the budget. He was able to obtain a memorandum and table, in a plain white wrapper, prepared by an Assistant Secretary of Defense, which summarized the President's decisions on defense budget increases. Under "Explanation of Increases," there was a $3 billion item for "cut insurance—as a cushion for congressional action." For as yet unexplained reasons, that line item was not set forth in the budget document reviewed by Dr. Rivlin; the budget document printed for the Congress and the public.

This hidden padding of the budget comes from the same administration which has repeatedly condemned welfare and food stamp cheats and their cost to the taxpayer. It comes from an administration whose budget objectives ask the poor and the unemployed to carry the burden of inflation; from a President whose economic analysis projects an unemployment rate in excess of 5 percent into 1981.

Mr. President, I commend Senator HOLLINGS' diligence in uncovering this flagrant attempt to subvert the new budget process, and the hard efforts of Congress to make it work. Were this not so serious, I would suggest that we consider adding a line item in the Federal budget for deceit.

TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, earlier this week Senator MONDALE and 10 other Senators said that they plan to introduce a bill today to provide for the speedy approval of a pipeline to carry Alaska natural gas from Prudhoe Bay across Alaska's Arctic Wildlife Range through Canada to the Midwest.

I have urged my other colleagues not to cosponsor this proposal because I am convinced from my discussions with Canadian Members of Parliament and with Canadian petroleum officials that Canada will not permit the construction of a trans-Canadian pipeline within the time frame that is required for the delivery of Alaska oil and gas to the lower 48 States.

Not only could Canadian natural gas not be delivered in the time frame essential for the delivery of Alaska oil and gas to meet American needs but the fact is that it is unclear if the Canadian people and their government even want a pipeline carrying Alaska natural gas to the Midwest to cross their sovereign nation.

Late last year Canada's National Liberal Party, the party now in power adopted a strongly worded resolution at its national convention giving top priority to gasline proposals that are totally Canadian in ownership and which are designed to meet the needs of the Canadian public first.

Today, the position of the National Liberal Party appears to be gaining support in all parts of Canada. I believe that this is the case because Canadians are discovering that their interests are better served by an all Canadian route. There are several reasons for Canada's increasing interest in and support for an all Canadian route, which could deliver Canadian gas from the Mackenzie Delta fields to Canadians through existing Canadian gas lines.

Many Canadians believe that an all Canadian line is preferable to a joint Canadian-United States route from the perspective of financing, environmental quality, costs to Canadian consumers and Canada's desire to maintain Canadian control over Canadian resources.

Even if the Canadians supported a trans-Canada pipeline, which is, as I have pointed out, highly questionable, a trans-Canada pipeline could not be of benefit to the United States because it simply could not be built in the time frame necessary to allow the delivery of Alaska's gas to any market in the United States—whether it be the North, South, East, West, or even the Midwest.

A number of factors contribute to the infeasibility of a trans-Canadian line. Of paramount importance is the fact that a decision to go ahead requires lengthy consideration and review which could well cause length delays which would be fatal to the transmission of Alaska gas. In fact, The Globe and Mail of Toronto reported recently that hearings by the National Energy Board concerning the possible transmission of natural gas across Canada to the United States are expected to take at least a year. Following that, assessments by the Canadian Cabinet, the House of Commons could mean a delay of about 3 years.

Another factor which has not been examined at length, but is of critical importance, is the fact that no pipeline will be built until the Canadian Native claims issue has been completed—my colleagues might recall that it took 10 years for the United States to settle its Native claims and the Canadian settlement could even take longer. In fact, Canadian Natives have stated that they are prepared to die to block the trans-Canada pipeline that would cross the Mackenzie Valley.

Mr. President, it should be clear that even if the United States wanted a trans-Canadian line, it is highly questionable whether the Canadians would even permit such a line to be built and if they agreed to construction, it is even more doubtful whether such a line could be built in the necessary timeframe.

Mr. President, having already pointed out developments in Canada which would delay or discourage the building of a trans-Canadian gas pipeline as proposed by Arctic Gas Co., there are a great many reasons why the all-American route is preferable to a gas pipeline running through Canada, even if the staggering problems in Canada which I just described did not exist.

First, I believe that Americans should consider the environmental implications of the competing proposals. The Alaskan-Canadian Arctic gas line would span 2,600 miles, across Alaska's Arctic Wildlife Range and many hundreds of miles of virgin territory in Canada. Of course, access roads and camps would be required in these areas to support the construction of the line. Already over 14 major environmental groups in the United States and Canada oppose the construction of the trans-Canada line. My staff and I have met with representatives of the Sierra Club and Friends of the Earth, who have been most adamant in their opposition to the trans-Canada line. I would like to quote from the Arctic Gas Pipeline Position Statement endorsed on March 5, 1975, by a coalition of 14 environmental groups:

> The proposals of Arctic Gas will destroy or severely damage most of these values. Contrary to some claims you may have heard, the pipeline proposed to cross either the Northern Coastal Plain, or the foothills south of the Brooks Range, is not just some "thin sliver" which will scarcely be noticed in the vastness of the Arctic North. The combination of the compressor stations, the air strips, the work camps, the noise and the lights, the continuing surveillance and patrols that will follow in the footsteps or be a necessary part of this operation will completely transform large portions of the Range from a wilderness and a wildlife habitat to just another industrial operation. These facts cannot be glossed over; they are real and they exist. Our presentation will document this in more detail.

This same environmental coalition is also concerned with the damage that will be forced upon the Canadian wilderness that this line must cross. The groups which endorsed the above statement in-

clude the Alberta Wilderness Association, Canadian Arctic Resources Committee, Canadian Environmental Law Association, Canadian Nature Federation, Federation of Ontario Naturalists, Friends of the Earth, Izaak Walton League of America, National Audubon Society, Natural Resources Defense Council, Pollution Probe, Prairie Environmental Defense League, Sierra Club, The Wilderness Society, Western Canada Chapter, Sierra Club.

The trans-Alaska Line, on the other hand, would for the most part follow the trans-Alaska oil pipeline corridor. The marine leg of the project will require careful supervision but can be conducted safely and without an adverse effect on the environment. Just these environmental factors alone mandate the construction of a trans-Alaska line. Why commit severe and unnecessary acts of environmental degradation when there is a viable alternative.

The time factor is one other compelling reason that dictates the construction of the trans-Alaska line. America needs to increase its domestic supply of gas now. Each year we delay represents an additional drain on our balance of payments and leaves us at the mercy of foreign sources for the precious natural resource.

The trans-Alaska line can be built at least 2 years earlier than the trans-Canadian alternative.

The Congress can dictate time factors in the United States, although I think this is ill advised, but we cannot tell our Canadian neighbors to resolve the problems I have described above.

In Alaska our Native land claims are settled. In Alaska there are support facilities costing $1 billion on the proposed route already completed and in place. It took 1½ years to build the roads, air strips, construction camps and communications facilities necessary for the construction of the Alyeska oil pipeline. Tons of this equipment and material could be reallocated for the construction of an all-American gas pipeline. It makes no sense to start anew this entire process in areas of yet untouched beauty when it is not necessary.

From an economic and employment point of view an all-American pipeline would mean millions of dollars for U.S. companies and the U.S. Treasury while providing thousands of jobs for U.S. workers.

Why at a time of severe unemployment and a time when we are trying to pull ourselves out of recession should we turn over this great economic opportunity to Canada when we desperately need it here at home? An all-American gas pipeline could add nearly $13 billion to the U.S. Treasury and would provide 24,000 Americans with productive employment.

The cost benefits to our country—and to the U.S. consumer—are far better with a U.S. line than with a trans-Canadian line.

Even if we ignore the fact that there is a better way to bring in our needed gas, the bill is woefully inadequate. It contains numerous provisions that are unwise if not dangerous.

Section 7 of the bill provides that the Secretary of the Interior and the Federal Power Commission and any other Federal officer can waive any procedural requirement of law or regulation which they deem desirable to waive in order to accomplish the purposes of the act.

Shall we waive the procedures of the Clean Air Act to avoid delay; shall we waive the procedures of the Federal Water Pollution Control Act to avoid delay; or perhaps the OSHA regulations? I submit, Mr. President, the bill would waive Congress. What is our purpose if we relinquish the procedures we have worked so hard to establish? I agree we need the natural gas quickly, but we need our laws too. We must not be stampeded into tossing the baby out with the bath water.

The bill I introduced in December also recognizes the need for prompt action, but it does not destroy procedural law. It requires approval of the Alaskan line but in accordance with all applicable laws. I think we have seen too much of the usurpation of power by the executive branch.

The Senate will remember the bill we enacted to build the oil pipeline. It contained similar provisions, but that measure was enacted only after extensive judicial review of the impact statement all the way to the Supreme Court.

Mr. President, the other bill to provide for transportation of gas from the North Slope is S. 2778. It does not contain these provisions. It does not end judicial review. It does not throw the courts into chaos. It does not end the process of deliberate appellate review. I think we need action to bring Alaska's gas to market, but we do not need panic.

Section 9 of the proposal by Senator MONDALE and others recognizes that Canadian approval will be necessary for the project and declares that it is in the national interest of the United States to cooperate with Canada if they approve the project. It appears that my colleagues have put the cart before the horse. We cannot build two ends of the project and hope the Canadians will approve the middle. We cannot ratify a treaty before it is submitted. I suggest we wait to declare it in our national interest to cooperate until we find out the terms of the recently initiated treaty. We should then ratify it and then it might be appropriate to start this project if it were the better option. It is not the best option, but we must not authorize a project we cannot complete. Let's make sure it is possible before we start.

Above all, let us find out the terms of our neighbors before we grant them a blank check.

Our purpose must be to make Alaska's energy resources available to our citizens in the shortest time possible at the lowest cost practicable. The Canadian route will require a United States subsidy to complete—the Alaska route will not.

This subject must be thoroughly examined—and it cannot become a political football.

A FEDERAL ADVISORY COMMITTEE ACT FUGITIVE: THE NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Mr. METCALF. Mr. President, in 1972 the Senate and House Committees on Government Operations acknowledged in their reports on what became the Federal Advisory Committee Act that there are instances in which advisory committees also have operational functions.

The distinction has been somewhat troublesome. The act makes plain that no agency may establish an advisory committee which is anything more than advisory, but it is possible for the President or the Congress to do so. The Senate and House committee reports of 1972 cited different examples of what they had in mind, and neither made it entirely clear what tests should be applied if the question arose in the future.

Most importantly, neither report stipulated that the Congress be informed when the distinction had to be made, and who had made it. Through the cooperation of the Office of Management and Budget and the Department of Justice, the Subcommittee on Reports, Accounting and Management has been apprised of several instances in which the question was asked and answered.

One major mystery remains, however, and that is the case of the National Council on Educational Research, first listed as an advisory committee, then delisted. The Department of Justice has no record of ever having been consulted in the matter. The NCER began life in 1973 with five closed, unannounced meetings, and to this day it remains a fugitive from the Federal Advisory Committee Act.

In June of 1972, the education amendments which created the 15-member NCER as part of the National Institute of Education gave it the responsibility of advising the executive and legislative branches on the status and needs of educational research. They also said the NCER "shall establish general policies for" the NIE, and that the director of NIE "shall perform such duties and exercise such powers" as the NCER, under the supervision of the Department of Health, Education, and Welfare, "may prescribe."

No members were appointed immediately, but the NCER was listed in the First Annual Report of Federal Advisory Committees, covering calendar year 1972. HEW's report on the NCER, at pages 1547–48 of part 2 of the data on individual committees, said its function was "policy." Where NCER members should have been identified was written, "All membership pending." The NCER was an advisory committee, albeit unfinished.

The NCER held its first meeting, a closed session, on 10 July, 1973. The minutes explain that:

The Federal Advisory Committee Act was discussed and the following resolution was adopted by unanimous voice vote: Resolution on Inseparability of Council's Operational and Advisory Functions—Be it resolved that the Council will perform its ad-

visory functions inseparably from its operational and other functions.

During the discussion of this resolution, it was suggested that the NCER address the questions of how and when the Council will choose to hold open or closed meetings. It was stressed throughout the proceedings that a "spirit of openness" should be reflected in all NCER affairs.

That "spirit of openness" promptly became mere memory, and the NCER met in closed, unpublicized session again in August, September, November, and December. The NCER did not meet publicly until January 30, 1974, when it adopted a public meeting policy that mandates one closed executive session per meeting and permits closed sessions for various reasons.

The minutes of that meeting record that Thomas K. Glennan, Jr., then director of the NIE, reviewed some key points leading to the proposed change in meeting policy. One of them was that because of the resolution it had adopted the previous July, "the Council is not considered to be bound on this matter by the Federal Advisory Committee Act."

When asked at later House Labor-HEW Appropriations Subcommittee hearings about the justification for closure, Glennan replied:

The Council met entirely in closed session for its first six months, and we recognize that that, for exactly the reasons you are talking about, caused the lack of public understanding of what we were doing and was having potentially deleterious effects although it may have been quite legal.

Mr. President, the NCER simply fled the jurisdiction of the Federal Advisory Committee Act. Whatever the merits of the NCER position in the first 6 months of its existence, and I suggest they were nil, it is evident in commonsense and law that the NCER lacked authority to rule on the advisory-operational distinction in its own behalf.

If the NCER had returned to the advisory committee fold, or just mended its ways, this history could perhaps be forgotten. Unfortunately, the NCER lives today as it lived yesterday.

On January 6, 1976, for example, the Federal Register noticed a meeting of the NCER to be held on January 15–16—just 9 days' notice—whereas the Federal Advisory Committee Act provision for timely public notice is interpreted to mean at least 15 days. The notice included the definitionally true statement that "this meeting will be open to the public except for the closed sessions."

Of 9½ hours of sessions scheduled over the 2 days, 5½ hours were to be closed to the public and 4 hours open. That is a 58-percent closed meeting, which I suppose is not wholly incompatible with a meeting described as open except when it is closed.

More recently, on January 27, President Ford announced his intention to nominate five persons to be members of the NCER for terms expiring on June 11, 1978. Council members are appointed with the advice and consent of the Senate, and I propose that the Senate determine, as a minimum, whether the nominees will insist on asking OMB to rule on NCER's status under the Federal Advisory Committee Act.

I believe that a procedure for making and then telling Congress of the advisory-operational distinction can be worked out for the future. That leaves the NCER as the leading example of how to circumvent an open-meeting law.

Mr. President, I ask unanimous consent that the NCER meeting notice from the Federal Register of January 6 be printed in the RECORD, together with the President's announcement from the February 2 edition of Presidential Documents and the current NCER roster.

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

[From Federal Register, Jan. 6, 1976]

[Department of Health, Education, and Welfare, National Institute of Education]

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH MEETING

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on January 15 and 16, 1976, at the National Institute of Education, 1200—19th Street NW., Washington, D.C., in Room 823, The meeting will convene at 9:30 a.m. and adjourn at 4:30 p.m. on both days.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

This meeting will be open to the public except for the closed sessions. The tentative agenda includes:

January 15, 1976

Convene open session	9:30
Approval of minutes of Nov. 21, 1975, meeting	9:30–9:35
Director's report	9:35–10
Staff briefings on followup to Sept. 18, 1975, resolutions	10–11
Pending legislation on NIE authorization and other considerations bearing on the fiscal year 1977 budget	11–12
Luncheon	12–1
Closed session: fiscal year 1977 budget	1–3:30
Recess	3:30

January 16, 1976

Convene: Closed session	9
Fiscal year 1977 budget	9–12
Luncheon	12–2
Open session: Review of council actions and identification of issues for further reviews	2–3:30
Adjourn	3:30

Members of the public are invited to attend the open sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below.

Requests to address the Council meeting should be submitted in writing to the Chairman and the Executive Secretary at least ten days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

[From Presidential Documents, Feb. 2, 1976]

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH—ANNOUNCEMENT OF INTENTION TO NOMINATE FIVE MEMBERS OF THE COUNCIL. JANUARY 27, 1976

The President today announced his intention to nominate five persons to be members of the National Council on Educational Research for terms expiring June 11, 1978, They are:

Tomas A. Arciniega, of San Diego, Calif., dean, School of Education, San Diego State University. He will succeed William O. Baker whose term has expired.

Chester E. Finn, Jr., of Dayton, Ohio, research associate in governmental studies, the Brookings Institution, Washington, D.C. He will succeed W. Allen Wallis, whose term has expired.

D. J. Guzzetta, of Akron, president, the University of Akron. This is a reappointment.

Robert G. Heyer, of Minneapolis, Minn., physical science teacher, Johanna Junior High School, St. Paul, Minn. He will succeed Charles LeMaistre whose term has expired.

Charles A. Nelson, of Croton-on-Hudson, N.Y., principal, Peat, Marwick, Mitchell and Co. He will succeed Terrell H. Bell whose term has expired.

The Council was established by Public Law 92–318 of June 23, 1972 (Education Amendment of 1972) and consists of 15 members appointed by the President, with the advice and consent of the Senate, together with the Director of the National Institute of Education and such other ex officio members who are officers of the United States as the President may designate.

The purpose of the Council is to establish policies for the National Institute of Education and advise the Assistant Secretary for Education and the Director of the National Institute for Education on development of the Institute's programs. The Council reports annually to the President and to the Congress.

CURRENT NCER ROSTER

(10 Members, 5 Vacancies)

Ralph M. Besse.
Edward E. Booher.
Dr. John E. Corbally.
Dr. Larry A. Karlson.
Dr. Arthur M. Lee.
James G. March.
Mrs. Ruth H. Minor.
Carl H. Pforzheimer, Jr.
Dr. Wilson C. Riles.
Dr. John C. Weaver.

PAUL ROBESON, 1898–1976

Mr. SCHWEIKER. Paul Bustill Robeson, a runaway slave's son who cultivated a tremendous national and international following through a wide variety of careers, died late last month in Philadelphia at age 77.

Robeson used his great talents to become first a professional athlete, then a lawyer, actor, singer, and civil rights activist.

Robeson became only the third black man to enter Rutgers University, and graduated valedictorian in 1919. In ad-

dition to his scholastic achievements, Robeson was named an all-American football player in both 1917 and 1918.

From Rutgers, Robeson went to Columbia University Law School, graduating in the class with Supreme Court Justice William O. Douglas and New York Gov. Thomas Dewey. His law studies were financed by playing professional football on weekends.

He joined a prominent New York City law firm but quit after deciding he was viewed as only a token black at the firm. He turned to acting, and played major roles, including Emperor Jones and Othello in motion pictures and on Broadway. During World War II, he spent much of his time performing for American soldiers.

Robeson was selective in his choice of dramatic roles, never accepting a role that he felt was demeaning to black people.

After the war, Robeson devoted more and more of his time to civil rights issues. He also defended the Soviet Union, a stance that brought him a great deal of criticism during the cold war.

In his book, "Here I Stand," Robeson talked about the civil rights struggle:

To be free—to walk the good American earth as equal citizens, to live without fear, to enjoy the fruits of our toil, to give our children every opportunity in life—that dream which we have held so long in our hearts is today the destiny that we hold in our hands.

Paul Robeson was a singular individual—truly a man for all seasons. His life may have passed, but his memory will live on for many years.

Mr. President, I ask unanimous consent that the following article from the Philadelphia Inquirer be printed in the RECORD.

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

[From the Philadelphia Inquirer, Jan. 24, 1976]

P. ROBESON, SINGER, ACTIVIST DIES

(By Steve Neal)

Paul Bustill Robeson, a runaway slave's son who became one of the most celebrated singers and actors of his time, died yesterday at Presbyterian-University of Pennsylvania Medical Center. He was 77.

He was admitted to the hospital on Dec. 28 for treatment of what was described as a "mild stroke." Later tests showed that he was suffering from cerebral vascular disorders. He had been in declining health for many years.

Mr. Robeson fit the Renaissance model of the universal man. He sang folk songs and spirituals in more than 20 languages. Before he started his artistic career, he distinguished himself as an All-American football player. Later in life, he made contributions as a political activist and cultural theorist.

During the 1930s, Mr. Robeson was the best-known black figure in the United States. With his diverse talents and rich, booming voice, he also cultivated an enormous international following.

His early commitment to the black liberation movement and his controversial political views led to his professional downfall. Mr. Robeson was a prime target of the McCarthy era's anti-Communist witchhunts, and the State Department revoked his passport in 1950, charging him with pro-Communist sympathies. On his American concert tours, he was boycotted, attacked by angry mobs, and then ignored.

Mr. Robeson was treated like an outcast by the black community during the hysteria of the 1950s. Even the NAACP, then at its boldest, shunned him.

The isolation from his own people was perhaps the greatest injustice done to Mr. Robeson, for years before the civil rights movement, before black militancy, he defiantly fought racial bigotry.

Mr. Robeson ended a lucrative motion-picture career when American and British studios broke promises to eliminate typecasting of black performers. Sidney Poitier says, "Before Paul Robeson, no black man or woman had been portrayed as anything but a racist stereotype."

When detente began and the Cold War tensions softened, Mr. Robeson's role was reappraised, and he was acclaimed as "the great forerunner" of the black liberation struggle. In 1972, Ebony magazine listed him as one of the 10 greatest figures in black America's history. That same year, Rutgers University named its student center in his honor. He also received the National Urban League's first annual Whitney M. Young Memorial Award for his pioneer civil rights efforts.

By that time, however, Mr. Robeson was an invalid and unable to appear at public ceremonies. From 1965 until his death, he lived with his sister, Mrs. Marion Forsythe, in a corner rowhouse at the intersection of 50th and Walnut Streets in West Philadelphia.

Hardened by the persecution he suffered, Mr. Robeson declined frequent requests for interviews, seeing only his immediate family and his physicians.

Mr. Robeson was born April 9, 1898, in Princeton, N.J., the son of Anna Louisa and William Drew Robeson, a runaway slave who had become a Methodist minister.

TURNS TO LAW

The younger Robeson at first hoped to follow his father into the ministry, but his interests changed and he planned a career in law.

Mr. Robeson was the third black man to enter Rutgers University. He was tapped for Phi Beta Kappa in his junior year and was valedictorian of the class of 1919.

In addition, Mr. Robeson was an athletic star who won 12 varsity letters in track, baseball, basketball and football. Football made him a national celebrity. He was named first team All-American end in 1917 and 1918.

Walter Camp, the originator of the All-America teams, described Mr. Robeson as the greatest athlete he had seen.

After graduating from Rutgers, Mr. Robeson attended Columbia Law School. Among his classmates were future Supreme Court Justice William O. Douglas and future New York Gov. Thomas E. Dewey.

Mr. Robeson financed his law studies by playing professional football on weekends. One of the biggest names in the fledgling National Football League, Mr. Robeson starred for the Akron Steels in 1920 and 1921, then for the Milwaukee Badgers in 1922.

A group of businessmen offered Mr. Robeson $1 million to fight Jack Dempsey for the heavyweight boxing championship. After considering their offer for several days, Mr. Robeson decided instead to retire from professional sports.

BARS TOKENISM

He joined a prominent New York City law firm soon after law school, but he quit when it became apparent that its senior partners viewed him as a token black.

At the suggestion of his wife, the former Eslanda Cardozo Goode, Mr. Robeson began a theatrical career. While at Columbia, he had performed in an amateur production that caught the attention of Eugene O'Neill, a young man who was to become America's most acclaimed playwright.

O'Neill offered Mr. Robeson, who was still practicing law, the lead in his play, "The Emperor Jones." Mr. Robeson turned him down, but shortly afterward, Mr. Robeson consented to appear in "Taboo," playing opposite Margaret Wycherly. The play was a disaster, but Robeson's performance received favorable reviews.

Mr. Robeson then told O'Neill that he had changed his mind about playing in "The Emperor Jones," and O'Neill agreed if he alternated in "All God's Chillun Got Wings."

"Chillun" was O'Neill's daring critique of American racism. Mr. Robeson, playing the heroic Jim Harris, was again well-received. Laurence Stallings of the New York World wrote, "Ability in application to Robeson's work as the Negro in All God's Chillun is a wretched word. The man brings genius to the piece."

"The Emperor Jones" was another artistic triumph. Mr. Robeson played Brutus Jones, the Pullman porter who murders a man over a crap game, kills a white guard on the chain gang, and escapes to a Caribbean island where he makes himself emperor.

O'NEILL SATISFIED

O'Neill later wrote of Mr. Robeson's performance: "I have found the most complete satisfaction an author can get—that of seeing his creation born into flesh and blood. I found not only complete fidelity to my intent under trying circumstances, but beyond that, true understanding and racial integrity."

It was in "The Emperor Jones" that Mr. Robeson emerged as a powerful baritone. A scene in the play called for whistling and, because he could not whistle, he sang.

The audience responded enthusiastically, and after a highly favorable column by Heywood Broun, Mr. Robeson was on his way to prominence as a concert singer.

His acting performances became less frequent as he increased his concert and radio appearances. Oscar Hammerstein and Jerome Kern dedicated their song, "Ol' Man River," to him.

Mr. Robeson, who made more than 300 recordings, said of his style: "I have never been much interested in vocal virtuosity. I have never tried to sing an A-flat while the audience held on to the edge of its collective seat to see if I could make it."

Mr. Robeson appeared in nine motion pictures, either as the star or in supporting roles. These included "The Emperor Jones," "Showboat," "Sanders of the River," "King Solomon's Mines," "Song of Freedom," "Jericho," "The Proud Valley," and "Tales of Manhattan."

PLACE IN HISTORY

Although his film career was brief, his effect was major. Donald Bogle, in his book, "Toms, Coons, Mulattoes, Mammies, and Bucks: An Interpretive History of Blacks in American Films," wrote: "Today, as we sit in theaters and watch Jim Brown or James Earl Jones or Poitier walking tall with eyes straight forward, we think of the young Robeson . . . his influence on other black actors has been incalculable."

Mr. Robeson was selective in the kind of dramatic parts he would play, believing that he could not separate his position as a champion of black equality from his position as an artist. He retired when he could not reconcile the two roles.

"I thought I could do something for the Negro race in films—show the truth about them and other people, too," he said. "I used to do my part and go away feeling satisfied,

thought everything was okay. Well, it wasn't. The industry is not prepared to permit me to portray the life or express the living interests, hopes, and aspirations of the struggling people from whom I come.

The crowning achievement of Mr. Robeson's career was his portrayal of Shakespeare's "Othello" on Broadway in 1943. He was the first black actor to play the role in a cast of whites in the U.S. Some skeptics claimed that the play would fail because it had never before succeeded in 20th-century America.

But Mr. Robeson's Othello ran for 296 performances, a record for a Shakespearean play on the New York stage. The reviewers, and audience after audience, paid tribute to Mr. Robeson.

DRAWS RAVES

Howard Barnes of the New York Herald Tribune said, "Robeson's color as much as his fine acting skill brings a rather tricky melodrama into sharp and memorable focus. Lines which meant nothing when a white man played the part of the Moorish soldier of fortune who became a great Venetian general, married the fair-skinned Desdemona and then let himself be led into a homicidal frenzy, loom impressively in the Schubert offering, giving a motivation for murder which has been obscure to most of us in the past."

Another critic, Burton Rascoe of the New York World Telegram, called Mr. Robeson's Othello "one of the most memorable events in the history of the theater. . . . There never has been and never will be a finer rendition of this tragedy."

This play was Mr. Robeson's last appearance on Broadway. During World War II he spent much of his time performing at concerts for American soldiers.

Mr. Robeson devoted more and more of his energies to civil rights issues. With W. E. B. DuBois, the black historian, he organized the Council on African Affairs, a group whose activities included raising funds for Third World causes and organizing lectures on African culture. He spoke several African languages and was an ardent scholar of African culture. He asserted that Africa's contributions to civilization were as vital as the West's.

LEADS PICKETS

After the war, Mr. Robeson testified before congressional committees against segregationist laws. He led picket lines at the White House, carrying a "Jim Crow Must Go" sign, and he founded the American Crusade to End Lynching. In September 1946, Mr. Robeson met with President Harry S. Truman, urging an end to mob violence. He hotly disputed Truman's claim that the U.S. was the "last refuge" of freedom.

When New Dealer Henry Wallace began his liberal third party campaign against Truman, Mr. Robeson joined forces with him. Wallace suggested Mr. Robeson as his running-mate, but Mr. Robeson made it clear that he was not interested.

Mr. Robeson's defense of Communism and of the Soviet Union caused little controversy during the war, but they became controversial indeed when the Cold War chilled U.S.-Soviet relations. He had a deep affection for the Soviet Union, which had named a mountain in his honor and celebrated his achievements.

His concerts began to be interrupted by right-wing hecklers in the U.S. Sometimes the anti-Robeson demonstrators provoked violence. During the summer of 1949, two Robeson concerts turned into riots. Both took place in Westchester County, New York. A New York Times editorial compared the events to "a lynch mob in darkest Georgia."

The House Un-American Activities Committee (HUAC) said Mr. Robeson was "invariably found supporting the Communist Party and its front organizations." One member, Richard M. Nixon of California, suggested that people who bought Mr. Robeson's records were Communists or fellow travelers.

UPHELD BY COURT

Mr. Robeson's refusal to sign an affidavit stating whether he was or had been a member of the Communist Party prompted the State Department to revoke his passport in 1950. Eight years later a Supreme Court ruling held that the affidavit requirement was unconstitutional, and Mr. Robeson's passport was restored.

At a time when many HUAC witnesses recanted in humiliation, Mr. Robeson proudly fought his adversaries. "I am being tried for fighting for the rights of my people who are still second-class citizens." he boldly told the committee.

Asked if he had made a pro-Stalin speech in Moscow, Mr. Robeson responded, "You are responsible and your forebears for 60 million to 100 million black people dying in the slave ships and on the plantations, and don't you ask me about anybody, please."

Mr. Robeson took the offensive again when a HUAC member asserted that he might be happier in Russia. "My father was a slave, and my people died to build this country, and I am going to stay and have a piece of it just like you. And no fascist-minded people will drive me from it. Is that clear?"

In 1958, with his hard-won passport, Mr. Robeson acted in England and made frequent trips to Soviet-bloc countries, where he sang off and on until he became ill in 1961.

HEALTH DECLINES

He returned to the U.S. in December, 1963, a sick and aging man. Mr. Robeson, suffering from what his family termed a "circulatory ailment," made no public appearances after a testimonal dinner in his honor on April 22, 1965.

Mr. Robeson's health never recovered sufficiently to return to the concert stage or political affairs. When his wife reported him missing from their New York City apartment in October 1965, he was found lying in a clump of weeds in a vacant lot.

Mrs. Robeson died in December, 1965, and it was shortly afterward that Mr. Robeson moved to Philadelphia.

He broke his long silence on April 15, 1973, when he taped a message for a gala 75th birthday party held by his admirers at Carnegie Hall. Mr. Robeson told them, "I want you to know that I am the same Paul, dedicated as ever to the worldwide cause of humanity for freedom, peace and brotherhood . . .

"Though ill heath has compelled my retirement, you can be sure that in my heart I go on singing—

"But I keeps laughing
Instead of crying
I must keep fighting
Until I'm dying,
And Ol' Man River
He just keeps rolling along!"

VOLUNTEER DAY

Mr. GLENN. Mr. President, the Greater Cleveland Chapter of the American Red Cross recently informed me of its effort, in cooperation with other local civic groups, to draw attention to designating February 29 as Volunteer Day, commemorating the contributions made by volunteers to our society.

In an age increasingly marked by materialism and a "What's in it for me?" attitude, it is, I feel, both commendable and necessary to note our national pride and thanks for those who creatively use their free time to help others, with little prospect for reward beyond the personal satisfaction of a job well done.

Our public and private charitable institutions find themselves in a tighter and tighter financial situation, Mr. President, pinched as they are by severe inflationary pressures and increased requests for services. In many instances, the presence of loyal, sacrificing volunteers has been the difference between severe service cutbacks and continuation of adequate programs.

It is particularly fitting, I feel, that the effort to draw attention to Volunteer Day coincides with our Nation's Bicentennial. Were it not for those original volunteers, and millions of others since, there would be no United States of America to fete at all. Ours has been a history of voluntarism, and that legacy is perpetuated today in every community of our land, from the smallest village to the largest city, by activists of concern for their fellow humans.

The Greater Cleveland Red Cross chose February 29—the leap year's extra day—as "Volunteer Day" to symbolize the extra time volunteers give society. In fact, however, every day in our land is Volunteer Day to those in need who are touched by those who care.

CLEVELAND'S BLACK RECOGNITION DAY

Mr. GLENN. Mr. President, on February 12, 1976, the city of Cleveland, the Cleveland Board of Education, the NAACP, and the Urban League will join to celebrate Black Recognition Day. February is Black History Month and these groups have properly chosen this time to recognize black students who exemplify excellence in academics, the arts, and athletics.

The day's activities will be held in the Cleveland City Hall Rotunda. The day will feature speeches by noted leaders of Cleveland's black community and the participation of a wide range of youth representatives and award winners from the black community.

I would like to take this opportunity to applaud Black Recognition Day and to wish it every success. There is a tremendous amount of young black talent in this country. Too often in the past that talent has gone unrecognized and unnoticed. It is most appropriate that this special day come during Black History Month. Just as young black talent has not been properly recognized, the entire history of blacks in this Nation has also been largely unrecognized and unappreciated.

Black History Month attempts to properly focus attention on the vital and integral part that blacks have played in history and to honor some of the tremendous achievements and accomplishments of a unique people. Cleveland's Black Recognition Day should help fill a deep void and properly draw attention to the accomplishments, achievements, and contributions to greater Cleveland that black youth are making.

I hope that Black Recognition Day will prove to be a great day for the city of Cleveland.

SENATOR HANSEN CALLS FOR STRONG DEFENSE

Mr. BUCKLEY. Mr. President, Senator HANSEN and I share a strong belief in the need for a military establishment sufficient to meet any plausible threat. The threat grows yet we keep reducing our military strength relative to that of the Soviet Union.

The Senator from Wyoming addressed his subject with great force in an address delivered last Monday before the National Security Seminar in Sheridan, Wyo.

I ask unanimous consent that his address be printed in the RECORD.

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

REMARKS OF SENATOR CLIFFORD HANSEN

NATIONAL DEFENSE IN AMERICA'S THIRD CENTURY

As this country embarks on its third century, serious questions are being raised at home and abroad about our ability to maintain a position of leadership as the world's most powerful and prosperous nation.

Partly because of the tragic events in Southeast Asia, people from all walks of life—here and abroad—are taking a second look at our role in the world. Some say we should reduce our involvement in world affairs, while others fear that we will do just that.

The fact is, there is no other nation capable of leading the Western World. America remains preeminent in wealth, technology and productivity. We have obligations to ourselves and our friends, and it is essential that we retain our position of world leadership. This can only be done by maintaining a defense capability second to none.

But a number of disturbing conditions and trends of late cast doubt on our ability to maintain a position of preeminence and leadership.

There is an unfortunate tendency toward isolationism, with many Americans saying we should shun involvement in the affairs of the world.

Such an approach ignores some important realities. We live in a world still dominated by a fierce competition between two basically antagonistic ways of life and thought. The United States and other nations of the Free World have chosen to organize societies, economies and political systems in ways which honor the freedom of the individual to live his life free from the tyranny of the state.

The goal of the Soviet Union, on the other hand, is best described by an excerpt from the writings of Nobel Prize Winner and former Soviet citizen Alexandr Solzhenitsyn. He said:

"The communist ideology is to destroy your Society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is detente, peaceful coexistence and trade, they will still insist that the ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the western world."

Although the Soviet objective of world domination is soft-pedaled in these days of what the Russians call "peaceful coexistence," their goal is unchanged. Meanwhile, we continue to drift toward isolationism, a chronic condition . . . which, if not treated, is terminal. One of the most dangerous symptoms of this sickness is our failure to maintain our own defense capabilities.

Some argue that defense spending is no longer a national priority. They say more military spending is not compatible with our desire for peace and tranquility, as though Soviet intent on world domination will simply disappear if ignored.

Defense critics say the savings from cutting defense spending are needed for pressing domestic needs—like higher and more social welfare payments, more aid to cities, cleaning up the environment, and so on.

The fact is that more than half of every federal dollar is spent for direct payments to individuals and state or local governments. But the isolationists are not impressed. The fact is that defense spending accounts for less than 25 cents of every federal dollar. But the isolationists say this is too much.

This attitude is alarming and dangerous. How can we address pressing domestic problems if we, as a nation, are weak and vulnerable to the aggressions of other powers?

What difference will it make how much we paid out for child welfare programs or schools or the environment if our very system is lost because we refused to defend it?

The number one priority of every nation is survival.

To be compassionate and socially responsive in an age when hope and peril run side by side, we must survive, and to survive, we must be strong. Goals are not achieved from weakness, as the Soviets know. They see absolutely no contradiction in enhancing their military strength while at the same time pursuing a policy of so-called detente with the United States.

And how have we responded? The Congress has reduced the defense budget in each of the past seven years. Let's look at the simple arithmetic:

Ten years ago, the United States had clear superiority over the Soviets in the number of intercontinental ballistic missiles. We had more than 800, and they had only about 200. Now, they have almost 600 more ICBMs than we have. The same imbalance exists with submarine-launched ballistic missiles;

Today, the Russians have more than four million men under arms, compared to our two million;

Almost six million Russians serve in their military reserve. The United States has less than two million reservists;

In terms of our troop deployment, we have gradually reduced our overseas forces so that today, we have 100,000 fewer men than were deployed prior to Vietnam;

The Russians have 40,000 tanks. We have 9,000.

They have more than 300 submarines, compared to our 116;

They have 81 naval destroyers, while we have 70;

The Soviet military budget grows by approximately four percent every year, regardless of the international political climate. But U.S. defense spending has declined by nearly 50 percent since 1968, and by about 20 percent since 1964, prior to Vietnam. The share of public spending for defense is the smallest since the Great Depression.

I am also concerned about the growing interference of the Congress in the day-to-day conduct of foreign affairs. Congress has certain legitimate foreign policy responsibilities, such as general oversight and budgetary authority, ratifying treaties, and confirming Presidential appointees in the foreign affairs field. But I doubt that the extremes of late can be characterized as "oversight."

Examples of harmful legislative interference in foreign policy conduct which have pushed us further toward isolationism have been votes on Angola, U.S. aid to Turkey, and the tenor of the CIA investigations.

Secretary of State Henry Kissinger pointed out a couple of months ago that Soviet intervention in Angola had "introduced great power rivalry into Africa for the first time in 15 years." Both Secretary Kissinger and President Ford have pointed out the contradiction in what the Soviets say about detente, and what they're doing in Angola. The Soviets have shrugged it off by merely denying that there is any connection between detente and their support for the "national liberation struggle" in Africa.

And by its action to prohibit even the most minor role in Angola, the U.S. Congress has said to the Soviet Union: "There is no risk in being more activist while continuing to pay lip service to detente."

I want to stress at this point that I am not advocating U.S. troop involvement in Angola. Vietnam taught us the consequences of participating in a conflict we did not consider important enough to win.

But there is a vast difference between military and political support and actual participation in situations which affect our interests.

An earlier example of Congressional interference in the conduct of foreign policy was the self-defeating cut-off of military aid to Turkey. As a result of this short-sighted action, the United States ceased military aid to one of our most important NATO allies, and lost the use of U.S. intelligence-gathering capability at some 25 American bases which the Turks then took over.

The U.S. intelligence-gathering installations in Turkey had provided vital information on Soviet Missile tests and military movements in southern Russia. They helped us monitor Soviet nuclear tests and watch movements of the Soviet Black Sea Fleet operating in the Mediterranean and beyond. There are no suitable replacements for these installations, and without them, we are partially blind. What would happen in the event of a fresh world crisis, or a new Middle East War? How can we expect to check on Soviet adherence to any SALT agreements?

Even though the ban on aid has been partially lifted, the Turks still retain control of the bases.

The aid embargo was meant to pressure the Turks into taking a more conciliatory position on Cyprus. If anything, it had the opposite effect. Far-sighted Greek citizens recognized the only chance of the U.S. playing a meaningful role in the Cyprus negotiations was through continued rapport with Turkey.

Another example of Congressional ineptitude has been the long, drawn-out abuse of the Central Intelligence Agency.

We have given our enemies valuable information about our national security. We have crippled the effectiveness of our intelligence agencies, and endangered the lives of Americans serving their country. A number of foreign intelligence services now avoid exchanging sensitive information with the CIA for fear of reading about it the next day in the newspaper.

Necessary secret activities abroad cannot be legislated by Congressional committees. There are some activities that must remain under cover if they are to be worthwhile. Now, I know there have been some abuses by intelligence agencies, and these must be stopped. But it is time we worked toward solutions to our problems, rather than concentrating on the few mistakes of the past.

America is led by good and honest people. They deserve our support in sorting out our problems. Some recent remarks by Secretary of State Kissinger seem relevant here. He suggested we outgrow the idea that we are always being taken in by foreigners; the fear that military aid to allies always leads to involvement, rather than substitutes for it; the pretense that defense spending is wasteful; the delusion that American intelligence activities are immoral; and the impression that peace can be achieved by an ivory-tower notion of purity, for which history offers no example.

Detente, instead of reducing conflict in areas important to both sides, has simply been ignored by the Soviets when it does not fit in with their objectives. Detente has al-

lowed the Soviets to move from a position of nuclear inferiority to one of equality . . . and even superiority in some important areas.

As for claims that detente helps to reduce conflict we have only to look at Angola or Somalia.

We owe it to ourselves, the rest of the free world, and our children, to maintain a strong defense. Former Secretary of Defense James Schlesinger said it best when he warned us that: "In a world that is dominated by two superpowers, if the United States were to drop the torch of leadership, there is no one else to pick it up."

America is a great nation. One of the reasons for Dr. Kissinger's effectiveness is because he is speaking for the most powerful nation on earth.

It is America, and what it stands for, that gets the attention of the world.

When I was Governor of Wyoming, I was very much impressed by the motto of the Strategic Air Command. It was: "Peace is our Profession." The best way to prevent war is to be strong enough to leave no doubt in the mind of any adversary as to the outcome of a military confrontation with America.

All of us want peace for our nation and for future generations of Americans. The way to guarantee this most desirable goal is to insure an adequate national defense. There can be only one place for America in the community of nations—and that is out front!

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I continue my refutation of the argument that our ratification of the Genocide Convention will endanger American nationals overseas. You may recall that yesterday I demonstrated why the status of American civilians would in no way be altered by the convention. Now I want to show why the convention would present absolutely no new dangers to American Armed Forces and prisoners of war.

The United States is presently a party to an international agreement which seeks to protect prisoners of war. However, an enemy power can accuse American prisoners of any crime which it chooses to trump up. The Genocide Treaty will not expose our fighting men to any new hazards. Whether or not we sign the convention, adversary nations can imprison our men and try them within their own borders.

If a foreign nation fabricated genocide charges against American prisoners of war, our ratification of the convention would actually provide additional protection for them. Article IX of the convention stipulates that—

> Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention . . . shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

As a signator, the United States would have access to the International Court to appeal the trial of the prisoners. The absurdity of the charges would be highlighted before an international forum, and our adversary would be unable to justify its actions. The prevailing climate of world opinion might dissuade that nation from pursuing its intended plan. In the absence of U.S. ratification, world opinion might show little sympathy for a nation which inexplicably chose not to join others in the condemnation of genocide.

THE HAZARDS OF MOTORCYCLE USE

Mr. STAFFORD. Mr. President, at the request of representatives of the Department of Transportation, I am placing in the RECORD an editorial of May 29, 1974, which was carried in the Washington Post, as well as a column by Colman McCarthy which appeared in the Washington Post on January 17, 1976.

It is my belief that my colleagues in the Senate will find the material in these two columns of assistance in reviewing the matter of the use of helmets by motorcyclists, a matter which continues to be current and will be especially current at the time the conferees agree to and report back to the House and Senate a conference report on the Federal highway authorizations.

I ask unanimous consent that the column and editorial mentioned above be printed in the RECORD.

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

HELMETS, MOTORCYCLISTS AND THE LAW

Stubborn and strange thinking has always been a part of the American highway. It is illustrated in such ways as speeding drivers who believe they are immune from the laws of the police and the laws of gravity, or highway designers who persist in building in roadside booby traps. A current example of such thought comes from California. Its legislature, backed by state highway officials, has not only refused to enact a motorcycle helmet law but it is now locked in philosophical combat with the federal Department of Transportation. California officials have been taking the hard line that they will even refuse federal highway safety money rather than comply with the DOT's mandate.

On the surface, the issue appears to be the familiar one of personal liberties vs. federal authority, i.e., does the government have the right to protect a citizen from himself. The issue is not without complexity, although it is often heard in matters of highway safety that the DOT somehow takes delight in lording it over common citizens, requiring them, in this case, to strap on helmets before mounting their awesome machines. This is an absurd simplification. DOT has gone to considerable trouble in litigation alone to establish safety standards for motorcyclists. It is significant that to date court decisions in 26 states have been made regarding the constitutionality of the DOT's requirement and 25 of those decisions have been favorable to the department. It appears that judicial sentiment is not only on the side of highway safety but also supports the right of the federal government to require it whenever possible.

One of these decisions occurred in 1972 in Massachusetts. The federal district court's decision is worth noting: "While we agree with the plaintiff that the act's only realistic purpose is the prevention of head injuries incurred in motorcycle mishaps, we cannot agree that the consequences of such injuries are limited to the individual who sustains the injury . . . The public has an interest in minimizing the resources directly involved. From the moment of injury, society picks the person up off the highway; delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and, if the injury causes permanent disability, may assume the responsibility for his and his family's sustenance. We do not understand a state of mind that permits plaintiff to think that only he himself is concerned."

Regarding the hazards of motorcycle use, the statistics are alarming. According to the DOT, an estimated 2,700 were killed in 1972, with the figure rising to 3,200 in 1973; already for January and February of this year there is a 20 per cent increase in fatalities over those months for last year. As for whether helmets are effective, a recent federal comparative study between Illinois, which had no helmet law, and Michigan, which did, revealed that there were three times more fatal or serious head injuries in Illinois than Michigan.

The California dispute may be settled without going to the brink. Its highway safety officials, in their odd notions about personal liberties, still have a few more months to get in line with the rest of the country and begin offering protection to its share of the nation's 4,000,000 motorcycle users.

SHOULD THE HELMET BE OUTLAWED?

(By Colman McCarthy)

A few months ago, a band of angry motorcyclists varoomed their engines and went tooling through Washington on their way to the U.S. Capitol. The easy and hard riders gained attention for their few hours of impressive revving, but after that they skidded-out and vanished. The issue that brought them here—compulsory helmet laws—has not vanished. Instead, this group and others made their point so well that they now have a number of allies in Congress pushing bills to repeal the law. The motorcyclists who rode into town that day may have confirmed the prevailing but highly mistaken stereotype of them—beer-busting, leather-jacketed nomads—but in fact the anti-helmet lobby is as sophisticated as any other group out to make its case against government intrusion. The compulsory helmet laws have already involved the courts. Congress and the executive branch; in the months of debate ahead, anyone who uses public highways and pays taxes will have something at stake also.

The argument against forcing the nation's 15 million cyclists to encase their heads was stated by Sen. Jesse Helms (R-N.C.) when he introduced his bill in early September: "The government has no business telling the individual when he can or cannot wear a helmet when only the individual's personal safety is involved. Even if it is true that helmets reduce traffic injuries and fatalities, the fact remains that the decision to wear a helmet should be left to the individual, using his own judgment and not having the government doing his thinking for him. The individual has a right to be left alone when his actions do not affect the public health, safety, morals, and the general welfare." Helms on helmets is backed up by other voices: one is that of Roger Hull, the editor of "Road Rider" magazine, who alerted his fellow riders: "Right now we've got to scream our mandatory helmeted heads off to stop the Feds and their murderous 'safety' drive."

The temptation in arguing against Helms, Hull and those for whom they speak is to equate them with the Hells Angels mystique. The screaming Mr. Hull aside, the temptation should be resisted. Otherwise the dialogue becomes so emotional that logic and facts count for little and useless "sides" are created: for or against the motorcycle. Anti-motorcycle propaganda is based on any number of cliches, forged from isolated personal experiences in which a cyclist was rude, noisy or law-breaking. Actually, motorcycles are a low-cost, low-polluting and low-energy means of transportation, with many citizens using them in high rationality because they have had it with high-cost, high-polluting and high-energy cars. No one has ever docu-

mented that motorcyclists are either more surly or more enlightened than anyone else on the Nation's highways.

In coming to Congress to repeal the compulsory helmet laws, motorcyclist groups have a record of failure in the State legislatures. The odds against them in the State—all but three have helmet laws—is high because repealing can be costly. The DOT is authorized to withdraw all Federal highway safety funds and 10 per cent of highway construction money if a State repeals the mandatory law. This may lead writers in the motorcycle magazines to blast "the feds" but the Government cannot be charged with picking aimlessly on this group. In one recent California study—financed in part by the Insurance Institute for Highway Safety—severe head injuries were said to have accounted for 12 per cent of the injuries observed but to have represented half the fatalities. Another institute study of vehicles in fatal crashes found that motorcycles have "markedly higher rider death rates than other vehicles—three-and-a-third times those of the smallest car. The very high rate of involvement of motorcycles in fatal crashes per years registered is especially worthy of note because their average exposure, in terms of miles traveled, is substantially less than that of cars and trucks."

Many who oppose the mandatory law concede the dangers of motorcycling and acknowledge that the unseasoned and the untrained are especially vulnerable to killing themselves and others. That isn't the issue, they say. Instead, as a recent editorial in The Richmond News Leader argued. "No Government should succumb to the superficially seductive argument of paternalistic protectionists forever declaiming their commitment to 'safety.' Taking care of one's self is the self's—not the Government's—concern.

That is the essence of the case against mandatory helmet use, articulated by everyone from senators like Jesse Helms to such motorcycle groups as ABATE (A Brotherhood Against Totalitarian Enactments). It is an appealing case, perhaps, but not an especially strong one. Motorcyclists may boldly tell helmet law advocates to mind their own business—the "I-have-a-right-to-kill-myself" argument—but this overlooks the fact that the helmet advocates may not be worried at all about the safety of the cyclists; they are concerned with losses other than the cyclists' life or scalp. This position was expressed in a 1972 decision by a federal district court in Massachusetts which upheld the constitutionality of the state's helmet law: "While we agree with plaintiff that the act's only realistic purpose is the prevention of head injuries incurred in motorcycle mishaps, we cannot agree that the consequences of such injuries are limited to the individual who sustains the injury . . . The public has an interest in minimizing the resources directly involved. From the moment of the injury, society picks the person up off the highway, delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and if the injury causes permanent disability, may assume the responsibility for his and family's subsistence. We do not understand a statement that permits plaintiff to think that only he himself is concerned."

That gets near the heart of the matter. It it is still just a measure short, the reason is that it has yet to be documented—and may never be—exactly what are the costs of "picking the person up off the highway." The assumption made by the DOT and the court is that citizens prefer not to spend their money—in increased taxes, higher insurance premiums, higher hospital costs—on maimed motorcyclists who chose not to be bothered by helmets. The antihelmet lobby can fume through its immense mufflers that it doesn't want the protection of Big Brother, but until this lobby creates its independent highway system and network of ambulances, hospitals, doctors, unemployment benefits, welfare, and so on, then its cries of government interference are hollow.

If the motorcyclists feel put upon, this is another issue—and they are partly justified. The government has imposed a law upon them which has much the intention of the defeated move to require the wearing of seat belts. The government walked away from that issue, even though the societal costs of caring for the unbelted crash victims can only be many times the cost of attending the motorcycle victims.

For now, it appears that Congress may again be shifting into reverse. A bill is now in a conference committee that would allow states to repeal their mandatory helmet laws, with no fear of federal reprisal. Oddly, the legislation is being offered by such men as Jesse Helms and Rep. Sam Steiger (R-Ariz.), precisely those who might be expected to appreciate the logic expressed by the Massachusetts court: the public's money should not be spent on private mistakes. It is true that we don't know how many millions of dollars are lost each year in this area, but is it necessary to put precise dollar figures on the gore of shorn, battered and unhelmeted heads?

UNITED STATES HAS NO TALENT FOR PLANNING

Mr. GARN. Mr. President, in a most perceptive talk to the American Economic Association in Dallas last December, Henry C. Wallich of the Federal Reserve Board assessed the talent that the United States has for comprehensive economic planning. He attributes the limited role for planning in the U.S. economy partially to the fact that our political process and our national character make planning especially difficult.

Governor Wallich contrasts the American experience with that of Germany and Japan where planning has been most successful in the postwar period. However, he notes that the Germans, who operated a tightly planned economy during most of the 1930's, backed away very deliberately from that system after the war. Although there are some traces of public planning in the modern German economy, it is essentially market oriented.

In Japan the orientation has been stronger toward public planning. However, the environment in which Japan found itself after World War II has favored effective planning for rapid growth. But, Dr. Wallich observes that during the postwar period the Japanese technique for group decisionmaking and the economic opportunities which Japan encountered helped to make economic planning effective.

The Japanese experience is contrasted with ours. Compared to the highly structured and closely knit world of Japan, ours is wide open. As contrasted with the principle of consent in Japan, our public decisionmaking proceeds from competition and confrontation. Accordingly, this process makes effective planning difficult. For example, under our system, the competing political sides are compelled to make extreme promises and expectations are likely to be created that exceed possibilities of fulfillment. The attempt to fulfill these demands creates an inflationary bias. Other features of American political life tend to enhance these propensities. Our political framework has a very short-time horizon and thus Members of the House and Senate who run for office quite frequently are prone to make promises which exacerbate the problem. Thus, planning in the United States would be principally for consumption whereas in Germany and Japan it has been for production. By way of contrast, the market processes have been appropriate to the American environment, except in war time.

Because the virtues of national planning are daily extolled on the floor of this body, it is important that the fresh views of Governor Wallich be given equal exposure. I ask unanimous consent that this speech be printed in the RECORD.

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

NO TALENT FOR PLANNING

(By Henry C. Wallich)

To question planning is like questioning common sense. We all plan as individuals. Why then fail to make the fullest use of this commonsensical procedure at the national level?

We are not likely to settle this issue in the abstract. Theory tells us that under ideal conditions planning can generate efficient solutions to economic problems. Theory also tells us that under certain conditions markets can fail to provide efficient solutions to the economic problem. In the United States the role of planning, except in war time, has been limited largely to patching up what are perceived to be market failures. In my remarks today I would like to develop the thesis that aside from judgments concerning the efficiency of an ideal planning process this limited role for planning in the U.S. economy is partly accounted for by the fact that our political process and our national character make planning especially difficult.

In particular, I would like to draw upon the planning experience of the two economies that perhaps have been most successful in the postwar period—Germany and Japan. The Germans, who operated a tightly planned economy during most of the 1930's, backed away very deliberately from that system after the war. This is not to say that there are no traces of public planning in the German economy. A systematic and orderly people would have a hard time not engaging in such activities to some degree. But the ideology and, in good measure, the reality have been market oriented. One is tempted to attribute this decision in good part to the historic association of central planning with an obnoxious political regime. But it is worth noting that the Germans explain their preference for the market not only in terms of insurance against a political relapse, but quite specifically also on the grounds of the favorable performance characteristics of the market system. The results achieved, as we know, do not contradict that view.

Japan, despite the small size of its public sector, can be regarded as a country where public planning plays a very considerable role. Whether we think of the policy of doubling GNP in 10 years, or of the pervasive influence of the Ministry of Industry and Foreign Trade (MITI), or of the deliberate means employed by the Ministry of Finance and the Bank of Japan in channeling financial flows, the ubiquitous role of the public planner is very apparent. By methods very different from those of Germany, a postwar economic performance even more impressive has thus been realized.

As in Germany, the political context of the Japanese orientation toward public planning is important. In this case, however, it is not

Japan's political history, but its political process that is the key to understanding Japan's planning. Students of the Japanese way of life refer to Japan as a consent society. That is to say, the predominant mode of group decision making, both public and private, is through consensus rather than confrontation or competition. The interest and opinions of all parties are taken into account. A great effort is made to avoid overruling or outvoting anybody. This pattern seems to prevail both in private corporations and in the bureaucracy. The process often is slow, conveying to the outsider an impression of hesitancy and indecision. But once everybody has signed off on a decision, action is general and forceful.

The environment in which Japan found itself after World War II has favored effective planning for rapid growth. One must suppose that, even if market forces had been allowed to hold sway unmitigated by public planning, Japan would have found itself moving rapidly in the direction of big industrial power status. What the Japanese did was to accelerate considerably this nearly inevitable trend. This tendency to plan along the grain of market forces, rather than against it, seems to have been characteristic of Japan's public policies in both the real and the financial sector. Thus, during the postwar period, the Japanese technique of group decision-making and the economic opportunities which Japan encountered helped to make economic planning effective.

For the United States, the salient facts of the matter seem to be that neither our political processes nor the general condition of the country favor effective public planning. Compared to the highly structured and closely knit world of Japan, ours is wide open. As contrasted with the principle of consent in Japan, our public decision-making proceeds by competition and confrontation. It is a familiar dictum, of course, that politics is the art of compromise. But compromise, in the American framework, often comes only after bruising battles, and it need not carry any further than the point where one side manages to get 51 per cent of the vote. The winner takes all; the loser's consent is not solicited.

This, I submit, is a process that makes effective public planning difficult. Confrontation, the effort to achieve a majority, absence of a need to consult the wishes of the minority, suggest severe strains. In the effort to assemble a majority, the competing sides are compelled to make extreme promises. Expectations are likely to be created that exceed possibilities of fulfillment. Demands made on resources tend to exceed the supply. The hallmark of a planned economy under a decision-making system such as ours is likely to be excess demand.

Inflationary propensities of this kind are likely to be enhanced by the technology of planning. Efficiency, getting the biggest bang for a buck, is bound to be the dominant motivation of competent technicians. Good technocrats abhor waste. But a free economy requires a degree of slack, some unutilized supply elasticity, if prices are not to be always rising. Directing a larger share of productive capacity toward planned activities in the American environment, therefore, is likely to lead, first to inflation and later on, perhaps even to price and wage controls.

Other features of our political life tend to enhance these propensities. Our political framework has a very short time horizon. All members of the House, one-third of the Senate, face re-election every two years, the President every four. By most international comparisons, these are short periods. Our public attention span also seems to be short. A review of our rapidly shifting public concerns over the last 15 years readily documents this—with growth, the environment, consumerism, energy independence and others following and often superseding one another. When the time span during which a national goal can command nationwide attention falls short of the time required to install the corresponding technology, planning, as opposed to more flexible private decision-making processes, in response to rapidly shifting goals will produce disorder and waste.

Finally, and once more in contrast to postwar Japan, the United States today confronts a set of circumstances not conducive to effective economic planning. In Japan, planning essentially was for production. Resources were withheld from consumption and channeled into productive investment. Consumption was allowed to take care of itself as income grew rapidly.

Plannig in the United States, I suspect, would be principally for use. Ours has always been a high consumption and low investment economy, in comparison to other leading industrial countries. Today, if I read the signs right, consumption even more than in the past outranks production as a national concern.

Production does not rank high in our national scale of values. It is pretty much taken for granted, as concepts like "post-industrial" and maybe "post-economic" society indicate. Our principal concerns are with the old, the young, the unemployed, the welfare recipients, the sick, the consumer—all of them having in common that they are non-producers. The producer pays.

His job of producing, moreover, is made more difficult by rapidly mounting regulations favoring the environment, health and safety, and a variety of other highly desirable and most worthwhile purposes, all of which have in common the unfortunate feature that they burden the producer. The adversary role in which he is cast is matched by the diminished public esteem in which business is held. The picture of "Japan, Inc.," the intimacy between government and business in France and Germany, contrasts distinctly with the business-government relationship prevailing in the United States.

These circumstances support my hypothesis that planning in the United States would be oriented more toward use than toward production. This orientation would enhance the tendency toward excess demand, with the ensuing probable consequences of inflation and controls.

In summary, proposals for planning in the United States seem to me to propose the wrong thing in the wrong country at the wrong time. Given the American way of making group decisions, given our excessive emphasis on short-run objectives that shift frequently, and given the unsympathetic treatment meted out to the producer, I see little good coming from intensified public planning. It is not surprising that, until recently at least, Americans have tended to favor the free market as a solution to the problem of deciding what is to be produced. The market turns competition into a constructive force while in politics it becomes a divisive one. The market avoids confrontation by substituting anonymous decision-making by the consumer. Private processes of profit and utility maximization help to reconcile competing and shifting objectives with technological and financial limitations.

Market processes, rather than planning, have been appropriate to the American environment, except in wartime. Other countries may be better suited for the application of planning techniques. In the United States, an effort at comprehensive planning is likely to lead to severe political conflict, to excessive demands upon the economy, and to inefficient use of resources as divergent and shifting demands fail to be reconciled.

LABOR-HEW APPROPRIATIONS BILL

Mr. SCHWEIKER. Mr. President, I supported the motion to override the President's veto of the Labor-HEW appropriations bill. One reason was that the bill incorporates a provision I feel merits the attention and strong support of the Senate. I am referring to the improvement that the pending appropriations bill makes in the nutrition program for the elderly.

As most Members probably realize, the nutrition program for the elderly has become one of the finest social programs in the country. Under the program, aged persons who need nutritional assistance have the opportunity to join with their contemporaries at group feeding sites. Recreational and counseling services are also provided to the elderly participants. In addition, funds are made available for transportation so that aged persons can be brought to the feeding sites. Moreover, many local feeding sponsors provide Meals-on-Wheels to people who are unable to travel to the congregate feeding sites. In Pennsylvania approximately 8,772 elderly persons participate daily in 43 projects throughout the State.

I am pleased to point out that the final bill includes an important and praiseworthy compromise on the appropriations for this program which was reached in the Senate-House Conference Committee.

The Senate, in mid-September, passed the Labor-HEW appropriations bill and appropriated $125 million in funds for fiscal year 1976. Included in the bill was a directive that the program's fiscal 1976 "level of operations" must be $200 million. Thus, we mandated that $75 million in previously unspent carry-over funds should be spent, together with the $125 million appropriated, so that the program's expenditures this year totaled $200 million. No such directive was contained in the House bill.

In conference, the House receded to the Senate's expenditure requirement but modified the total amount of spending during this year to $187.5 million. This was the only change made in conference on this section of the appropriations bill. Consequently, approximately $62.5 million of carry-over funds will have to be spent by State and local agencies together with the $125 million appropriated in this bill.

As this body voted to override the President's veto, we expect the HEW Secretary to act quickly on this appropriations mandate. He immediately should adjust the program's annualized rate of expenditure to the amount necessary so that the $187.5 million is actually spent during the course of the fiscal year ending June 30, 1976. This will permit the program to expand in a modest and responsible manner, thereby allowing additional senior citizens to participate in this health-vital program. I believe that this appropriations improvement is vital for the program, and I, therefore, am pleased that my colleagues enacted this bill over the President's veto.

WATER POLLUTION

Mr. GLENN. Mr. President, over the years it has been my pleasure and honor to know and work with Mr. Joseph P. Tonelli, president of the United Paperworkers International Union. That union represents 350,000 workers, and has been a rapidly growing and forward-looking union that is deeply concerned not only with day-to-day representation of the membership, but also with the longer term issues facing our Nation.

Mr. Tonelli recently delivered a speech on the important subject of water pollution before the National Commission on Water Quality. His remarks reflect an awareness of the complexities of this issue, and the suggestions he makes have merit. I believe, Mr. Tonelli's remarks should be brought to the attention of my colleagues, and I ask unanimous consent that his testimony be printed in the RECORD.

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

STATEMENT OF JOSEPH P. TONELLI

Mr. Chairman, my name is Joseph P. Tonelli. I am president of the United Paperworkers Union, which represents 350,000 workers in the pulp and paper manufacturing and related industries in the United States and Canada.

May I emphasize that this figure is the total membership which we represent in the paper industry. The entire industry employment of approximately 700,000 is affected by our contract negotiations.

Our membership is very greatly concerned about the quality of our environment. We recognize that the quality and purity of our air and water are important factors contributing to the overall comfort and well-being of our members. At the same time we believe that it is vital that environmental policies and programs should be reconciled with the urgent need to promote and preserve employment and to restore health to today's floundering economy.

I am here today because I believe that this concern of ours is much the same as the task assigned to this commission: To study the economic, social, and environmental effects of achieving the water quality goals set by the Congress for 1983.

We recognize the remarkable contribution the paper industry has made and is continuing to make to our national goal of cleaner waters. Many mills have already come into substantial compliance with the 1977 water quality standards and are progressing toward the 1983 goals. All of this has been done at great cost. To meet both the 1977 and 1983 requirements it is estimated that the paper industry will spend nearly 3½ billion dollars . . . the equivalent of more than a dozen new mills. It will cost another 150 million dollars per year to operate and maintain the pollution abatement equipment, producing an estimated 10,000 new jobs in the paper industry.

Congress in 1972 took a very important initiative, and one which showed remarkable foresight. But that foresight could not be perfect. They could not have known of the technological developments, the downturn of the national economy, the bureaucratic delays and presidential impoundments which would all come to bear on the realization of these water quality goals.

We recognize that a number of adjustments are necessary now in order to promote clean water and to do so without frustrating efforts in other areas of social and economic progress. I would now like to outline a number of adjustments which we believe are in order.

We understand that publicly owned treatment plants are lagging several years behind industry in progress toward eliminating water pollution. This is due to a combination of delays in planning and grant administration, inadequate appropriations by the Congress of matching funds for construction, and the effects of past impoundment of matching funds. It is in the best interests of the country to see that this construction is accelerated to the fullest extent possible, to reap the benefits both of improved water quality and of the badly needed boost which the program will supply to employment.

Some of this acceleration may be obtained through streamlined administrative procedures. But the main push will have to come in the form of Federal appropriations for matching grants large enough and soon enough to fund every acceptable proposal. It makes little sense for the Federal Government to require industry to commit large amounts of capital to pollution control over a relatively small number of years, and then to turn around and refuse to commit its own funds with the same sense of urgency.

Substantial portions of several industries are considered "marginal." This is a condition we are well acquainted with in the paper industry. We have many mills, especially in the northeastern part of the country, which are very old. Their profitability is so slim that a sizeable drop in prices or rise in costs could put them out of business virtually overnight. We recognize that as time brings new technology and the building of newer, more efficient mills, these older mills' days are numbered.

But we think they should be allowed to die a natural death, in order to avoid as much as possible of the pain that will come to the workers they employ and the communities which, in many cases, they sustain. They should not be sacrificed unnecessarily for the sake of a relatively small improvement in water quality.

I beg to refer to testimony by our UPIU local No. 1 President Raymond Beaudry, Holyoke, Massachusetts, before the House Public Works Committee in 1971.

He testified that in a period of 18 months, when our economy was in far better shape than presently, local No. 1 lost 245 jobs in the paper industry. He identified "water control standards" as one of the main reasons for the job loss. Especially significant in his testimony was the age distribution among this group: 121 were 50 years of age or over, 47 were 40 to 50 years of age, 77 were under 40 years of age.

It is hard enough today to find a job, and it is even harder when you are in your sixties, or fifties, or even forties.

This is the experience of only one out of our 1,350 local unions throughout the continent. Many of our locals are working jointly with management and their municipalities to plan and build sewage treatment plants that will meet the needs of the town as well as the needs of the paper industry.

We need Federal legislation which will implement this tripartite effort—not impede it.

We are suggesting here four ways in which the present water pollution program can be modified slightly, in order to lighten the burden on industry and especially on those marginal segments without significantly affecting overall progress toward our water quality goals.

The first is for the Environmental Protection Agency to give greater weight to the age of facilities and of their process technology in establishing its effluent limitations guidelines.

The second way involves a recognition of the fact that many if not most marginal mills will be small facilities which will tie into municipal treatment plants. Their fate will hang on the way EPA draws its pretreatment standards. We urge special care here to assure that these standards will be only as stringent as absolutely necessary to substantially fulfill the goals of the program.

At a seminar on the environment conducted by this international union we learned of at least one State—Wisconsin—which allows liberal tax credit for pollution abatement expense. Expanded on a national basis this would provide another source of relief for industry. This is our third suggestion.

Our fourth suggestion would also benefit all industry, marginal or not. That is for a re-evaluation of short-run effluent limitations which require either a very high degree of reliability or back-up controls. There appears to be a point of diminishing return here where the last increment of progress toward perfection carries a cost which is out of all proportion to the benefit.

Mr. Chairman, we believe most industries want to help clean up the environment. The members of the United Paperworkers International Union want clean air and clean water—but we also want jobs.

We believe we can have all three.

In conclusion, I wish to commend the Commission for holding these hearings and also to express my thanks to the Chairman and Commission members for allowing me to present our viewpoint.

PROBLEMS OF THE HANDICAPPED

Mr. STAFFORD. Mr. President, for the edification of my colleagues, I would like to call to their attention an editorial in Vermont's largest newspaper, the Burlington Free Press, which appeared on January 29, 1976, and which I believe quite poignantly points up some of the many problems faced by our handicapped citizens, not only in Vermont, but throughout the Nation and the world.

As the editorial so accurately states, Mr. President, society is most often unwilling to offer these people the basic services that all of us take so much for granted. This despite all the legislation we pass, all the outreach efforts, and all the affirmative action plans on the Federal, State, and local level that we implement that allege to encourage handicapped individuals to work, or return to work after a catastrophic disability strikes. They should be the ultimate cynics of our society, and yet generally they are not.

We cannot, however, expect them to be content with the crumbs that are left over forever. Certainly, none of us would be.

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

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

PROBLEMS OF HANDICAPPED

While civil libertarians in Vermont and around the country zealously pursue the evils of discrimination, whether on the grounds of age, race or sex, the handicapped, who are consistently discriminated against no matter how much a sympathetic public may cluck its tongue at their predicament, remain largely neglected by civil liberties' groups.

For the handicapped, each day is another painful effort to overcome some of the obstacles that are strewn in their path by a

society which has geared itself to the needs of people with ordinary physical ability.

Persons in wheelchairs discover that doors to private and public buildings are too narrow to accommodate them or open in such a way as to prevent their passage. They learn that many elevators are too small to hold them. They find they are unable to use public restrooms. Time after time, they are confronted by stairs that block their access and they know they must be assisted when using curbs.

For several months of the year, for instance, they are virtually barred from the streets in downtown Burlington because of the perilous condition of city sidewalks. In the more pleasant months, other barriers prevent them from using the city's facilities. The time must come when they feel that they are living only on the fringes of a society which excludes them and segregates them from the mainstream of life. That they do not adopt a cynical outlook toward its pretensions of help is a credit to their stamina and their character.

While many of them are encouraged to work and want to work, they find that the environment in many businesses is just as hostile to them as the public climate. If they must commute, they must find special transportation facilities, since such service is not offered by public transit systems. Those who drive find that compact cars are too small to carry them and their wheelchairs and they have to use larger, less economical cars.

Certainly the time has come for Vermonters and other Americans to take a good, hard look at the problems of the handicapped and pledge to take steps to help them by eliminating the barriers that block their participation in the activities of life which the rest of us take for granted.

SOLAR ENERGY IS COMING, SLOWLY

Mr. McINTYRE. Mr. President, I ask unanimous consent that an article appearing in this month's issue of Fortune magazine be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. McINTYRE. The article, entitled "Solar Energy Is Here, But It's Not Yet Utopia," by Edmund Faltermayer, states quite clearly that there is a growing number of firms in this country that are manufacturing, installing and operating solar heating and cooling equipment but that there are still changes necessary to insure that the market for this equipment grows.

Mr. Faltermayer makes several cogent points in this article which should interest the Members of this Congress. He says:

At the local level, zoning laws need to be amended to protect "sun rights," lest building owners one day find their solar installations shaded by newly built structures. States can help by mandating or permitting local laws that would waive property taxes on solar installations; a dozen States have done so. The Federal Government's role ought to be to prosecute the fraudulent operators who are moving into solar energy, and to help set standards that will enable a purchaser of a solar system to know what he is getting; the government is already busy in both areas.

I should like to note that there have been a number of initiatives undertaken in this area.

My State of New Hampshire, for instance, has already passed a local option that provides that tax assessors need not assess the value of a solar installation in assessing a home for property taxes if the town or city for whom he works agrees.

Further, on the issue of Government standards, I wrote to Secretary of Housing and Urban Development, Carla Hills, last spring following hearings before the Select Committee on Small Business that I chaired with Senators HATHAWAY and NELSON, to request development of standards for use by the Veterans' Administration, the Federal Housing Administration, and the Farmers Home Administration in insuring home mortgages. Mrs. Hills informs me that these standards should be implemented late this spring.

To help small businesses develop solar energy, I introduced legislation on January 19, 1975, S. 2845, the Energy Research and Development Free Enterprise Act of 1976, that would greatly increase Government aid going to small business in solar energy and increase the activities of the Small Business Administration's technology assistance program. Twenty-two Senators are now cosponsoring that legislation.

Work is progressing on solar energy. The Energy Research and Development Administration will have an increased budget for research and development this year. There will be standards. Private industry is moving ahead. Solar energy is coming, but slowly.

EXHIBIT 1

SOLAR ENERGY IS HERE, BUT IT'S NOT YET UTOPIA

(By Edmund Faltermayer)

In many momentous ways, solar energy seems the perfect answer to our energy problems. It is completely benign to the environment. It falls in everyone's backyard, where no cartel can touch it, and it is everlastingly abundant. In just one year the radiation reaching the surface of the U.S. exceeds the total amount of fossil energy that will *ever* be extracted in this country.

With attributes like those, sun power is arousing plenty of excited speculation these days, and a fair amount of bumper-sticker faddism as well. If enthusiasm were all that mattered, solar energy would already be moving toward stardom on the energy stage. Unfortunately, it has some inherent limitations and problems.

Unlike fossil or nuclear fuels, solar energy cannot be stored for long periods or hauled to sun-deficient regions, such as the Pacific Northwest or the downtown canyons of big cities. The earliest hope for transporting sunshine lies in converting it to electricity for the utility grid, with devices like the experimental "heliostat" on the opposite page. But big solar power stations are at least ten years off. For now, solar energy must be used within a very short distance of a surface receiving sunlight, which for most purposes means it must be used within the occupied areas beneath the roof of a building.

The bigger problem is the high cost of gathering the sun's free energy. While the total national "rainfall" of solar radiation is staggering, it comes as an intermittent drizzle on a given rooftop. This means that a very large portion of that roof must be covered with special materials or devices to capture the energy needed for most tasks, and that usually takes a lot of money. More is needed for special storage units that can hold the solar energy needed to tide consumers through the night. When the high front-end investment is taken into account, the use of solar energy generally turns out to be more expensive than the use of conventional fuels, in some cases ten times as expensive.

But the important news lies in some noteworthy exceptions that now exist. Thanks to the inflation in energy prices over the last three years, sun power has crossed the threshold of economic competitiveness in a number of specific situations. Merely by exploiting these situations, the country's embryonic solar-energy industry, highlighted in the portfolio beginning on page 107, could win a percent or two of the energy market. It could do so, moreover, largely without subsidies or tax advantages, which are being widely proposed. Each 1 percent shift of the nation's energy usage to sun power would entail a capital investment of at least $20 billion by energy consumers. This flow of money would support the further work that must be done by the new solar industry to shrink those heavy front-end costs.

If those costs could be brought down, the move to solar energy just might grow into the biggest economic development since the automobile revolution. A third of the nation's energy, including a shocking amount of our dwindling natural gas, is used merely to provide low-temperature heat, in the form of hot water or air ranging from 90 to 200 degrees. The sun, beating down right now on the rooftops of the buildings in which Americans live and work, could provide the bulk of that heat. Another fourth of the country's energy is used to make electricity. Much of that, too, could be supplied right from consumers' roofs.

THE CASE FOR GOING "PASSIVE"

Solar energy has already found customers at each of its three levels of technological complexity. The simplest technology relies mainly on architecture to achieve "passive" solar heating; buildings are simply designed to soak up lots of sun. More complex are "active" heating systems based on so-called flat-plate collectors mounted on rooftops. These systems involve fairly elaborate methods of collecting heat and transferring it to storage units. At the top of the technology spectrum are various systems for focusing sunlight optically to get the high-temperature heat needed for some industrial uses or for turning sunlight directly into electric current.

In the best-known passive system, whose basic concept has been around for decades, huge south-facing windows allow sun to pour in during daytime in the cold months. With today's insulating materials, including special curtains that are drawn at sunset, homes with passive systems are able to hold most of their heat at night. As with any solar space-heating system, a conventional furnace provides warmth during cloudy spells. A few latter-day Jeffersonians, intent on self-sufficiency, fall back on wood-burning stoves supplied with fuel from their own acreage.

There are problems with passive systems, but these do not involve economics. Passive systems usually add little or nothing to the cost of a new home and, according to some studies, can deliver—even in areas as far north as New York—as many British thermal units as far costlier "active" systems using rooftop collectors. The problems, instead, concern matters of comfort. The sunshine that pours in can be blinding during the day and can drive interior temperatures to oppressive levels.

A "passive" approach developed in the 1950's by Felix Trombe, France's leading solar authority, addresses both problems—though perhaps creating others involving aesthetics. In Trombe-type houses, the entire south wall consists of thick masonry with very few windows or none at all. Faced with glass or some other material that allows sunlight to pass through to the mason-

ry but inhibits the reradiation of heat outward, the south wall accumulates heat during the day and gives it up gradually to the interior of the house at night. Natural convection helps to circulate the heat. A number of Trombe-type houses are being built around the U.S., and a growing market for them may develop. But many Americans would probably object to the loss of a view to the south.

IN ZERO WEATHER, 200 DEGREES

The middle band of the technology spectrum, which is getting the lion's share of attention these days, is occupied by the "active" systems that employ flat-plate collectors. Usually mounted in large groups on rooftops, these devices are used to heat both water and the interiors of buildings.

A flat-plate collector is merely a shallow box with an "absorber plate"—generally sheet steel, copper, or aluminum—whose black-painted surface converts sunlight to heat. In a typical collector, perhaps six feet long and three feet wide, two glass covers and a backing of insulation help to trap the heat, which, even in zero weather, can reach 200 degrees on a cloudless day. In all active systems this heat is mechanically moved elsewhere. In some collectors, it is transferred to water, which heats up as it is pumped through small tubes attached to the absorber plate; the water then goes to a heating system or storage tank. Air is the medium for heat transfer in other systems, including the one diagrammed on the facing page.

The competitiveness of all these systems depends on the number of BTU's gathered per dollar invested in them. Hoyt C. Hottel of M.I.T., an energy expert who has been involved in solar heating for decades and who is an authority on the flat-plate collector, stresses the device's modest output. "A range of 100,000 to 250,000 BTU's per square foot per year brackets the output of anything I can design or choose in a good part of the country," he says. To put that into perspective, each square foot of collector surface annually saves the equivalent of only one to 2.5 gallons of heating oil, assuming this is burned in a basement furnace that is 70 percent efficient. These days, that fuel is worth from 40 cents to $1.

FORGET NOT "HOTTEL'S LAW"

If the investment in a flat-plate collector system is to be recouped within a reasonable period, Hottel argues, the system cannot cost more per square foot than ten times the yearly fuel saving. When heating oil is the alternative, the limit for the complete system, counting collectors and storage, is therefore $4 to $10 per square foot of collector surface. Many of the systems being installed these days cost far more, Hottel notes, particularly those used for space heating. A recipient of international awards for his solar research, Hottel has lately peppered his acceptance speeches with admonitions that the present "unreserved enthusiasm" about solar energy may later be remembered as a "period of midsummer madness brought on by the sun."

Despite these caveats, Hottel believes the flat-plate collector now has an edge here and there. One promising market, he believes, is solar heating of backyard swimming pools, which has indeed begun to catch on. Swimming-pool heating has a number of advantages when it comes to gathering BTU's from the sun. Very low temperatures are demanded of the heaters, just enough to take the chill off the water and extend the swimming season. Consequently, the absorber plates used in a typical collection system never become hot enough to lose a significant part of their heat through re-radiation back to the atmosphere; thus they need neither expensive glass covers nor a backing of insulation. No elaborate pumping and heat-storage components are necessary, since the systems rely on pumping equipment that swimming pools need anyway, and on the pools themselves for heat storage.

The largest maker of solar heating systems for swimming pools, Fafco, Inc., of Menlo Park, California, uses very inexpensive rooftop collectors that are merely panels of black plastic resembling corrugated board, containing tiny ducts through which water is pumped. These collectors retail for only $2.50 a square foot, with installation and other hardware bringing the total cost to around $4.

The flat-plate collector also makes sense in many homes, right now, as a means of heating water. The market is large; hot water in the home accounts for a very respectable 4 percent of the nation's energy consumption. Hot-water systems require fancier flat-plate collectors than those used to heat swimming pools. But this cost disadvantage is partly offset by the excellent load factor on a hot-water system, which is used the year round. Furthermore, no special storage unit is necessary. Sun-heated water flows to a standard type of basement hot-water tank, whose regular heating element switches on during cloudy weather. Rooftop hot-water heaters were fairly common in Florida until the 1950's, when cheap natural gas became available and production stopped. Now W. R. Robbins Roofing Co. of Miami is selling hot-water systems again and several other Florida companies have entered the business.

Solar hot water has also begun to find a brand-new market in the Northeast. A Connecticut company called Sunworks Inc., headed by Everett M. Barber, Jr., engineering professor at Yale, is one of the new companies selling hot-water systems. Barber believes that solar hot-water heating is "going to be in all over the country very quickly." Any existing home with a reasonably steep roof facing south, Barber maintains, can meet most of its hot-water needs with only forty to eighty square feet of flat-plate collectors.

Sunworks' hot-water systems, costing between $1,000 and $1,600, are said to pay for themselves in less than ten years in most homes that have electric hot-water heaters, as two-fifths of the country's homes do. In New York City and parts of Westchester County, where residential electric rates run to a sky-high 8 cents a kilowatt-hour, the payback comes in only three years.

SLEEPING ON A BED OF ROCKS

Space heating, though presenting an opportunity of tantalizing proportions, is a much tougher game for the flat-plate collector. One major problem is the poor load factor on a solar space-heating system, which may sit idle half the year. As a general proposition, the active space-heating systems now on the market are economic only if used as a secondary source of warmth, in which case the investment is minimal. It probably pays right now, for example, to install flat-plate collectors to preheat ventilating air for schools and other buildings that are occupied mainly during daylight hours. "You might save only 25 percent of your heating bill in that way," says Roger Schmidt, who heads Honeywell's large solar-research program, "but you'd recoup your investment in less than five years."

Such quick returns are seldom available when flat-plate collectors are used as a *principal* source of heat, particularly in a building that must be warmed round the clock. A large expanse of collectors is needed in those situations. In northern states, where good sunlight is available only six hours on clear winter days, a house with 2,000 square feet of living space needs at least 500 square feet of collectors. Space-heating systems also require large heat-storage systems, in the form of a bed of rocks or a hot-water tank. These storage units add another layer onto front-end costs.

It is particularly expensive to "retrofit" a space-heating system into an existing home, though some homeowners are doing it. Even in new homes a rooftop array with 500 square feet of collectors, plus a storage unit and all the associated hardware and labor, will typically add a forbidding $10,000 to the home's price. And that system will normally provide only about three-fourths of the building's heat. It costs dearly to install a big enough collector surface and a large enough storage unit to tide the home through, say, an entire week of rainy weather.

NOT AN IMPOSSIBLE DREAM

Nevertheless space heating has a small place in—well, the sun. A growing number of the country's new homes are being built in areas where new natural-gas hookups are no longer allowed, and in which there is no dependable supplier of heating oil or propane either. Faced with this problem, more and more builders are installing electric heat of the familiar "resistance" type. But such heat is very expensive in many areas. In situations where electricity costs more than about 3½ cents a kilowatt-hour—the equivalent of a dollar a gallon for heating oil—the flat-plate solar collector can save money. Even where it cannot, a solar heating system may provide peace of mind, particularly for owners of industrial plants and warehouses who fear natural-gas curtailments or cutoffs in the years ahead.

If space-heating systems are ever to become commonplace, their cost will surely have to fall—probably to well below $10 a square foot. That is by no means an impossible dream. Good aluminum storm windows cost about $1.50 a square foot installed. It is hard to see why, in a solar industry grown to comparable maturity, a decent flat-plate collector should cost much more than three times that amount, or why a complete installed system with storage should run much above $7 a square foot.

But that is off in the future. Just how far off is suggested by the economics of manufacture at Solaron Corp. of Denver, a company counting itself as the first publicly held enterprise exclusively in solar energy. The materials alone for Solaron's air-type collector, when purchased in carload lots at the most favorable prices, cost over $3 a square foot. These include sheet steel for the absorber plate, special insulation that will not decompose under the fierce temperatures that collectors reach when idle in summertime, heat-resistant gasketing materials, and high-strength tempered glass of the "low-iron" type that allows a very high percentage of sunlight to pass through. By the time other costs are added in, plus a profit for manufacturer and distributor, the retail price just for the collector climbs to about $11 a square foot. Storage and installation costs bring the total price of the system to $17 per square foot.

Solaron's manufacturing processes are already fairly efficient, with factory labor amounting to less than a tenth of production cost. The company's president, John C. Bayless, foresees no dramatic reductions as volume rises, only steady incremental savings of 2 to 6 percent a year. The high price on Solaron's products, it should be noted, has not prevented the company from selling fifty-five of its systems for homes, commercial buildings, and even a new branch of a savings-and-loan bank. Solaron expects to be in the black by the second half of this year, sooner than most of its struggling competitors.

NEEDED: MORE BTU'S FOR A BUCK

The only way to bring down the cost of space heating right now, given today's production volumes, is to use cheaper materials or to redesign collectors to wring more BTU's from them. Harry E. Thomason of suburban Washington, D.C., is the leading exponent of

a no-frills approach. In Thomason's collectors, which retail at only $4 a square foot ready for mounting, water trickles down open grooves in sheets of black-painted corrugated aluminum covered with a single pane of untempered glass.

The solar fraternity splits right down the middle on Harry Thomason. "Thomason's is just about the most economically viable system I know of," declares John I. Yellott of Arizona State University, one of the world's leading authorities on solar energy. But others in the field contend that the use of open troughs causes water condensation on the inside of the glass cover; the phenomenon, they say, lowers efficiency and makes the Thomason system a poor bet for space heating in regions with very cold winters. "I'll bet he's losing half his heat that way," snorts a member of the anti-Thomason faction. The condensation was apparent to a visitor recently touring a Thomason home, but the inventor denied that it impaired performance. Thomason, who does not mind when admirers compare him to Thomas A. Edison, just might have the right concept, at least for mild climates.

The other path to the promised land is the dogged pursuit of improvements in design that would raise the efficiency of flat-plate collectors. At midday in cloudless weather, at central latitudes in the U.S., about 300 BTU's of solar radiation per hour strike a square foot of surface facing the sun. But only about 120 BTU's are drawn off as useful heat from most collectors now on the market. This output could be nearly doubled by various means. More light gets through a collector's glass covers if they are acid-etched to cut reflection. And less heat is reradiated from the metal absorber plate if its black paint is replaced by a black "selective coating" applied by chemical or electroplating techniques. The efficiency of a collector can also be raised about 50 percent by creating a vacuum inside it that virtually eliminates heat loss. Owens-Illinois has begun selling Sunpak collectors based on the vacuum principle; these consist of banks of tubes resembling fluorescent lights.

The chief drawback of many of these design improvements is their high cost. Owens-Illinois has introduced the Sunpak, for example, at a Tiffanyesque $20 to $25 a square foot. But the company hopes to bring the price down to $10 within two or three years as volume rises and development costs are written off. At that price, Owens-Illinois believes, the collector can compete with fossil fuels because of its high efficiency and because it can be used for several special applications.

One of these is summer air conditioning, which holds the promise of improving the load factor on solar heating systems and hence their economics. Gas-fired cooling systems of the "absorption" type can be modified to run on water heated to 220 degrees by the sun. But the heat from most of today's solar collectors is not quite high enough for this purpose. A sun-powered cooling unit recently installed at an Atlanta school under a federal demonstration grant, for example, can handle only two-thirds of its nominal cooling load.

A UNION MADE IN HEAVEN

The final way to improve the chances of the flat-plate collector is to marry it up with the amazing machine known as the heat pump, an electric-powered device that is already used in almost a million American homes for space heating. The heat pump is simply a device for moving heat "against the current" in the thermal sense, i.e., from a cold place to a warm place. Refrigerators are simple heat pumps that move heat from their interiors to the rest of the kitchen. In the case of space heating, the heat being moved is extracted from the out-of-doors, specifically, from the sun-derived heat that is present in any outside air that is above absolute zero. In a sense, then, the heat pump is a "solar" device.

The flat-plate collector and the heat pump, it would seem, were made for each other. The efficiency of heat pumps falls sharply when the outside temperature drops below 20 degrees, which helps explain why they have not caught on north of the Mason-Dixon line. However, the pumps work beautifully in the far north if they can draw heat from water or air warmed to a modest 50 degrees or so by flat-plate collectors. These, in turn, function more efficiently if they do not have to bear the entire heating load on bitter-cold days.

Studies have shown that a home with a hybrid solar and heat-pump system will use only a quarter as much electricity for winter heating, or even less, as it will with electric heating of the resistance type. The only drawback in a hybrid system is that its rooftop collectors may sit idle in summer when, in most cases, the heat pump is reversed to function as a conventional air conditioner. Still, the heat pump and the flat-plate collector may have a big future together. One of the largest solar buildings in the world, a new 25,000-square-foot building at New Mexico State University in Las Cruces, has a hybrid system. Its designer, Frank Bridgers, a well-known engineer in solar-heating circles, plans to incorporate such systems in larger buildings on which he is now working.

Much of the higher-technology side of solar energy involves research on promising ways to concentrate the sun's rays by optical means. Northrup, Inc., a Hutchins, Texas, company that makes conventional heating and cooling equipment, recently brought the first concentrating collector to market. By focusing sunlight on a water-filled tube, the collector easily heats the water to the temperatures needed for air conditioning. On a clear day the Northrup collector is said to put out twice as many BTU's per square foot as a flat-plate collector.

The offsetting disadvantages are two. Virtually all collectors that focus sunlight, Northrup's among them, must swing to follow the sun as it crosses the sky. This means motors and parts that can malfunction. The second problem is that concentrating collectors cannot use diffuse solar radiation, as flat-plate collectors can. In the Northeast, with its hazy autumn days and its muggy summers, up to half the sun's energy is diffuse rather than direct. Nevertheless, the Burger King chain is optimistic about a Northrup system that it is testing in New Jersey.

The price of Northrup's collectors might also be considered a drawback; they run as high as $24 a square foot, counting installation and heat storage. But educational institutions, as well as corporations, are showing a lot of interest. Trinity University in San Antonio, Texas, is seriously considering the Northrup collectors for a building whose heating and air-conditioning costs have jumped eightfold in the past two years.

THE PROFITS IN PHOTOVOLTAICS

Photovoltaic cells offer the only solar electricity available today. These cells, which have no moving parts, are made of two thin layers of material, one of them a semiconducting material such as silicon, the other a metal such as aluminum or silver. Light stimulates the flow of electrons across the layers to generate current that is then drawn off in wires. Photovoltaic cells can be used for any purpose requiring electricity; they even recharge solar wristwatches.

The price of photovoltaics has plunged to $17 a watt from $200 only five years ago. That still leaves them far too expensive for general use. But they can provide electricity at a tenth the cost of flashlight batteries, and they have already found a commercial market in powering machines and instruments in remote areas off the electric-utility network.

The price of photovoltaics is bound to keep falling; the only question is how fast and how far. Right now most photovoltaics are made from expensive, chemically pure silicon rods that can be sliced to the necessary thinness only by costly methods. But a joint venture run by Tyco Laboratories Inc. and Mobil Oil Corp. reports steady advances in a radical new method for growing long thin ribbons of pure silicon suitable for photovoltaic panels. Another company, Solar Energy Systems, Inc., which has substantial backing from Shell Oil, is making the cells from cadmium sulfide, a cheaper material. By the mid-1980's, some optimists say, a further fifty- or hundred-fold price reduction is possible in the price of photovoltaics. That might put cells on everyone's roof.

A SOLAR PORK BARREL

Since solar energy already has a small and valid commercial role, the last thing the country needs is a giant new federal program to help bring it along. Yet that is precisely what is taking shape. The Energy Research and Development Administration and other federal agencies are now spending $100 million a year on solar programs, and there is talk in Washington of billion-dollar appropriations levels a few years hence. Unfortunately, some of this money is even now being spent on demonstrations of solar heating and cooling system known to be overpriced, and on what might be termed "technological welfare": research on futuristic solar contrivances by surplus aerospace engineers. Much of the government money, moreover, has gone not to the small inventors and entrepreneurs who have done much of the innovating and taken most of the risks, but to large corporations schooled in research grantsmanship. The country, in short, may be getting another pork barrel.

Clearly, some amount of federally financed research is needed. But many of the governmental actions required at this time are less glamorous and costly than some Congressman eager to "do something" would care to hear. At the local level, zoning laws need to be amended to protect "sun rights," lest building owners one day find their solar installations shaded by newly built structures. States can help by mandating or permitting local laws that would waive property taxes on solar installations; a dozen states have done so. The federal government's role ought to be to prosecute the fraudulent operators who are said to be moving into solar energy, and to help set standards that will enable a purchaser of a solar system to know what he is getting; the government is already busy in both areas.

Even if government were to do practically nothing, the new solar industry would benefit simply from the passage of time. In another two or three years, homeowners with trouble-free solar heating systems will be boasting to neighbors about their low fuel bills. More companies will develop do-it-yourself solar-heating kits, which will enable sun-minded homeowners to save on installation costs. Finally, more experience will be gained in the manufacture and distribution of solar collectors. Possibly they can best be mass-produced in a few locations. But small operators, producing on the scale of aluminum storm-window fabricators and selling directly to builders and homeowners, might be able to offer lower prices. If solar energy really takes off, it thus might give birth to hundreds of small- and medium-size companies, instead of creating another Detroit.

SENATE RESOLUTION 104

Mr. BROCK. Mr. President, yesterday the Senate Rules Committee's Subcom-

mittee on Standing Rules of the Senate held hearings on Senate Resolution 104, which would provide limited legislative authority for the Select Committee on Small Business.

This resolution was introduced by the Senator from Maine (Mr. HATHAWAY) and myself. We have now been joined by 70 of our colleagues in this effort. I was pleased to testify in support of the resolution at yesterday's hearing along with the Senator from Maine. Joining us in testimony in favor of this proposal were the Senator from Wisconsin (Mr. NELSON), the Senator from New York (Mr. JAVITS), the Senator from New Hampshire (Mr. DURKIN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Iowa (Mr. CLARK), the Senator from Ohio (Mr. TAFT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. STAFFORD), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from Maryland (Mr. BEALL), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from New Mexico (Mr. MONTOYA), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. FONG), the Senator from North Dakota (Mr. BURDICK), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Colorado (Mr. HASKELL).

In view of this strong showing of bipartisan support for Senate Resolution 104, I am sure that all my colleagues would want to review the testimony given by the Senator from Maine. For their benefit, I ask unanimous consent that this statement be printed in the RECORD.

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

TESTIMONY OF SENATOR WILLIAM D. HATHAWAY

As the cosponsor of S. Res. 104, I am pleased to take this opportunity to present my views on this legislation to the Rules Committee.

The design of S. Res. 104 is quite straightforward. It grants to the Select Committee on Small Business legislative jurisdiction over bills concerned with the Small Business Administration only, without affecting the jurisdiction of other committees over subject matters within their purview. This is a very limited grant of jurisdiction to the small business committee, and the language of the proviso in S. Res. 104 makes it clear that when legislation concerns the Small Business Administration and also relates to matters extraneous to the SBA, the Chairman of any affected committee may have the bill referred to his committee prior to floor consideration.

S. Res. 104 is a modest and logical step recognizing the importance of the small business community in the efficient functioning of our economy. Men and women of the small business community provide a wide array of the products and services crucial to our economy, and they are responsible for many of the innovative and technological advances which have taken place throughout our history. The person with only an idea and a shoestring has much to gain if he can develop and market that idea successfully; and a strong small business community helps assure all of us that there will be a more competitive market which will be responsive to new ideas and technologies.

The overall significance of the small business community may be well illustrated by a few brief figures: there are over 12 million small business concerns; small business employs over 50 percent of all working Americans; goods and services provided by small businesses account for 43 percent of the gross national product. These figures speak eloquently for themselves.

In 1953 Congress recognized the importance of fostering a strong and healthy small business community and the need to focus on the problems unique to that community when the Small Business Administration, an independent agency, was established. Last year as part of its overall committee reform effort, the House of Representatives also recognized the need to restructure its committee system to reflect this emphasis and accordingly, the House provided its Small Business Committee with legislative authority. S. Res. 104 would, in a carefully limited manner, merely bring the Senate up to date with these prior actions.

Because of the limited grant of jurisdiction involved, I would urge that S. Res. 104 receive favorable consideration by your committee regardless of any decision on S. Res. 109, which calls for a complete study of the Senate committee structure. Such a study, which I do fully support, could obviously be time-consuming and there are substantial reasons for an independent judgment to be made on the merits of S. Res. 104 itself. If we can take the House decision as an example on restructuring, it seems apparent that a Senate study would grant jurisdiction to the Small Business Committee to the extent provided in S. Res. 104. The decision on S. Res. 104 should be made now and incorporated into such a study.

The history of this proposal to give legislative jurisdiction to the Small Business Committee is extensive. In 1949 the Rules Committee did in fact favorably report to the floor of the Senate a more far-reaching resolution than the one being considered today. That resolution of nearly three decades ago would have created a Committee with jurisdiction over "all proposed legislation relating to the problems of American small business enterprises." When that resolution finally came to a vote on the Senate floor in 1950, however, there was great debate and opposition to so extensive a grant of legislative authority. An amended resolution was passed creating the present Select Committee on Small Business with investigative authority, but with a specific prohibition on any grant of legislative authority. That situation remains today.

Ironically, the Rules Committee report on the original 1949 resolution pointed out that there had been opposition to the establishment of a Small Business Committee without legislative authority and that one argument against such a committee had been "that a special committee (without legislative authority) . . . cannot act directly on legislation for small business, once its studies and investigations on a subject have been made." Accepting the logic of this argument against a Select Committee the Rules Committee had reported out its resolution granting such legislative authority accordingly.

The issue then is not new to this Committee or to the Senate; what is new is the specific approach which is taken in S. Res. 104. Recognizing the objections of many members to any diminution in the authority of existing legislative committees, we have drafted a carefully circumscribed resolution which gives the present Select Committee on Small Business exclusive legislative jurisdiction only over matters relating to the Small Business Administration. This conforms to the overall Senate committee structure, which reflects the concerns of many different groups and classes and develops expertise in the needs and problems of those interest groups. S. Res. 104, then, will grant to the small business community, which is so integral a part of our economy, the same recognition and visibility which other groups have in our present committee structure—groups such as veterans, farmers, and labor interests.

In terms of existing legislative jurisdictions, S. Res. 104 would affect the jurisdiction of the Banking, Housing, and Urban Affairs Committee. As a former member of that same committee, I shall not belabor the obvious that jurisdiction over the Small Business Administration is only a very minor part of the broad sweep of affairs with which the Banking Committee is necessarily concerned. Nor shall I belabor the point that, at minimum, small business concerns might frequently seem to be directly at odds with the concerns of other interests which come under the jurisdiction of that Committee.

In fairness to the Banking Committee, of course, small business problems necessarily cannot always be at the forefront of their concern as they consider the varied pieces of legislation which are referred to them. At the very least, rightly or wrongly, the small businessman sees himself being treated as a second-class citizen in terms of the structural organization and the estimation of the Senate, when he compares this body's treatment of small business legislation with its treatment of legislation affecting other sectors of the economy.

S. Res. 104, while granting limited legislative jurisdiction to the Small Business Committee, does not change that committee's investigative powers over all subjects affecting the welfare of independent small enterprise. The energetic and judicious use of that power will enable the committee to relate effectively the functions and powers of the SBA itself to the whole range of governmental agencies with small business problems.

Looking at the record of the Small Business Committee during fiscal year 1975 reveals the strong interest and concern in that committee for furthering small business interest. Sixty-three days of public hearings were held during 1975, looking into such problems as the survival of family farms, the effect of EPA regulations on small farmers, the role of small business in energy research and development, the reduction of Federal paperwork burdens on small business, the economic problems of the fishing industry, competitive problems of small business in the drug industry, the role of small business in Federal procurement, inquiries into the Federal effort toward creating a viable minority business community, and the effect upon small business of bank giveaways and sale of merchandise by financial institutions. This overview of the activity of the Small Business Committee points up the kinds of problems which small busnessmen face, many of them the result of deliberate governmental decisions and policies which affect small business in a substantially different way than they do larger, diversified and integrated corporations.

The results of this work by the Small Business Committee are reflected in several legislative efforts, including the Tax Reduction Act of 1975, introduction of a Small Business Estate and Gift Tax Reform bill, and other bills proposing increases in the estate tax exemption, proposals for a credit for employment taxes, simplified pension reporting, and a bill providing set-asides in Federal energy R & D programs. While there have been substantive results from the present grant of investigative authority to the committee, a grant of legislative authority over the agency dealing exclusively with small business programs, i.e., the Small Business Administration, would enhance the visibility and focus on the unique problems and needs of the small businesses.

The House of Representatives has recognized the legitimacy of according legislative authority to the Small Business Committee; here in the Senate, S. Res. 104 has been cosponsored by 72 members. I hope that this Committee will agree with these judgments and act favorably on S. Res. 104.

LABOR SUPPORTS PROMOTION OF NUCLEAR ENERGY DEVELOPMENT

Mr. GLENN. Mr. President, voices of American labor have continually called for stepped-up development of new energy sources, fully realizing that energy bankruptcy can only further adversely impact their own economic well-being.

The endorsement of nuclear energy progress by the United Rubber, Cork, Linoleum, and Plastic Workers of America, AFL–CIO–CLC, is an example of labor's particular interest in the development of nuclear plants.

The union has strongly endorsed all proposals to help promote development of the nuclear energy industry at the earliest possible date.

It has been my pleasure and honor to know and work with the international president of the Rubber Workers, Mr. Peter Bommarito, for a number of years. Mr. Bommarito has not only represented his membership in the usual union activities, but has also been an eloquent spokesman here and around the world in concerns of health and safety in the workplace; indeed, one of the first to voice the dangers of PVC—polyvinyl chloride.

At the 40th anniversary convention of the Rubber Workers, Mr. Bommarito addressed himself to the subject of energy supply and jobs, which I am pleased to call to the attention of my colleagues. I ask unanimous consent that his remarks be printed in the RECORD.

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

RUBBER WORKERS URGE STEP UP NUCLEAR PLANTS TO FOSTER EMPLOYMENT AND THWART ENERGY STARVATION FOR UNITED STATES

ENERGY SUPPY AND JOBS

We are actually worse off today in meeting our nations energy needs than when the Arab countries imposed their oil boycott two years ago. To meet our requirements, we're importing more foreign oil now than in 1973. And we are more vulnerable than ever to the threat of a future boycott.

We conceivably could reduce our daily requirements for oil from 58 to 51 million barrels daily in 1985 by a comprehensive conservation program. But we still would have to reply on 11 million barrels a day of foreign oil—at a cost of about $45 billion, based on current prices.

Therefore, in the next 10 years, we must get 200 nuclear reactors on line, double our coal production and increase our oil and gas output by 25 percent.

Nuclear power is particularly significant because it is the only non-fossil source of energy we have. If we can get those 200 nuclear generating stations going by 1985, well reduce our oil requirements by six million barrels a day. Thats just about the quantity of oil were importing today.

Furthermore, the economic advantage of nuclear power over oil and coal is well established. In 1974, only seven percent of our electricity was generated by nuclear reactors—yet this limited use of nuclear fuel saved American consumers $810 million. This year's estimated savings will spiral to $1¼ billion.

Questions about the safety of nuclear power plants have been answered to the satisfaction of all but the most rabid of nuclear power opponents by the publication of the exhaustive Rasmussen Reactor Safety Report.

The facts also indicate the opponents of nuclear progress are grossly exaggerating the danger of radiation exposure as they stridently criticize present regulations of the Nuclear Regulatory Commission as being too liberal. The facts show that the danger of radiation exposure from nuclear plants is almost infinitesimal for the average person, compared to his exposure from other sources including medical treatment and aircraft travel.

Yet another problem plaguing the nuclear power industry is concern about safeguarding Plutonium before it is recycled into nuclear reactors and about radio-active waste. But recycling and radio-active waste problems could be solved if government stopped draggiing its feet on licensing even the first nuclear reprocessing plant.

Also of critical concern is that nuclear plants have limited capacity to store discharged fuel—and time is running out. Without reprocessing facilities, many operating plants probably will be forced to shut down in the next few years—an uninviting prospect in view of our burgeoning energy plight.

It seems to me nobody has a greater stake in solving our energy problems than our members. It's been calculated that for every million barrels of oil that we need and don't have, 900,000 jobs will be lost. The building of the new plants will create 190,000 new construction jobs. About 240,000 more jobs will be created to operate those plants. Some 570,000 more jobs will be required in the industries that supply the equipment, steel, copper, cement, aluminum and other materials required to build the plants.

Clearly, America needs more energy and it needs more jobs. Government inaction or indecision on nuclear energy are major obstacles to meeting these twin goals. Many of the snags to nuclear power development have got to be removed in Washington. The time to move is now.

NUCLEAR RESOLUTION

Whereas the national energy shortage of oil, fossil and other exotic forms of energy threaten the future employment both direct and indirect of our members; and

Whereas the welfare of our members and nation require energy independence free from the dominance of OPEC nations; and

Whereas the raw material requirements of rubber, plastic and other components essential to the employment of our members require maximum conservation of oil and natural gas resources and maximum development of substitute energy.

Therefore be it resolved that we urge:

1. Prompt action by the Congress and other government agencies to extend the Price Anderson Indemnity Act as proposed by the Administration,

2. Expansion of the nation's nuclear fuel enrichment capacity,

3. Closing the nuclear fuel cycle,

4. Reforming the cumbersome and lengthy licensing proceedings which are delaying the construction of new nuclear power plants.

And further be it resolved that we endorse the several administrative and legislative measures set out in the recent report of the President's Labor-Management Committee with respect to both coal and nuclear and emphasize any support for the establishment of a task force of labor and management experts to assist in expediting the completion of electric utility plants in a timely fashion.

CORRUPTION IN THE GRAIN TRADE —THE GROWING CONSENSUS FOR FEDERAL INSPECTION

Mr. CLARK. Mr. President, on January 27, 1976, William Robbins of the New York Times reported that—

The General Accounting Office soon will urge creation of an all-Federal grain inspection system, saying that nothing short of complete reform can prevent scandals of the kind exposed in a broad investigation of corruption in the industry.

Mr. Robbins also wrote that the GAO report, due to be submitted to the Senate and House Agriculture Committees on February 15, "is said to urge combining in a single agency responsibility for grading grain and for monitoring the weighing of grain."

I find this report extremely encouraging, Mr. President. The recommendations the GAO apparently will make should provide the impetus for the sweeping changes that are obviously needed and that have been advocated by myself and several of my colleagues.

In recent days, the demand for Federal grain inspection has been heard in other quarters as well. On January 23 the Des Moines Register—which originally reported the grain inspection scandal last May—reiterated its position, saying:

The problems of the present grain inspection system are too extensive to be eliminated by partial reform. A fully federalized grain inspection system is necessary to achieve honest inspection.

An editorial in the January 26 Washington Star expressed similar concerns, concluding that:

The United States' reputation in international commerce is too important to allow it to be damaged further by shortweighing, misgrading and even the deliberate contamination of grain exports. If it takes a closely controlled, all-federal inspection system to put an end to the abuses, this should be provided.

On July 31, I introduced the Federal Grain Inspection Act, which calls for: First, the establishment of an all-Federal grain inspection system; and second, the establishment of a new agency in the Department of Agriculture with authority over both grain grading and weighing. Congressman JOHN MELCHER has introduced the identical bill in the House of Representatives as H.R. 9697.

The distinguished chairman of the Foreign Agricultural Policy Subcommittee, Senator HUBERT H. HUMPHREY, has called hearings for February 20 to review the GAO report and begin consideration of permanent legislation. As a member of the subcommittee, I shall continue to press for the adoption of S. 2256.

Mr. President, I ask unanimous consent that the Register and Star editorials and a summary of the Federal Grain Inspection Act be printed in the RECORD.

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

[From the Des Moines Register, Jan. 23, 1976]

SPREADING GRAIN SCANDAL

Three inspectors employed by a state grain inspection agency in Louisiana have been indicted by a federal grand jury for bribery

and conspiracy in the misgrading of export grain shipments. The indictments are the first to implicate grain inspectors working for a state inspection agency.

The grain inspection scandal previously had resulted in the indictment of 57 grain inspectors, grain firms and grain company employes from Louisiana and Texas. The indictments involved the private grain inspection system and centered on corruption in the grain export trade.

Under the present system, the inspecting, grading and weighing of grain is performed by federally-licensed inspectors working for either private or state inspection agencies. Federal grain inspectors supervise the private and state inspectors and conduct appeal inspections.

The earlier indictments led some congressmen to argue that effective reform of the grain inspection system could be achieved by eliminating private inspection agencies at export points.

The broadening of the grain scandal to a state inspection agency indicates that such partial reform is not likely to restore integrity to grain inspection. Moreover, the unfolding grain scandal gradually is involving grain inspection at inland terminals.

Probes of possible corruption at major inland terminals have been launched by the FBI and the U.S. Department of Agriculture's Office of Investigation. The General Accounting Office already has established that many country elevators lack confidence in grain inspection and that there is a 10 per cent error rate nationally in grain grading.

Despite the indictments and probes of corruption in the grain inspection system, federal inspectors last week found strong evidence that a 3.2 million-bushel corn shipment bound for Poland had been willfully misgraded by private inspectors. The incident is a glaring example of the disregard for the law which has fostered corruption in grain inspection.

The problems of the present grain inspection system are too extensive to be eliminated by partial reform. A fully federalized grain inspection system is necessary to achieve honest inspection.

[From the Washington Star, Jan. 26, 1976]

POLICING GRAIN EXPORTS

The General Accounting Office is expected to recommend a network of federally employed inspectors to assure the proper quality and quantity of grain shipped abroad. This would appear to be the surest way of combatting the problem of cheating in the filling of orders for foreign purchasers of American agricultural staples.

Recent scandals, particularly at Gulf ports, have involved grain that was subject to certification by privately employed, federally licensed inspectors or by inspectors working for state agencies. Through whatever combinations of venality, conflict of interest and intimidation, the system did not work. Supervision of the inspectors by the U.S. Department of Agriculture was not up to the task. Complaints by foreign buyers that they were not getting what they paid for became a serious embarrassment to this country in its program of building foreign markets for American agricultural products—a big element in our currently healthy trade balance.

The Ford administration says that tougher federal supervision of the private and state inspectors is all that is needed. We are persuaded that a more radical reform is needed, because mere supervision failed in the past and the pattern of corruption has been so pervasive in some grain-shipping areas.

The GAO investigators, answerable to Congress, are reported to have concluded that, for supervision to be effective, a federal supervisor would have to be assigned to watch every inspector. If this is only half true, it would be far more efficient to have the inspection itself done by federal employes beholden only to the government and the public. Even so, stern measures would be necessary to make these inspectors bribe-proof and protect them from pressures to fudge their findings or turn a blind eye to abuses.

The United States' reputation in international commerce is too important to allow it to be damaged further by shortweighting, misgrading and even the deliberate contamination of grain exports. If it takes a closely controlled, all-federal inspection system to put an end to the abuses, this should be provided.

BASIC PROVISIONS OF THE FEDERAL GRAIN INSPECTION ACT—S. 2256

I. FEDERAL GRAIN INSPECTION AGENCY

A. Reorganizes the Department of Agriculture to establish a new Federal Grain Inspection Agency, which shall be solely responsible for carrying out the provisions of the U.S. Grain Standards Act.

B. Provides that the Director of the new Agency be appointed by the President, subject to the consent of the Senate.

C. Stipulates that all authority under the U.S. Grain Standards Act previously granted to the USDA (and in practice exercised by the Grain Division of the Agricultural Marketing Service) and the Secretary of Agriculture shall be in the hands of the Agency and its Director.

II. DUTIES OF THE DIRECTOR

A. To establish all policies, guidelines and regulations for administering the U.S. Grain Standards Act, including the setting of standards regarding the inspection of grain and—for the first time—the weighing of grain.

B. To establish procedures for the Agency to inspect and test all weights and scales used in the weighing of grain sold in interstate and foreign commerce.

C. To establish procedures for the Agency to inspect, monitor and standardize all grain grading equipment.

D. Within six months of enactment, to thoroughly review and re-draft where necessary the criteria for the grading and weighing of grain in order to:

1. Encourage and reward the production, maintenance and delivery of high quality grain;

2. Assure that U.S. grain is competitive in reputation for quality in the world market, and

3. Discourage the addition of foreign materials to grain.

E. To report to the Congress within 30 days any official complaint or contract cancellation related to the export of more than 100,000 bushels of any commodity, and the action taken by the Agency with respect to any such complaint or cancellation.

F. To investigate any complaint or contract cancellation regarding any official transaction with which the U.S. Grain Standards Act is concerned.

III. FEDERAL INSPECTION OF GRAIN

A. All U.S. grain exports must be inspected by licensed personnel of the Federal Grain Inspection Agency at the point of departure.

B. All U.S. grain exports must be inspected by licensed Agency personnel at the point of destination, unless the Director Judges such inspection to be impractical in specific cases.

C. Inspection of domestic grain by licensed Agency personnel shall be made available upon request of any interested person.

IV. GRAIN COMPANY REGISTRATION

A. Any business firm engaged in the buying for sale or in the handling, weighing or transporting of grain for sale in interstate or foreign commerce must register with the Director of the Federal Grain Inspection Agency.

B. Firms that only occasionally or incidentally engage in such business shall not be required to register.

C. Firms required to register shall have to provide the Director with the firm name and principal address; names of all directors, principal officers and persons in a control relationship; lists of locations where the firm conducts substantial operations, and any other information the Director deems necessary to carry out this Act. Firms shall be required to renew their registrations annually, and to report any changes in the required information within 30 days.

D. The Director may suspend or revoke the certificate of registration of any firm found to be in violation of the U.S. Grain Standards Act. The Director shall revoke the certification of any firm convicted of a second violation of the Act for at least six months.

V. CRIMINAL PROVISIONS

A. Defines as criminal actions: deceptive weighing of grain, adulteration of grain, offering of bribes to federal grain inspectors (accepting bribes is already a crime under the U.S. Grain Standards Act), killing USDA employees (not now a federal offense).

B. Establishes the following penalties:

1. Persons who intentionally or knowingly violate the provisions of the U.S. Grain Standards Act shall be guilty of a felony, with a maximum penalty of 5 years imprisonment, a $10,000 fine, or both.

2. Persons recklessly violating the provisions of the Act shall be guilty of a misdemeanor, with a maximum penalty of 1 year/$5,000.

3. Persons who, through gross negligence, violate the Act shall be guilty of a misdemeanor, with a maximum penalty of 6 months/$3,000.

VI. FUNDING

The Federal Grain Inspection Agency will be funded through the assessment of inspection fees, which shall be set by the Director so as to cover the costs of the Agency incident to the performance of its duties.

VII. FEDERAL INSPECTION PERSONNEL

A. The Director shall issue licenses to Agency inspection personnel to ensure their competence. No person may perform official inspections unless he or she holds a valid license.

B. No Agency personnel may be financially interested in, employed by, or accept gratuities from any firm engaged in the merchandising of grain.

C. The Director may adopt rules to require the periodic rotation of Agency inspection personnel.

VIII. EMERGENCY POWERS

For one year, the Director is authorized to:

A. Issue regulations regarding improved sampling equipment and installation of electronic monitoring equipment in export elevators, and

B. To establish standards and procedures for the loading of export grain.

IX. OTHER PROVISIONS

Authorizes the Director to purchase grain grading and testing equipment at fair market value from private and state inspection agencies, if he determines such equipment to be useful in carrying out the provisions of the U.S. Grain Standards Act.

THE MERCHANTS OF GRAIN

Mr. CLARK. Mr. President, in an address on January 5, 1976, before the American Farm Bureau Federation, President Ford laid down the cornerstone of

his administration's farm policy. He said:

You (the American farmer) must export if we are to keep a favorable balance of U.S. international trade. You must export if you are to prosper and the world is to eat.

Food, as all of you know, is now our number one source of foreign exchange. Farm exports last year totaled nearly $22 billion. Our favorable $12 billion balance in international agricultural trade offsets deficits in nonagricultural trade. It strengthens the American dollar abroad. This helps to pay for the petroleum and other imports that are vitally essential to maintain America's high standard of living.

I certainly agree with President Ford that farm exports are essential to the health and prosperity of the U.S. economy. What I am less certain of is just how the President has decided to promote these exports. Is it through bilateral grain agreements, threats of withdrawal of food assistance to traditional aid recipient countries, and periodic, unpredictable commodity embargoes like the one in September against Poland?

Equally important and as yet undefined by the President or any other qualified Government official—is just how these exports should be handled in a way which will benefit broad-based American economic interests. The preference at the moment seems to be to steer all the export business to a few grain trading houses, three of which control at least 45 percent of all our grain exports. Perhaps this trend is just the result of enterprising firms drumming up business wherever they can, but I am inclined to think that there are other reasons why all our grain exports are handled by so few companies.

In a most interesting series of articles appearing in the Washington Post, entitled "Merchants of Grain," the author, Dan Morgan, outlines the major American grain exporting companies' wide field of operations. The articles point up the tremendous impact these few companies can have on the price of U.S. grain. Furthermore, they suggest that in executing large package sales with customers like the Soviet Union, a considerable amount of politics comes into play.

As good as these and other recent articles are, they merely scratch the surface of what is involved in the U.S. grain trade. The Senate Foreign Relations Subcommittee on Multinational Corporations, of which I am a member, has been conducting an intensive investigation oi how our trading system works and what the role of the multinational exporting houses is, both in the functioning of this system and in certain critical foreign policy matters. I look forward to learning the results of this investigation, for it is my expectation that it will result in the first comprehensive disclosure of what really takes place in America's multibillion dollar grain export business.

Mr. President, I ask unanimous consent that Mr. Morgan's excellent series be printed in the RECORD.

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

GIANT GLOBAL COMMODITY FIRMS LOSING CLOAK OF OBSCURITY

(By Dan Morgan)

The global grain companies that vitally influence food prices and policies in this country are slowly losing their long-held ability to conduct business under a cloak of obscurity.

How much grain and soybeans the giant companies export, to whom they sell commodities and at what price—these are matters that affect food costs at home and the diets of hundreds of millions of people abroad.

In many respects the firms perform the same function as the huge international petroleum companies, the "Seven Sisters." Like them, the grain firms are a handful of companies engaged in moving an essential commodity from the few countries that have more than enough to the many that have far too little.

Yet, the names Cargill, Continental, Cook, Bunge, Dreyfus, and Garnac—the "Big Six"—are far less known to most Americans than any of the major oil companies.

The grain moguls seem to prefer it that way.

They seldom discuss their activities on television or in the newspapers, and certainly never suggest to anyone, "We want you to know."

Large sales of grain to Russia, arranged by the private firms, had consequences last summer for the American economy, detente and the political prospects of Gerald R. Ford.

The grain firms also are deeply involved in the economic affairs of the developing countries of the Third World. The United States is the major supplier of wheat to all but a few of these nations, and most of that wheat moves through the distribution system of the global grain giants. At the same time, the companies handle much of the agricultural exports of those poorer countries—export that raise cash to pay for the grain imports.

When the senior executives of some of the most powerful firms fly off on grain-selling missions, their whereabouts often are kept secret even from their own senior employees so that an untimely leak won't tip off a competitor to some impending grain sale coup.

The telephone operator at the Louis Dreyfus Corp. in New York City answers calls with a cryptic "1–5–1–5"—the last four digits of the Dreyfus phone number. And the firm's president, Gerard Louis Dreyfus, confesses candidly that he is "scared to death of the press."

The Continental Grain Co., which handles a quarter of all the grain traded among the world's nations, has yet to publish a brochure for the general public—and the family that runs the firm, the Fribourg grain dynasty, has been in business for 162 years.

Five of the six largest grain conglomerates are closely held, private firms controlled by a few individuals or families. They don't publish any detailed financial information. The only one of the big six that does, Cook Industries, Inc., of Memphis, is required by law to do so because it has public stockholders, and Cook's outspoken boss, Edward W. Cook, in any case shows considerable contempt for the reclusive ways of his competitors.

Washington cognoscenti are even hard pressed to identify a grain company lobbyist here.

A former New York City grain trader explains that the companies "don't need to have powerful lobbyists—for they have no regulation."

Only a few years ago, most policymakers were content to let the firms continue operating freely in the shadows of American commerce. The United States had huge, unsold stocks of grain, and the prevailing view was that if the companies could find some way of disposing of it abroad, that was all to the good.

Today, the conditions that made secrecy in the private grain trade tolerable have disappeared.

The American grain stockpile is gone, and international negotiators have not yet been able to create any new system, such as global food reserves, to protect nations from the cycle of scarcity and surplus that causes prices to rise and fall wildly.

"The five large corporations that sell and ship almost all the grain exported by the United States (and many other countries) operate under conditions of notable confidentiality, license and oligopoly," writes Emma Rothschild, an authority on world food policy, in the January edition of Foreign Affairs quarterly.

Revelations about pervasive corruption at grain export terminals used or operated by the big companies in New Orleans have detailed glaring flaws in the nation's system of grain distribution.

And the huge profits which the companies admit to having earned since 1972 have raised questions about fair return.

While American grain exports were almost doubling from 41 million tons in 1970 to a projected 76 million tons last year, the major companies were ringing up profits described by a New York securities analyst as "almost ungodly."

Cook Industries increased its yearly profits 15-fold between 1972 and 1974. Others doubled or tripled their net worth, according to reliable trade sources. And the firms launched expansions into new ventures and new markets all over the world.

In many respects, the grain companies are the most perfect expression of the multinational business world of the 1970s. Their operations cut across every geographic and political border, and are linked by a network of affiliates and subsidiaries that often bewilder bureaucrats and tax collectors accustomed to functioning within national boundaries.

The question asked of the international petroleum companies, the "Seven Sisters," can be asked of the grain companies as well: do they serve the interests of the United States or of themselves?

During the American government's embargo of grain sales to Russia last July 24 to Oct. 20, overseas affiliates sold Moscow millions of tons of those commodities from other grain-producing countries. Cook and Continental, both American-based firms, reportedly contracted in that period to ship the Russians 1.5 million tons of Brazilian soybeans.

Continental Grain has sold Cuba 90,000 to 100,000 tons of South American and Italian rice, even though American rice exports to the Communist nation are still embargoed. American rice growers, who are stuck with unsold surpluses were furious at the Treasury Department for approving the sale.

Continental Grain is the Australian government's exclusive agent for selling Australian wheat in South America—where American wheat sometimes competes for the same markets.

International grain companies also speculate on, and profit from, the European Common Market's system of protectionist import duties on grain—the same system that American negotiators tried for years to get dismantled. The firms speculate on the size of the duties, which float up and down in step with changes in world grain prices. Time differences between European and American commodity exchanges help them stay a step ahead of changes in the duties posted in Brussels.

The protectionist duties have contributed to expanded production and exports of European grain and to a decline in shipments of American farm products to the continent.

Yet, all this means to the grain firms is that they handle larger West European exports to make up for fewer American imports.

American grain and agribusines firms also have invested heavily in the Brazilian "soybean miracle"—a development that worries American soybean growers.

Aided in at least one case by U.S. government financing, they have built processing plants that soybean experts here say have cut into America's $2 billion a year soybean sales abroad.

In late 1971, officials of the Overseas Private Investment Corp., a U.S. agency, approached executives of Cargill, Inc., in Minneapolis and encouraged them to seek a loan for the new crushing plant being built by the firm's Brazilian subsidiary, Cargill Agricola.

The next year, OPIC extended a $2.5 million loan to the firm.

At that time, Ralph T. Jackson, executive vice president of the American Soybean Association, said he had no objection because it appeared most of the processed meal and vegetable oil would be used in Brazil.

According to Dennis Blankenship, director of market development for the Association, that is not the way it worked out.

"Our government shouldn't be financing this kind of thing," he said. "I don't see any way for the expansion of the processing industry in Brazil to help the United States.

Most of the soybean meal and half the soybean oil that Brazil processes is exported, he said. This year, Brazil will ship 2.2 million tons of the 3 million tons of meal it processes. Much of the processing will be done by grain company subsdiaries, such as Cargill Agricola, Dreyfus, Bunge and Archer-Daniels Midlands.

Brazilian government tax rebates of $23 a ton on meal selling for $160 a ton have helped promote the exports. Blankenship blames the processing boom in part for last year's drop in the volume of American meal shipped to West Europe, which increased its buying from Brazil.

Cargill's loan proposal to OPIC stated that the processing plants offered "the only opportunity for U.S. firms to engage in and benefit from the expansion of Brazilian soy production."

But the extent to which Cargill, or other grain conglomerates can be termed "U.S. firms," or associated with any particular country, is questionable.

Bunge, among the largest six firms, is involved in commodities, finance and shipping on every continent. It is virtually stateless, with all its stock held by a holding company called Los Andes, in Curacao, Netherlands Antilles.

Garnac, the littlest of the big six, is Swiss-owned, and operates "as smooth as a Swiss watch," traders say.

Dreyfus has headquarters in Paris, where it is run by two cousins, Jean and Pierre Dreyfus, who have extensive interests in shipping and banking.

The three major American-based grain conglomerates, Cargill, Continental and Cook, all operate financial and trade subsidiaries in Geneva or Panama City. Cook's shipping arm, Cherokee, Ltd., is located in the Bahamas.

Tradax, Inc., Cargill's Geneva based overseas financing and trade arm, is probably one of the world's largest grain companies in its own right. It has been in Geneva since 1956 and now has offices in 14 countries.

Tradax buys grain from Cargill at American ports and markets it to governments, flour mills, feed processors and food merchants. According to Hubert Sontheim, a Tradax vice president, one of Geneva's attractions is "reasonable taxation."

Cargill started as a frontier grain company in mid-19th Century and grew in step with the country's expansion westward. As railroads penetrated into the American grain belt, Cargill built grain elevators along the tracks. Today, it is believed to be the largest privately owned American company. But its reach extends far beyond the United States.

Cargill's shipping bookings for a single day, last Nov. 18, suggest the scope of its global undertakings. Its shipping arm, Greenwich Marine, Inc., was seeking vessels that day to haul grain from Brazil to the Adriatic, from South Africa to Portugal and from Australia to Europe. It was also advertising for vessels to carry pig iron from Canada to Houston, Tex.; soybeans from Canada to Japan and sugar from India to Tunisia.

Cargill's list of interlocking relationships with governments and businesses all over the world goes on and on. One example illustrates these elaborate connections: The Taiwan government's sugar corporation owns a 40 per cent interest in Cargill's Taiwanese subsidiary; and that subsidiary in turn makes two-thirds of all its sales to the Taiwanese sugar corporation.

The Continental Grain Co., Cargill's main rival as well as the world's largest grain firm, operates through some 200 overseas affiliates and subsidiaries. In peak periods, 25 or more ships owned or leased by Continental are afloat carrying at least 500,000 tons of grain to destinations abroad.

The grain traders say that they operate the most efficient system ever devised for moving grain. They have colossal expertise," says a Canadian government official knowledgeable about the trade. "If you're on the coast of Eritrea and find a guy who wants 2,000 tons of sorghum, they have the price and they have the vessels," he said.

"The use of the affiliates abroad advances a number of (United States) national objectives," according to a Cargill position paper.

The overseas investment of the affiliates in transportation, food storage and food and feed processing helps create larger markets for American grain and soybeans.

Also, the ability of the grain firms to operate globally and with lightning speed means they can shave their margins and make American grain competitive on world markets, senior traders say.

Traders concede their profits have been substantial since 1972, but say they are needed to finance hundreds of millions of dollars of investments in new grain elevators, barges, ships and railroad cars which will benefit consumers in the long run by streamlining food distribution.

The very fact that the grain firms have operated in obscurity indicates an important difference between the handful of big merchants and the handful of petroleum giants.

The global petroleum companies pump oil from the ground, ship it and sell it as gasoline to drivers at their highly visible company service stations. The oil companies have an obvious interest in stable prices.

That interest is less obvious in the case of the grain middlemen, who neither grow grain nor sell processed and labeled grain products to consumers in supermarkets.

For all the flaws, grain executives insist that Lincoln's definition of democracy also could apply to the function they perform: it is the worst system in the world—except for all the others.

"If you told me you could set up some world wide organization to distribute food in the fairest possible manner. I might be philosophically in favor," says Dreyfus general counsel Merton Sarnof. "Right now, there's no real alternative."

INFORMATION KEY TO GRAIN PROFITS

(By Dan Morgan)

"Information is everything," says a young wheat trader who never wants to be far from his Telex machine.

"To me, a scoop is getting commercial or political information ahead of the competition and selling a cargo of grain before the others catch on. That really turns me on."

Setting grain prices is a process that takes place out of sight of the general public, in the trading rooms of the major companies.

Whether the location is the regal chateau outside Minneapolis that serves as the headquarters of Cargill, Inc., or the skyscraper offices of the Continenttal Grain Co. in Manhattan, the process is roughly the same.

Each day, the agents on the "wheat desks," "corn desks" or "oilseed desks" of the companies buy and sell thousands of tons of grain. They may sell a few thousand tons to a European flour miller, or 200,000 tons to a foreign government. Or they may sell grain to a competing company that needs it to put aboard a ship in the Gulf of Mexico.

In the highly specialized business of grain trading, a fractional change in the value of a bushel of American wheat can mean thousands of dollars in the price of a 1 million bushel cargo, delivered to grain depots in, say, the Dutch port of Rotterdam.

And these shifts can be caused by far away events that might seem trifing to anyone uninitiated in the rites of the grain trade. To a wheat trader, a snowstorm in Kansas or the West German Bundesbank's interest rate today can be significant information.

And it is the private grain trade, not the government, that sets the prices of grain grown by farmers. It is the grain trade that allocates grain among countries, establishes prices months in the future and, directly or indirectly, affects the diets of millions of people all over the world.

Cargill keeps tabs on its global operations from the unlikely setting of a 63-room French-style chateau in the Minneapolis suburbs.

Ian Fleming, creator of agent 007, could hardly have invented a more intriguing setting. In a paneled former dining room soybean price quotations click into place on an electronic board. The former butler's pantry contains banks of electronic equipment and Telex machines. Those machines receive the cables from representatives abroad: the essential world news roundup of the grain trade. Traders start the day each morning by studying the reports.

They list information about the price of grain cargoes that arrived in Rotterdam while the traders were asleep; bids by the Japanese food buying agency; European import duties; gold prices; weather conditions; foreign exchange and interest rates; the costs of chartering ocean-going vessels and, often, tips on political conditions.

It was of interest to traders in early December, for instance, that the Soviet Ukraine and South Africa had received excellent rainfall for their crops of winter wheat and maize, a variety of corn.

So was a 9-inch snowfall in Kansas and Oklahoma, which delayed the loading of grain cars and interrupted the flow of winter wheat to ports at Houston and New Orleans. As port elevators began to run out of wheat, exporters bid up the price in scrounging grain to load aboard incoming vessels.

When the grain traders haggle over prices, they seal deals of millions of dollars with a terse "I accept" on the telephone, or an "OK" tapped out on the keyboard of a Telex machine.

When the New York City representative of a European flour miller goes to work in his cramped office in the morning, he checks the prices at which a dozen grain companies are offering wheat.

"We get the cheapest one and give their man a bid on the phone," he explains. "We bid back and forth and maybe they give a little. I say, 'I'll call you back with a reply in five minutes'—they don't want to be out of the market longer than that. Or maybe they'll say, 'We'll counter you in three.' Now maybe the guy on the other end just puts his finger in his mouth and sticks it in the air. Or maybe he'll call around to grain elevators in the interior to check on the price of spring wheat or get a reading on the price

in the last 3 minutes of trading in Chicago. Or we'll sit on the Telex line hookup for an hour putting together a deal with all the elements."

Many grain traders spend sleepless nights at home, after office hours, making long distance deals with company representatives in Japan or Europe.

Through this process, grain grown by American farmers flows into the worldwide pipeline.

Grain traders say it is the most finely tuned system ever devised for allocating wheat, corn, soybeans and other commodities to places they are needed.

"The object of the exercise isn't to shoot craps," said one trader. Instead, he said, grain companies make their margins by earning tiny profits on a long string of variables involved when grain is sold abroad: ocean shipping rates, storage fees in grain elevators, foreign exchange and interest rates, and the difference between the buying and selling price of the grain.

Grain traders insist that they do the job of transferring vital resources from one country to another far more efficiently than an international body could.

They say their risks are substantial. Edward W. (Ned) Cook, chairman of Cook Industries, Inc., in Memphis, has claimed he lost money selling Russia 3 million tons of grain last summer.

Continental Grain Co. reportedly lost money in 1974 in Swiss franc transactions. The company contracted to sell Turkey several hundred thousand tons of wheat for Swiss francs with delivery in early 1975.

Continental's monetary experts switched an equivalent amount of francs into dollars in anticipation of getting paid this spring. But Turkey canceled the deal and withheld its Swiss franc payment. In the meantime, the dollar had weakened against the franc.

Grain companies offset their risks by an intricate system called hedging. When a grain company sells quantities of wheat for delivery next March, it buys like amounts in the commodity exchanges for delivery the same month. If the price of wheat goes above the price they contracted to sell it, they are protected because they have contracted in advance to buy the grain they need for the sale at a price that should still give them a profit on the transaction.

Grain traders say, however, that it is impossible to eliminate all the risks. The prices of "futures" contracts in the major commodity exchanges don't always reflect the true price of grain trading locally at elevators, railroad sidings and export terminals in the vast reaches of the United States.

Last summer, exporters had to pay a 90-cents-a-bushel premium for wheat with a high protein content. That kind of wheat was in short supply, and exporters who had commitments to deliver it to European flour mills had to pay extra to fulfill these contracts.

Spokesmen for farmer-owned cooperatives which had large volumes of that kind of wheat in storage say they "milked" the exporters for several weeks. Strikes, floods, snowstorms, railroad snarls and other factors all can hike the price of grain in local areas and hit trading companies with losses. The companies also are exposed to an insider's game called "plugging" in which one company will store grain in another company's elevator and leave it there, plugging up the competitor's distribution system.

For all these risks, the grain firms rolled up huge profits between 1972 and 1974 as exports boomed.

Cook Industries' retained earnings leaped from $47 million on May 31, 1973, to $110 million two years later. As of May 31, 1974, profits as a percentage of shareholder equity—a common gauge of a company's profitability—was at a whopping 40 per cent.

Cook reported that profit margins on the goods it handled widened because of "the substantial increase in worldwide demand for U.S. agricultural commodities."

Reliable sources say similar financial gains took place throughout the grain export business.

Cargill reportedly doubled its earnings and net worth since 1972, and used the profits and unusually heavy long-term borrowing to finance hundreds of millions of dollars worth of new investments.

Continental Grain Co.'s American operation alone reportedly had retained earnings of close to $30 million in 1974.

Bunge, which is owned by a holding company in the Netherlands Antilles, reportedly tripled its net worth between 1973 and 1975.

The enormous volume of grain that moves through a grain company's distribution system enables the firm to more than pay for operating a transportation network and grain elevators (which cost up to $12,000 a day to run).

The global facilities of the firms also enable them to slough off risks in a way that no farmer in the United States or ordinary citizen dabbling in the grain markets could hope to do.

To protect against price shifts, an international company may make a long-range purchase of South African maize, to hedge a long-range sale of American wheat. The hedging works because both wheat and maize respond to the same global price pressures, and if the company loses money selling the wheat, it should recoup its losses when it buys the maize.

Grain companies which feel they have accumulated too much grain can unload huge quantities by selling to other grain companies, in a complicated operation called "stringing." Or they can skirt the government-regulated commodity exchanges in the United States and hedge whole 20,000-ton cargoes of grain by selling them to Italian commodity speculators—without any buyer or seller of futures contracts being the wiser.

International Grain traders also have devised a way to speculate and profit from the European Common Market's protectionist import duties against grain.

Hubert Sontheim, vice president of Cargill's Geneva subsidiary, Tradax, Inc., described this operation as "an art and science of evaluation."

The import duties indicate the difference between the world prices of grain and the price which the Common Market guarantees European farmers for the wheat and barley they sell.

These duties change every few days, in step with shifts in world prices. As the world price of grain increases, the duty shrinks; as the world price slides downward, the levy grows to increase the protection for the West European farmers.

When grain companies think world prices will decline, they assume the import levies will go up; so they register to import cargoes of grain at the current posted duties.

Tradax and other affiliates of international grain firms often offer European flour mills and feed processors discounts on grain of several dollars a ton and then make this back by speculating on the floating import duties posted by the Common Market.

Brokers say the grain firms can stay a step ahead because the trading in Chicago that signals the movement in world prices takes place after Brussels already has posted the import duties for the next 24 hours, at 5 p.m. European time.

If the prices slide downward in the trading in Chicago, company strategists in New York City or Minneapolis order their representatives in the trading pits to buy enough commodities at the prevailing low prices to meet commitments to European buyers.

At the same time, the strategists calculate that the Common Market will hike the duties the next day to compensate for the cheaper grain circulating in world markets. So they have affiliates in Europe register to import grain at the prevailing duties.

The operation can give a skillful grain merchant a built-in profit of up to 20 cents a bushel, according to one broker. That amounts to about $7.34 a ton and $14,080 on a 20,000-ton cargo.

Such trading devices are not, of course, available to American farmers, small-scale grain elevator operators, or persons who buy and sell futures contracts.

For they require an agility and transatlantic reach that only larger grain concerns can muster.

CORRECTION

In Friday's editions of The Washington Post a paragraph was inadvertently dropped from the first article in a series about international grain companies. The correct version should have read:

"That interest (in stable prices) is less obvious in the case of the grain middlemen, who neither grow grain nor sell processed and labeled grain products to consumers in supermarkets.

"There are a few exceptions, such as Continental's Orowheat bread and Polo Food frozen dinners which are sold to the public. But mostly the grain farmers are the middlemen between hundreds of thousands of farmers and tens of millions of consumers. Financial analysts say they make the most money when grain prices are rising sharply."

LOSING, RECOUPING $100,000 IN GRAIN

Mistakes can be expensive in the grain trade and even the best traders make them. "By the time you reach the top you have no ego left," said one broker.

One trader recalls how he lost $100,000 one morning and recovered it a few hours later. The New York agent of an Asian food buyer had called to get bids on 100,000 tons of corn. The young merchant jotted down some numbers, did some quick multiplying and made an offer.

The buyer accepted quickly—too quickly. The trader rechecked his figures and discovered an awful mistake. He had quoted the price in metric tons (2,206.4 pounds) rather than long tons (2,240 pounds). It meant the company would have to supply 33.6 pounds of corn free for every ton shipped. The miscalculation would cost the company $100,000.

Desperate, the trader asked the Asian customer to delay reporting the sale or booking the ocean vessels for a few hours. The young merchant knew that word of freight bookings would spread quickly through the grain trade.

News of a big freight booking tends to boost grain prices, as the grain trade takes note of stronger world demand. The Asian buyer held off booking the freight, to help his merchant friend. As the morning wore on, corn prices dropped—a penny a bushel, another penny, a third penny, a fourth penny. When corn was down four cents a bushel, the young merchant acted. He had the company's agents in the commodity exchanges cover the 100,000-ton corn sale to the Asian by buying grain for future delivery.

By waiting, the merchant had saved four cents a bushel, and recovered the money he had lost through carelessness earlier.

[Third in a Series]

GRAIN DYNASTIES THRIVE AMID RISK

(By Dan Morgan)

For a few days in early October, 1974, it seemed that grain merchant Edward W. (Ned) Cook may have taken one risk too many.

On the night of Oct. 4, Cook learned from Treasury Secretary William E. Simon that the U.S. government was embargoing his sale

of 2.2 million tons of wheat and corn to Russia because it was not in the national interest.

Cook had already acquired the grain. But with news of the government embargo, the bottom dropped out of the American grain markets. Cook knew that if the embargo stuck, he would have to unload the grain at tremendous losses, probably exceeding $25 million.

As the lanky southerner shuttled between his offices in Memphis, the White House and the Senate to plead his case, the fate of his company hung in the balance.

"What will happen if the market continues to fall," Sen. Henry M. Jackson (D-Wash.) asked Cook during one tense hearing on grain sales.

"I guess I will be out of a job, senator," he replied.

The government finally let Cook sell most of the grain to the Soviets and the chairman of Cook Industries, Inc., one of the world's six largest grain firms, was spared.

But the affair provided a glimpse of the adventure and risks that often seem to characterize the lives of the moguls of the global grain trade.

To many in that trade, Cook embodies the qualities most admired by grain merchants; a readiness to take big, if calculated, gambles; competitiveness, and a dislike of government regulations.

A close associate says Cook has a "risk mentality," which has enabled him to prosper in the grain marketplace "where only the fittest survive."

Much of what can be said about him could also be said of Michel Fribourg of Continental Grain; the Dreyfus family that controls the Paris-based company of that name; the descendants of the two brothers who founded the House of Bunge in Amsterdam in 1817; the Cargill and MacMillan families who built Cargill, Inc.; Gilbert Vigier of Garnac and Alfred C. Toepfer, the West German grain tycoon whose transatlantic operations are expanding rapidly.

These grain dynasties often seem to have been hewn more from the distant era of unfettered entrepreneurial pioneering than from the corporate world of 1976.

While the big oil, aircraft and automobile companies seem to be governed more and more by business technocrats, or committees, most of the big grain firms still are stamped unmistakably with the free enterprise personalities of the few individuals or families who rule them with autocratic authority.

For Ned Cook, the rise into that select group has been rapid, as well as illustrative of the qualities that make for survival in the world of commodities.

Fifty years ago, Everett R. Cook (who died at 70 in 1974) set out with a mule and wagon and began buying cotton from southern farmers. After World War II, his son Ned, returned from piloting a bomber, got a Yale education, and began learning his father's growing cotton business, in Memphis.

In the late 1950s Ned Cook felt that pressure from foreign cotton suppliers and domestic synthetic fiber would limit the growth of the family enterprise. He decided to plunge into soybeans even though his more conservative father resisted and withheld financial backing.

Now, Cook sells soybeans worldwide.

In 1972, Ned Cook quietly engineered the first of several commercial coups with the Soviet Union by quietly selling more than a million tons of soybeans to Kremlin buyers while most commodity dealers were concentrating on wheat and corn.

Cook is fond of telling everybody that "I am a grain merchant. I am not a statesman."

In fact, he has dazzled and often outmaneuvered the competition in a market that requires a high degree of statesmanship: the Soviet Union. For reasons that are not entirely clear, Cook quickly won over the Russians after 1972. Oldtime grain merchants such as Michel Fribourg and the Dreyfuses had cultivated the Soviets for years. Yet Cook, a relative upstart, moved into the top ranks of the Russian trade. Last July, his company sold 3 million of the 9.8 million metric tons of grain purchased by Moscow. Only Fribourg topped that.

People in the grain trade hypothesize that the Russians simply like Ned Cook's dash and respect him as a capitalist entrepreneur par excellence.

That is exactly what Cook sounds like when he throws his feet on his desk in his modern Memphis headquarters and explains his views.

"The worst thing that's happening in our country today is the overriding obsession for a riskless society. Safety, security. To hell with all that. That's a helluva way to run a country. They've got that in England and look at them.

"I'd just as soon compete. What's wrong with my losing money? Is that bad? That's my privilege to make money and lose money. If I lose money, tough luck; if I make money, that's great. The assumption of risk is what made this country. It's what everybody's trying to get away from. You should take your raps without being a cry baby. What's wrong with firms going broke? If New York's going belly up, let it go. I think if I made a bad decision and Cook Industries went broke . . . tough."

It is hard to imagine such sentiments coming from executives of Lockheed, or other businesses which are far more dependent on the federal government for help than the grain firms

Michel Fribourg, who presides over the Continental Grain Co. from art-bedecked residences in Manhattan, Paris and Connecticut, and retreats at the Riviera or the Alps, is far different from Cook in style and personality.

Fribourg is a naturalized American who fled from the Nazis with other family members in 1940 and was serving as a private in the U.S. Army while Cook was flying bombers.

While Cook is blunt, outspoken and accessible, Fribourg is shy and elusive. While Cook has been trading grain a relatively short time, the House of Fribourg has been handling grain ever since Michel's great-great-grandfather started a small trading business in Arlon, Belgium, in 1813.

Yet Fribourg, the courtly aesthete, and Cook, the outgoing southern gentleman, share a common instinct for the jugular when they smell big grain deals in the offing.

In the dry years of Soviet-American grain trading in the 1950s and 1960s, Fribourg cultivated top Russian purchasers, sometimes offering small services such as selling Russian grain when they had some to export. Fribourg got to know Nikolai Belousov, chairman of Exportkhleb, the Soviet grain-buying agency, long before Moscow came to America for massive purchases of grain in 1972.

When the Soviets moved, it was Fribourg who Belousov invited to his suite at New York City's Regency Hotel.

After 36 hours of marathon negotiating, Fribourg and Belousov sealed with a handshake and a toast of vodka a deal that committed Continental to sell $460 million worth of grain, possibly the biggest deal ever negotiated by a private businessman.

It paved the way for a series of sales that resulted in Continental's selling Russia more that 10 million metric tons of grain through 1975.

Like Cook, the Fribourg house started small and grew steadily, surviving and prospering through war, famine, economic collapse and recovery.

"We have survived by working with our wits," Fribourg says.

In 1848, during a famine in Belgium, his great grandfather went to Bessarabia with bags of gold to buy wheat for the stricken country. When anti-Semitism threatened the family at the outset of World War II, Michel's father Jules had a Fribourg-owned freighter diverted to Lisbon to pick up the family and bring it to America.

Today the Michel Fribourg empire covers dozens of countries and at least 100 companies, embracing shipping, agribusiness, real estate, finance and cattle ranching.

Only Cargill, Inc., the diversified conglomerate in Minneapolis that handles about a quarter of this country's grain exports, departs somewhat from the centralized, one-man rule of the other big companies. The chairman of the board, Erwin E. Kelm, and the chairman of the company's overseas financing and trade subsidiary, Tradax, Walter Gage, are both company career men.

Yet even Cargill bears some resemblance to the other firms. The Cargill and MacMillan families which trace their roots to the 19th century founding of the frontier grain business, control 90 per cent of the stock and help manage the company.

Over the years, the closed and exclusive society of the big grain traders has often functioned like a private club, with its own privileges, protections and protocol.

Competing against one another for business, the grain traders of the past could be ruthless and deceptive. Grain men tell stories of company representatives abroad donning disguises and faking trips by showing up at airports and then exiting through a side gate without boarding a plane in order to throw competitors off the scent of an impending deal.

Through the years the dynasties of Bunge, Dreyfus and Fribourg treated one another like royal families—fighting wars while taking in the children of their adversaries.

As with other corporate ingroups, the grain dynasties use the word "friends" with an old-world flair. It means associates you trust.

"If you have a son who is traveling abroad, you send out a telegram to one of your 'friends,'" said one source. "He may be a competitor, but immediately the reply comes back that your son is invited to be his personal guest and that there is a position with the firm if he would like to get some experience. It is a very sophisticated kind of apprenticeship."

And the trade still has a special romantic appeal. When Gilbert Vigier, the French-born executive vice president of Garnac describes his entry into the business, he recalls that he asked himself, "What kind of business would make me travel? This one, I decided."

Grain executives still trade nationalities almost as fast as they trade grain. Seattle born Walter Gage, chairman of Cargill's Swiss subsidiary, Tradax, for example, is now a Swiss citizen.

But the grain trade is changing. The days of one-man rule, when the head of a grain house knew all his employees and personally rewarded them, may be numbered.

Companies such as Continental and Cargill now have thousands of employees. They are also becoming concerned about their public image.

Cargill recently brought in a young Rhodes scholar, Robbin Johnson, to head its public relations department, and other grain firms are doing the same.

Cook's operations rely more on computers and a new breed of corporate whiz kids whose style is quite different from the free-wheeling older men in the global grain trade. Willard R. Sparks, 38, one of Ned Cook's right-hand men, is from an Oklahoma farm and has a doctorate degree in agricultural economics.

Gerald Louis Dreyfus, nephew of the two cousins who head the Paris company, comes from Duke University and a New York law firm.

As Cook's exploits have shown, there is still plenty of room for initiative and risk-taking. It is, in the words of Dreyfus counsel,

Merton Sarnoff, "the last refuge of free enterprise."

Grain traders still recall the heyday of high rollers, when a rich young man from New York named Joseph Leiter could risk his fortune in 1898 trying to corner the Chicago wheat market. He failed because of heroic counterplays by his competitors, who blasted open frozen rivers to keep the wheat moving to the markets and Leiter from setting his own price.

All that seems to be changing, too. The U.S. government to investigating numerous aspects of the grain trade, from corruption at port grain terminals to relationships with grain company affiliates abroad. More supervision, if not regulation, seems to be in the offing.

Though it goes against their image to admit it, the grain companies also have depended on federal government largesse.

Before the American grain stockpile was depleted by heavy Russian and other foreign buying in 1972, the big companies earned billions of dollars storing surplus grain held by the government.

Between 1949 and 1972, the government also paid out $4.3 billion to subsidize exports of American wheat, to balance the difference between lower world prices and higher prices for which the grain was selling at home. This made it worthwhile to export grain.

The companies also benefited from the government's Food for Peace program of food aid to hungry nations. The program enabled the companies to sell millions of tons abroad that otherwise would have been kept in storage in this country. The sales were financed by the government.

In 1972, for instance, Cargill, Continental, Cook, Dreyfus, Bunge and Garnac collected $166 million in sales made under the Food for Peace program.

For that reason alone, many members of Congress say that the time has come to take a more detailed look at the way the public is served by "the last of the free enterprisers."

[Last in a series]

GRAIN REGULATION DEBATED—END TO DRASTIC PRICE FLUCTUATIONS SOUGHT

(By Dan Morgan)

When investment banker Nathaniel Samuels was deputy under secretary of state in 1972, "there wasnt a soul who didn't think Russia's grain buying was manna from heaven," he recalls.

Nearly four years later, Samuels is on the outside, looking in at U.S. food policies that restrict sales of wheat and corn to Moscow and discourage grain companies from automatically selling as much as they want to whomever they want.

Samuels now is chairman of the Louis Dreyfus grain company in New York City, one of the major exporters of American what, corn, barley and soybans. And, although he is not overly pleased with the federal government's deepening involvement in grain markets, he thinks it is probably permanent.

"There's not much doubt that we're moving toward greater regulation as the food supply becomes more of a public issue," he says. "My guess is that the grain companies will just have to put up with it, even though they are as pure free market advocates as you can find."

Members of Congress, who are pressing several investigations of the grain business, agree. They say that any business that can affect foreign policy, food prices at home, and the diets of tens of millions of people all over the world is too important to be left to the private traders alone.

Of all the countries in the world, only the United States has operated what amounts to an open supermarket in which foreigners can shop for grain on the same terms as American buyers.

For example, the European Common Market employs a system of rigid controls on both grain imports and exports. Canada and Australia sell their wheat abroad through governmental boards, though the private grain companies assist as commissioned middlemen.

By contrast, the United States "is the last bastion of free enterprise," as a New York City commodity broker put it. No fewer than 36 private companies export wheat from the United States; six of them handle three-quarters of it. Many of the 36 companies are not American at all but Japanese, Swiss, French, West German, or Dutch.

Every day, the whole world looks to the commodity exchanges in Chicago as the guide to the "real" price of grain— the price at which buyers and sellers trade it in the market place.

Economists and politicians seem to agree that there are real dangers in tampering with such a sensitive system—particularly as even small adjustments are likely to be felt around the world.

Grain company executives say they operate the most efficient system in history for transferring food from where there is more than enough to where there is too little. Any fundamental changes would ultimately result in higher costs to consumers and nations abroad, they insist.

Five times since 1973, a President has imposed some kind of government controls on commercial grain and soybean exports, as supplies grew tight. The Soviet Union, Poland and members of the oil producers' cartel all were singled out for stoppages at one time or another. And in 1973 the United States placed a general embargo on soybean exports.

Never in recent history have world grain prices fluctuated up and down as wildly as they have since 1972. They have done so in a period when Agriculture Secretary Earl L. Butz was defending his economic doctrine of an uncontrolled free market in agricultural products, and maximum exports. The price swings have had a severe impact on consumers, farmers, livestock raisers who feed corn and soybeans to animals and poultry, and on foreign nations at the end of the American food pipeline.

Many of those nations are poor and ill-suited to adjust to the higher prices.

The United States exports at least $8 billion worth of agricultural products annually to developing countries—almost 40 per cent of the entire value of farm sales abroad.

Advocates of grain trade reform say the price shocks of the last four years could have been avoided by allocating commodities to customers abroad through long-term government agreements and by creating an international grain reserve to soften the impact of scarcity and surplus.

The five-year Soviet-American grain agreement, signed Oct 20, was a step in that direction. It established maximum and minimum annual purchases for the Soviets.

A more drastic step would be to nationalize grain exports by having the federal government instead of private firms market wheat and corn abroad.

Rep. Jim Weaver (D-Wash.) has introduced legislation in Congress which would do that.

A government marketing board could prevent private companies from reaping speculative profits at the hands of farmers and consumers and it would end the possibility of raids on American food supplies by big government buyers abroad.

Washington would gain tremendous political and economic leverage over adversaries if the government controlled this country's surplus food. Central Intelligence Agency analysts, for instance, already envision the United States regaining world dominance through its food power. The Kremlin would have to come directly to Washington to buy grain, as it must now do with Canada.

Some CIA analysts note that the Soviet Union isn't likely to destroy the United States while the United States is providing a sixth of Soviet grain requirements, as it is now.

For all its attractions, agricultural economists say the idea of an American government grain board has its drawbacks.

Such boards in other countries have been "well meaning," but have tended to encourage over-production, surpluses and high production costs, says Prof. Ray Goldberg, an agribusiness specialist at the Harvard Business School.

Goldberg says government bureaucrats are far less capable of setting prices in grain deals with foreigners than merchants in the marketplace. Abolishing the free enterprise grain market would deprive the world of the benchmark it uses to ascertain grain prices, he notes. If a government board was handling the export deals, bureaucrats would be picking prices out of the air and the open American supermarket would become a thing of the past, Goldberg argues.

Harald Malmgren of the Woodrow Wilson International Center for Scholars says that the government should avoid getting directly involved in selling grain because "political pressures from farmers and consumers would be so intense. You'd end up using such an agency as the Export-Import Bank has been used—as a political tool.

While farmers would be pressuring for all-out food exports, consumer representatives would want to limit them to keep supplies abundant at home and food prices low, he adds.

Governmental tampering with food exports can have domestic political repercussions. American farmers and farm state congressmen reacted angrily to the administration's embargo of grain and soybeans against Russia last summer. Farm organizations are still angry at the long-term agreement signed Oct. 20.

"We treated the Russians shabbily," said Joseph Halow of Great Plain Wheat Co., Inc., Washington. "They backed off when we applied the pressure. We should have sold them as much wheat as possible to increase their dependence on us. We did just the opposite."

Between the extremes of laissez-faire agriculture trade and government management, there are opportunities for many reforms, according to Malmgren and Goldberg.

The grain companies are anxious to avoid the most radical ones: export controls or creation of a United States government grain board.

So they are positioning themselves for change by indicating they would accept some forms of greater management of the grain trade. Position papers issued by Cargill, Inc., of Minneapolis support an international grain reserve that would gather grain in various countries when it is plentiful and cheap and sell it off when it becomes scarce and expensive.

On the question of bilateral agreements, Edward W. (Ned) Cook, chairman of Cook Industries, says he approves of the recent long-term pact with Russia because it took the "emotionalism" out of grain sales to the Kremlin.

In fact, individual nations have already taken measures to reduce some of the volatility that has characterized the grain markets in the last four years.

Japan, Russia and Romania all have signed grain buying agreements with the United States. Even under the Soviet-American agreement, the Russians could still swoop in and buy as much as eight million tons of grain in a day. But they could then buy no more that year without U.S. government approval.

The Soviet Union reportedly has invested several billion dollars building grain storage

facilities and improving transportation so it could be able to stockpile grain when it is cheap. That development should be good for American farmers because it means the Kremlin will help support American farm prices when they fall low.

"We can live with any system as long as we know what the rules are," says Clarence Palmby, vice president of Continental Grain Co.

In Malmgren's view, more rules are needed. "We need regulation in terms of more disclosure about the companies. They're in a special business," he says.

The Department of Agriculture has long been protective of the secrets of the grain companies. For instance, it refuses to give out any detailed information about the hundreds of overseas affiliates of the companies. Without that information the global operations of the firms cannot be fully assessed.

Sen. Dick Clark (D-Iowa) has introduced an amendment to require much greater financial disclosure by the firms. Only one of the "Big Six" grain firms, Cook, regularly makes public its financial data.

Comptroller General Elmer B. Staats reported in 1973 that the links between grain companies and their affiliates abroad could have been used to manipulate the size of the export subsidies, which are paid by the American taxpayers.

A 1973 report said that "preferential pricing relationships" with the affiliates could cause the government to pay unnecessarily high subsidies. The wheat subsidies were suspended in September, 1972.

Despite that report, which contained numerous recommendations and cited many flaws in the wheat subsidy program, the Department of Agriculture has not drawn up a contingency plan in the event the subsidies are to be paid again.

Grain company executives say privately they are sure they will be able to succeed in business even with much more regulation.

Much more threatening to the merchants would be a decline in American agricultural exports. The United States now exports 60 per cent of its wheat and rice, nearly half its soybeans, a quarter of its grain sorghum and nearly a quarter of its corn. Between 1970 and 1975 grain exports jumped from 41 million to 76 million metric tons. The boom benefited the grain companies, which make money when volume is strong.

The exports earned enough money to pay for six months of U.S. petroleum imports.

Yet critics of present farm policy say that the administration's continued push for all-out food production and maximum exports is a mistaken one.

They say there are costs, as well as benefits, in those policies. For one thing, they require maximum use of energy, including hugh amounts of natural gas from which anhydrous ammonia fertilizer is made.

The sheer cost of farming today—farming to reach the goals set in Washington—is changing the American countryside.

Although the United States is still a nation of family farmers, they no longer fit the old image of farmers—they have, perforce, become big businessmen. They spend a staggering $96 billion a year on fertilizer, pesticides, herbicides, seed, fuel and other necessities.

The Department of Agriculture has conceded that if the present goal of maximum production and maximum use of energy in farming were stretched to the year 2010, American family farming would virtually disappear because only big corporations and wealthy individuals would have the capital to finance farming operations.

Also, "food prices and farm income would be subject to disturbing fluctuations," according to a recent department study. The same study found that food costs would not be all that much lower than if the government sought to preserve family farming.

The "maximum efficiency" agricultural future assumes massive growing exports to soak up surpluses.

Some critics wonder whether that is good either for the United States or for countries abroad, which tend to postpone building up their own farming whenever cheap American imports are readily available.

Of the "maximum efficiency" agricultural future, Susan Sechler, of the public interest Agribusiness Accountability Project says: "It's an uncreative, limited vision. When the whole concern is exports, then you do things for the companies rather than thinking of what's good for the country."

It is questionable "whether agricultural free enterprise is in the self-interest of the United States," writes food authority Emma Rothschild in the January edition of Foreign Affairs quarterly. "A world food market characterized by chaos and crisis is hardly the best circumstances for the development of agricultural trade."

ON THE IMPORTANCE OF FORESTS

Mr. HUMPHREY. Mr. President, at times one might think that the forest problems of the United States are unique and, even more, that they revolve around the federally operated national forests. The London Times for January 27, 1976, contains, as a part of a comprehensive review of the pulp and paper industry of Europe, a significant analysis of forest developments in Scandinavia.

Of the three nations involved, Sweden's pattern of forest ownership—with one-half held by small private owners, a fourth by industry, and another fourth by government—comes closest to our situation. In terms of the proportion of forested land area, we come closest to matching Norway. However, in total forest acres and in inherent productivity, the forests of the United States, along with those in Canada and the U.S.S.R., dominate the world's softwood forests.

In contrast to many other nations, the Scandinavian countries have long been considered among the forerunners in enlightened resource conservation. Under both private and public forests, resource abuses have been a thing of the far distant past with sustained conservation programs starting well over two centuries ago.

Scandinavian forestry, in the popular mind, has been conservatively managed, relying on practices such as tree selection and small cuttings coupled with higher utilization of cut trees than we attain.

Thus, the London Times report that the vast timber reserves of Scandinavia have been reduced to a critical level is one that deserves our concern as we view our own forests and their future. It is estimated that intensive development and investment is vital. The view is also expressed that it is not a case of the forests having been liquidated. Demand exceeds growth, growth needs to be and can be enhanced, investments in forestry need to be intensified, and the effective utilization of cut trees increased.

For example, a 20-percent increase in tree utilization could be secured by utilizing tree tops and material now left in the woods. In Sweden the increased use of automatic logging machinery has brought about startling increases in worker productivity. In 1960 it took 60 man-days of labor to produce 100 cubic meters of wood. In 1975 it took only 8.8 man-days.

The forests of Scandinavia cover 125 million acres, equal to a fourth of the commercial forest area of the United States. Timber is the chief raw material in Northern Europe. These three nations are a most important factor in the international trade in forest products, and the forests are a vital part of the environment of Scandinavia.

It is most interesting that the Scandinavian countries look on North America and U.S.S.R. as wood surplus areas. In Scandinavia, however, Norway imports significant amounts of wood from Sweden.

The United States has imported substantial quantities of wood for a number of years. Our principal source is Canada, which supplies significant quantities of our paper, pulp, and softwood lumber needs.

Here in the United States we face severe problems. Our forests are not growing wood at nearly their ability. We have regional raw material dislocation—great strains on our Western softwoods and a strong renewal of our important Southern forests. In the Lake States, which have only moderate rates of growth, we have large and as yet largely unrealized opportunities to enhance the economic and environmental qualities of our great forests.

The current recession and its effect on housing has temporarily muted and masked the supply-demand pinches we were feeling a few years ago. Hardwood and softwood lumber consumption levels receded, and in early 1975 the pulpwood consumption level declined due to falling paper and board demand. Prices, however, due to inflation and cutbacks in supply, have not dropped as much as production.

The longer term outlook, according to knowledgeable U.S. experts, is one of continued and rapid growth in demand for most timber products. Timber supplies are not forecast to rise significantly unless we expand our efforts and strengthen our determination to meet opportunities with improved forest management efforts, increased utilization and expanded research.

We can do much more to increase supplies and minimize the undesirable impacts of high prices. Our private and public forests have the capacity—given time—to grow substantially more timber than we are now growing and to increase utilization.

The situation that we find ourselves in is not unlike that of Scandinavia. The uncomfortable fact is that our best source of supply, our best chance for success, and the best hope for effective results lies right here in our own United States.

The Forest and Rangeland Renewable Resources Planning Act of 1974 is a contribution that we in the Congress have made to enable this Nation to develop the abundant, well-managed renewable resources which we need. After the Congress, following a full year's consideration, enacted this law, President Ford signed it with warm approval.

Upon signing this law on Aug. 17, 1974, he said:

One of the essential lessons of the recent energy crisis is that if we are to prevent shortages of natural resources in the future, we must plan for the future today. Our resources, however abundant, are not inexhaustible. They must be conserved and replenished.

The Forest and Rangeland Renewable Resources Planning Act provides us the means for planning national programs now that will assure future generations of adequate supplies of forest and related resources.

President Ford then quoted John Muir:

The forests of America, however slighted by man, must have been a great delight to God; for they were the best He ever planted.

On this note, President Ford pledged:

This act proves that Americans intend never again to slight our forests.

Well, this message shot out over the White House on such a high trajectory that its thought never hit the Office of Management and Budget. The first assessment and program that were to be presented to the Congress when it convened last month were designed to fulfill the President's pledge that we would never again slight our forests. But they are locked in the death hug of OMB. OMB is studying the matter—studying it to death.

Americans concerned about the future use and development of our renewable resources are looking to the implementation of this act to chart a sound course.

Mr. President, I ask unanimous consent that a letter I addressed to the Director of the Office of Management and Budget be printed in the RECORD along with the January 27, 1976, article from the London Times on forestry in Scandinavia.

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

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., February 5, 1976.

Hon. JAMES T. LYNN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LYNN: On August 17, 1974 President Ford signed the Forest and Rangeland Renewable Resources Planning Act, Public Law 93–378, which was quickly codified as 16 U.S.C. 1601–10. The first Assessment and Program required under this law was to have been submitted to the Congress on the date it first convened in 1976. This date is now well behind us, the Budget of FY 1977 has been submitted, and yet the Assessment and Program, which will guide policy for the fiscal years 1977–1980, have not yet been presented to Congress.

Earlier drafts of these documents were given wide public dissemination and there has been useful citizen participation in the formulation process.

I am deeply concerned about reports that your staff has scheduled a series of special separate meetings with various concerned groups to discuss the material developed by the Department of Agriculture. One of the important goals of this Act is to bring people together with divergent views in an open forum so that issues can be laid on the table for discussion and resolution. If we are to set goals wisely and act responsibly we need to draw the public into the policy development process. Your advice concerning the actions underway in the Office of Management and Budget would thus be appreciated.

The new Budget Act places further emphasis on improving the processing of budgets, and it sets up time requirements. The Renewable Resources Act is closely tied to this process, and thus delays in submission endanger sound consideration both of the Program and the regular budget.

On numerous occasions as I have discussed this Act, I have pointed out that especially with this first Assessment and Program we will be more interested in securing better bases for decisions than we will be in specific decisions. The act is a case study in improving the policy making of government.

The date for the submission required by law is now long past. It is my hope and my urgent request that your office act to expedite the presentation of the reports as required by this law. Your views on the particular resource issues as well as on the process issues, if presented on a timely basis, would be most welcome.

Sincerely,

HUBERT H. HUMPHREY.

[From the London Times, Jan. 27, 1976]

FORESTERS' EYES ON RESERVES

The tremendous explosion in the Scandinavian forest products industry over the past two decades in an attempt to satisfy Europe's insatiable appetite for paper and packaging has reduced timber reserves in the vast northern forests to a critical level.

It appears that throughout Sweden, Finland and Norway companies have been painfully aware that forest resources have been eroded to a point where the introduction of drastic and expensive measures is of paramount importance.

The growth of the pulp and paper-making industries is almost totally dependent upon how successful the Nordic countries can be in increasing the yield from their forests without reducing beyond acceptable levels the growing stock.

If present cutting rates throughout Scandinavia are allowed to continue without intensive forest development and investment, the vital forest industry will in the space of a generation have to be run down dramatically.

Yet in spite of the gloomy forecasts, the Scandinavians feel that there is a great deal of misunderstanding and hysterical doom-watching by ill-informed observers. The difficulty, they say, is not that they are running out of trees; it is a complicated one of sustaining growth and balancing forestry investments against expected future demand and export price levels, of assessing how costs and forest improvements will be affected by environmental considerations.

It is essentially and obviously, a long-term difficulty; forestry men talk not in terms of a few years but in decades and centuries.

Mr. Lauri Kirves, managing director of the Central Association of Finnish Forest Industries, emphasizes that the forest resources that helped growth in the 1960s are no longer to be found in Scandinavia.

"However, the bottleneck that the supply of raw material constitutes does not, of course, mean the cessation of growth but setting its pace at a level permitted by the increase in domestic forest resources, the chances of obtaining raw materials from outside the area and the different methods by which wood can be utilized more effectively than before."

Timber is the chief raw material in northern Europe, the "green gold" that has the supreme advantage over the yellow kind in that it is regenerative. Forest lands, not all of them productive, are huge, accounting for a total of almost 125 million acres. Trees cover 62 per cent of Finland, 57 per cent of Sweden and 21 per cent of Norway.

Forestry in the three countries varies considerably and each has developed differently. Norway, for example, is faced with the difficulties of harvesting timber from its many steep-sided valleys while Sweden has a larger percentage than the others of older trees and a relative shortage of 20 to 40 year old stands.

The annual forest increment varies from 78 million cu metres in Sweden to 56,900,000 cu metres in Finland and 14 million cu metres in Norway. Ownership patterns, too, radically affect forest management and the availability of funds for improvements.

In Finland more than 65 per cent of forest lands are in private hands while companies own just 7.4 per cent. In Norway 78 per cent are privately owned and only 5 per cent by companies, while in Sweden half are held privately and companies own 25 per cent.

In all these countries, extensive study is in progress, some of it on a joint basis, to try to increase forest yield. Finland has had its MERA forest improvement programmes, never entirely successful and now backed by a World Bank loan of about £10m, and Sweden is still in the process of investigating all sorts of possibilities to avoid the predicted massive timber deficit.

Meanwhile, most of the planned expansion of the Scandinavian forest products industries has been postponed until the picture on wood supplies is clarified, many developments being blocked by banks and governments.

The Bank of Finland has clamped down on loans for the pulp and paper sector unless it can be shown that there are sufficient long-term supplies of extra wood available for new plants. In Sweden one of the few ways companies can expand their operations is by importing the additional wood needed and proving to the authorities that this has been done.

Finland imports about 10 per cent of its timber requirements, mostly softwood from Russia, and in recent years has become a net importer of raw wood. Norway has been importing wood chips from Sweden which, in turn, has been forced to buy some of its needs abroad.

Mr. Matts Carlgren, president of the Swedish MoDo group, points out that there is a wood surplus in North America and Russia. He reckons that, assuming 10 per cent of the wood surplus under present transport conditions is available, this would give access to not less than 50 million cu metres of softwood a year.

The Swedish situation is particularly worrying for Norway, which imports about 8 million cu metres annually, mainly from its neighbor. The Norwegian Government has thus been forced to adopt a very restrictive policy toward future expansion.

In spite of the restrictions, Scandinavian companies have been able to increase output without cutting more trees, mainly, as in the case of Finland, by better use of wood residues, cutting exports of roundwood and halving the amount of wood used as fuel.

There have also been startling increases in productivity in the forests, brought about by large investments in automatic logging machinery. Figures just issued by the Swedish company Stora Kopparberg show that the number of man days needed to produce 100 cu metres of wood fell from 60 in 1960 to 8.8 in 1975.

In Sweden it is generally estimated, as a result of research by the Royal College of Forestry and the state commission studying forestry, that by just using the tops of trees and those left in the forests, a possible 13 million to 15 million cu metres could be added to the present figure of 73 million cu metres removed from the forests annually.

Other developments such as the so-called "whole tree utilization" project, a joint Swedish-Finnish investigation which aims to quantify the possibility of using bark, stumps and roots, the introduction of fast growing species like the Canadian lodgepole pine (*pinus contorta*) which has already been shown to grow twice as fast in northern

Sweden as the indigenous pine, and better fertilization and drainage could all help to sustain and eventually raise the possible cut.

BLACKBIRD CONTROL

Mr. PHILIP A. HART. Mr. President, in approximately 10 minutes last week, the Senate and the House, without hearings or floor debate passed by unanimous consent a bill to provide an exemption from the National Environmental Protection Act and the Federal Insecticide Fungicide and Rodenticide Act to permit the killing of an estimated 70 million blackbirds in Kentucky and Tennessee. President Ford signed the bill on the same day, despite protests from environmental and conservationist groups and veto recommendations from EPA, the Council on Environmental Quality, and the Office of Management and Budget.

In passing NEPA and the Federal pesticide control law, the Congress established procedures by which the risks and benefits from this type of lethal control of blackbird populations could be responsibly assessed. Surely it is not responsible behavior to casually cast aside these procedural safeguards without hearings or floor debate or any practical opportunity for concerned Senators to voice their objections.

In hearings before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment which were hastily convened after the blackbird bill had passed Congress on consent, Dr. Melvin Dyer, a leading avian ecologist from the Natural Resource Ecology Laboratory in Colorado, testified that mass killing of blackbirds may make the problem "infinitely worse" by upsetting the ecological balance to the detriment of farmers—blackbirds are major predators of insects and weed seeds—and may actually increase the number of starlings, one element of the blackbird population which also includes redwings, grackles, and cowbirds. There may be risks to public health from these blackbird concentrations which would justify the killing, although this hazard has not been established by the Center for Disease Control in Atlanta. The point is that we do not know what the consequences of this bird slaughter will be, for good or ill, or whether it is needed. NEPA and FIFRA were designed by Congress to provide procedures to make sure we think before we act to disrupt the environment. The sleight of hand with which exemptions to these acts were slipped through the Senate suggests that their sponsors did not have enough confidence in the merits of the case for killing the birds to risk a Senate debate on its merits. I ask unanimous consent that statements from Dr. Dyer; the distinguished wildlife journalist, Ann Cottrell Free, and the Rachel Carson Living Trust be printed in the RECORD.

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

TESTIMONY OF DR. MELVIN I. DYER ON BLACKBIRD CONTROL

Mr. Chairman and Members of the Subcommittee: My name is Dr. Melvin I. Dyer, Associate Professor of Fisheries and Wildlife Biology and Research Associate, Natural Resource Ecology Laboratory (NREL), Colorado State University, oFrt Collins, Colorado. I have been asked to attend these hearings by the National Audubon Society and as such am giving testimony from the basis of my own experience. Thus, I do not represent Colorado State University *per se* in this respect.

My background in working with avian ecology dates back some 15 years to graduate studies at the University of Minnesota, Minneapolis, an appointment with the University of Guelph, Guelph, Ontario, Canada, an appointment with the U.S. Fish and Wildlife Service, and my work on Granivorous Birds for the International Biological Program while at the NREL, Colorado State University. I am also currently involved in investigations of the roosting problem in Kentucky and Tennessee. I have various publications in national and international journals regarding blackbird ecology and am currently working on three chapters of a book on Granivorous Birds for IBP that will be published within the year by Cambridge University Press.

One condition which likely has brought about an apparent greater number of birds across the southeast is a change in weather. While such an analysis is fraught with difficulty, one cannot escape the notion that recently these birds have responded to increased temperatures by tending to winter slightly farther north than in the past. Actually, the phenomenon may be cyclical, being driven by major weather shifts. Temperatures in Christian County, Kentucky, thought to be responsive of both the problems and environmental conditions, show an increase since 1967–68.

The apparent increase cited above is particularly important. It has been widely assumed that blackbird population size has been growing perceptibly in the past two decades. This possibility must not be ruled out, but recent evidence contradicts this hypothesis. Quite the opposite might actually be the case. Survival rates of blackbirds from the Lake Erie basin, many of which winter in Tennessee and Kentucky, and production values belie any increase. Rather, it is possible the population is decreasing and perhaps has been for a decade. Clearly, *if* the population is already decreasing, and one subjects it to further mortality, unimagined difficulties could emerge. When we look to other situations for help in assessing what might occur, we learn that by the time a decrease can be recognized much environmental damage has already occurred and it is a moot point whether reasonable recovery can be expected.

WHAT ARE THE DANGERS OF MASSIVE LETHAL CONTROL?

For the most part, we must depend on other examples to provide answers to this question. In most cases, where massive lethal control has been practiced, subtle conditions have emerged to thwart the program. In short, lethal control programs are unsucessful in addition to being very costly in the short run. Entomologists now recognize that lethal control alone has serious shortcomings in insect pest management. In addition, rats have been poisoned, for decades. Pigeon control in cities has not eliminated the pigeons or associated problems, and in Africa several hundreds of millions of *Quelea quelea* are killed with organophosphates each year. Usually what happens is that the control program simply crops the excess (called replacive mortality). Such work means a waste of time, effort and money.

There are also other dangers possible. Experimental and theoretical models in ecology tell us that there is a fine point between a negative feed-back system where members are replaced in the population quickly, and the positive feed-back system where rate of removal becomes so accelerated that extinction is possible. We can ill afford to test this hypothesis in nature using the blackbirds as an example!

As stated previously, blackbirds are important in food webs of eastern agricultural ecosystems. On theoretical grounds, the system cannot withstand the perturbing effects of their loss. From a practical sense, they are predators of insects and weed seeds objectionable to agriculture. Unfortunately, no systematic study has been conducted to obtain such information. One outcome of massive lethal control with tergitol is that the overall problem could be made worse. This hypothesis states that massive removal of one or more species which leaves one species behind exacerbates the problem. The most probable candidate benefiting from such action is the European starling. By knowing dietary overlap we can determine the degree of competition among these species. Using data from the FEIS, and Dr. H. Horn's R_0 statistical method, I have determined there is considerable overlap for blackbirds and starlings. It is entirely possible that we can affect the blackbird population more than the starling and prepare the way for a starling increase. It would be disappointing to ecologists and the public alike to learn that the problem they thought was being solved was becoming infinitely worse. Again, we can ill afford to test this hypothesis with indiscriminate use of tergitol in winter roosts of the southeast.

BYE, BYE, BLACKBIRD

(By Ann Cottrell Free)

Sometimes I wonder whatever happened to the blackbird that struck my shoulder the night of February 19, 1975, then careened off into the darkness. It was one of those millions seen at dusk a few hours earlier, coming home to roost in the small grove of loblolly pines near Fort Campbell's parade grounds. They covered the heavens there on the Kentucky-Tennessee border, not only overhead, but from horizon to horizon. We were in a world of blackbirds. Racing across the sky, they came at more than a mile a minute, swooping in flocks, turning and twisting as if one bird instead of thousands, soon, millions. Arriving from foraging grounds up to 60 miles away, they came in battalions of dark beauty, guided, it would seem, by one great intelligence. Zooming into the grove, twittering excitedly, the flutter of wings brushing the air, they finally settled down for what should have been just another night before spring migration.

But that was not to be.

The confused blackbird whamming into me must have been one of the first to realize that this was no ordinary night. For it was flushed by the first pass over the roost of the Tergitol-spraying Huey helicopter operated by a captain of the 101st Airborne. Did that bird return to the familiar security of the roost and then, exposed to more sprayings of detergent and hosing down of water until stripped of protective insulation, fall and die? Was it to become one of the "walking dead" I was to see the next morning? Staggering, fluttering, falling, they tried to get into the open fields so the sun could melt the ice encrusted on their wings.

Without doubt several million birds survived the spraying, but for days the bodies of the less hardy ones were found up to 90 miles away. I wonder if "my" bird made it, healthy and free, and is still a part of nature's cycle, devouring insects and weed seeds in the summer fields of Ohio, Michigan, Ontario. I will never know.

I do know that it was one of 20 million grackles, redwings, starlings, cow-birds caught up in "Operation Hysteria" that permitted four slaying-sprayings and gave the green light to two others in the last weeks of February at Kentucky and Tennessee roosts. They were targets of a new kind of death, in what, indeed, may be the largest deliberate killing of wildlife ever planned or at-

tempted in the U.S.A. or anywhere else. As it turned out, not more than nine million were actually sprayed. The rest were saved by nature's unwillingness to provide the proper weather conditions necessary for the efficiency of the operation.

And what was their crime that they should be so punished? They had been judged guilty of doing millions of dollars' worth of agricultural damage, being potential spreaders of disease, and, in the case of Fort Campbell, being a threat to aircraft safety.

The blackbird-killing campaign was masterminded by politicians in Hopkinsville, Kentucky, and Clarksville, Tennessee, small towns close to Fort Campbell, where from four to five million birds were roosting. Near the Milan, Tennessee, Army Ammunition Plant were another seven to eight million birds.

The political leaders, looking ahead to the next elections, no doubt, sought to please their constituents by slaying the dragon, even if they had to pump a little fire and venom into it first. The blackbirds were the dragon. The campaign, out of Daniel Boone country, seemed to outfox the Pentagon, the President's Council on Environmental Quality, the Environmental Protection Agency, the Interior Department, and even the federal courts.

An almost medieval hysteria developed. It somehow confused blackbirds, that roosted in that section of the Ohio River Valley from time immemorial, with the black plague. Ironically, it was the hysteria that spread far more than any diseases attributed to the birds. Other parts of the nation have become infected with blackbird-killing fever and are seeking approval to spray roosts.

Consider for a moment the following scene at the check-out counter at the Big K Variety store on Highway 41–A near Hopkinsville, Kentucky, not far from Fort Campbell's controversial roost. And realize—if you can—that, because they didn't know the *whole* truth, men sitting in final judgment on the birds' fate were nearly as impressionable as the young woman, hair in pink curlers, with whom I stood in line.

"Are you for the blackbirds?" she demanded angrily. "They are spreading disease. It will get into our wheat. It will get into our flour. It will get into the bread we eat." And finally, she almost shouted, "What about our unborn children? They will die. . . ."

It was that kind of unmitigated fear, based on half-truth and misinformation, that led to that first helicopter pass at 7 p.m. that partially moonlit Wednesday night. The disease so greatly feared was histoplasmosis. It became the campaign's scare word.

"There was no proof to justify the slaughter," said the United States Public Health Service's leading expert on histoplasmosis, Dr. Libero Ajello of the USPHS's Disease Control Center in Atlanta, Georgia. He told me that "misconception of the birds' role in spreading disease was stirred up by the community."

This part of Kentucky and Tennessee has been histoplasmosis country for years. Between 70 and 90% of the people tested in the region show exposure to the disease which is caused by ingestion of spores of soil fungus fertilized by droppings of poultry, bats, and blackbirds/starlings. It is rarely spread by the birds themselves. It usually affects the lungs, but most people feel no ill effects.

While talking to Dr. Frank R. Pitzer, chairman of the Christian County Board of Health, on the day of the Fort Campbell slayings, I ran into what may be the source of many of the local illnesses. These were the *pigeon* droppings in the belfry of the Hopkinsville First Baptist Church. "It was an 18-inch accumulation," he told me, "and the two house painters, who spent two days in October 1973 removing the stuff, became quite ill with histoplasmosis."

Many times while in Hopkinsville, I heard people blame the lung problems of these men on the blackbirds. Also, other cases blamed on the birds were traceable to the Child Day Care Center across the street from the church. Frequently, I was to hear of a man whose eyesight had been damaged by the "histoplasmosis-carrying blackbirds." But when I interviewed him, he admitted the trouble started in his youth—long before the birds came to Fort Campbell.

Clearly, some of Fort Campbell's roosts contained infected soil, but to date no Army personnel at the post has been treated or hospitalized by the disease. But the potential is always there. The University of Kentucky's epidemiologist, Dr. Coy Smith, believes the birds should be dispersed because they "will be blamed for every case of histoplasmosis in the area whether justly or unjustly."

After hearing the panicky fears about disease and agricultural damage, I could understand, in a way, why the local people looked to the Tergitol-spraying helicopters as angels of deliverance—especially from the campaign's whipping boy, the starling. Though starlings accounted for about half the birds killed at Fort Campbell, the Army estimated they were greatly outnumbered by other species—grackles, cowbirds, and redwings. The original Army estimate for birds at Fort Campbell and Milan was about 10 to 25% starlings.

When the choppers finished their spraying that night, fire hoses were brought up as a substitute for the missing rain that would wash away the protective oils. For hours, with temperatures in the twenties, they doused the eight acres with its estimated three million birds.

I walked along the edge of the smaller grove listening to the strange twitterings of the birds, now too badly affected by the cold to leave. When the hosing finished in certain sections, I noticed a haze rising above the trees. It was heat from the birds' bodies turning to steam. Soon, after much persuasion, a Fort forester entered the grove (press was not admitted) and returned with two handfuls of limp, dead birds.

"They are falling constantly," he said. He assured all would be dead soon. Fortunately, he was mistaken.

We looked for the missing officials from the Interior Department's Fish and Wildlife Service who, the Army told us, were on hand. Their agency had developed Tergitol for bird control, but yet had severely criticized the Army's justification for the killing in a document mysteriously missing from the Army's final environmental impact statement. Clearly these men were on the spot.

These same officials from the Wildlife Service (formerly the predator control branch) were missing from the sprayings at Paducah, Kentucky, and Greenbrier, Tennessee, though they had given them the "green light" originally.

I had visited the Greenbrier site two days earlier, so the sight of dead birds at Fort Campbell was not a new experience—but just as ghastly. We reached the silent scene of that massacre by climbing through strands of barbed wire and slogging through ground muddy from water shot high in the air by irrigation equipment brought in just for the big event. There I saw nearly a million birds piled in heaps beneath the trees. Red-winged blackbirds festooned the branches like grotesque Christmas ornaments.

Had the agricultural damage by these birds been so great as to exact so dreadful a punishment? Most people in the area thought so, with the possible exception of the *Nashville Tennessean* that tried to buck the hysterical tide. "Must Be a Better Way" it captioned an editorial a few days earlier, suggesting that "alternatives are available. Better farming methods, cleaning up feedlots and thinning the trees in the populated areas are some of them."

But farmers like Christian County's Henry Lilly disagreed. For it was with him the whole campaign started. "We've been fighting these birds ever since they came to Fort Campbell and Milan in 1969," he told me as we strolled past his cattle feed troughs. I noticed that the birds were eating as much fallen waste grain as from the troughs.

I asked him why he didn't screen off part of the feed troughs, but he dismissed all suggestions. He felt that the hardship worked on farmers in other areas to the north by insect explosions could be "taken care of by pesticides."

"They have been eating our wheat, our corn and spreading T.G.E.—that's transmissable gastroenteritis—to our pigs," he complained. "Washington didn't help us when we asked them, so we turned to our local groups." With the help of the Kentucky Department of Agriculture, they worked up their damage claims against the birds. Many of these claims were so exaggerated that the Army would not accept any particular figure when it prepared its final statement seeking justification for the kill.

At first the Army thinned trees and used flares and harmless explosives—but only succeeded in moving the birds from roost to roost within the post. Killing the birds was offered as the solution. But how? Dynamiting was too messy. Most of the potent sprays were not registered as environmentally safe. Enter Tergitol.

The Department of Interior has been using it experimentally for ten years and held out some hope for it if it met EPA registration requirements. Chemically, it is linear alcohol ethoxylate, known variously as LAE or PA 14. Manufactured by Union Carbide, it is sold as detergent under the trade name of Tergitol. The drive for registration began in 1972, but Interior did not feel certain enough to approach EPA until January 30, 1974.

If the birds were to be sprayed before spring migration, EPA would have to move fast. To help matters along, Kentucky governor Wendell Ford—soon to be successfully running for the U.S. Senate—declared Christian County to be in a state of "emergency." He cited a two-million-dollar annual economic loss. Three weeks later—in record time—on February 25, 1974, EPA registered the substance as an "avian stressing agent." The label warned of danger to eyes, skin, internal consumption or use over any body of water, for it would kill fish. Also, it should be used only under the supervision of government agencies trained in bird control.

Now local politicians could assure voters of the first bloodletting thrust in the side of the dragon. But there was a cloud on the horizon: The Army might have to satisfy the requirements of the National Environmental Protection Act. This meant the preparation of an environmental impact statement justifying a "major Federal action significantly affecting the quality of the human environment." It also meant waiting at least 90 days for the proper review period to pass. Before the first drop of Tergitol could descend, the birds would have left on spring migration

A quick powwow was held two days later, on February 27, in Washington. Present: many members of the Lower Cumberland Cooperative Improvement Council, Kentucky and Tennessee congressmen, Fort Campbell and Pentagon brass, an EPA man, and the man from the President's Council on Environmental Quality. The latter agency was the key to immediate killing of blackbirds, for it had sole authority over the easing of environmental impact statement (EIS) requirements. Mississippi's Representative Jamie Whitten honored the group with a pep talk. He is chairman of the subcommittee holding the purse strings for the Agriculture Department—and, at that time, of both EPA and CEQ. Also his book *That We May Live*

is considered to be the pesticide industry's answer to Rachel Carson's *Silent Spring*.

CEQ apparently got the message. Citing the Kentucky governor's state of emergency proclamation, it waived the lengthy EIS requirement and settled for a quickie assessment. On March 10, 1974, birds were sprayed at Fort Campbell. But the weather wasn't right. Zero birds killed.

All set to go the next winter, the would-be assailants were foiled again! The Environmental Defense Fund and the Humane Society of the United States threatened suit in November if an EIS wasn't forthcoming. On December 16, CEQ decided the spraying justified an EIS. But ever obliging, it cut down the usual 90-day review time to 30 days for the first circulated draft and seven days for the final statement.

Pentagon decision makers—who had been pushing for the sprayings—could decide on February 3, 1975, whether to approve the statement and issue the "Go" or "No go" order. This time, surely, the Army could catch the birds before spring migration.

The draft EIS was issued on Christmas Eve. Comments from concerned agencies and organizations were due by January 24. The final EIS was released on January 27. Strangely missing was a statement from the Interior Department, highly critical of the Army's claims of the birds' agricultural damage. In fact, it tore to shreds many of its claims. The Army received the comments in time to make some corrections for the final EIS, but it did not print the devastating full text. Not only were the birds shortchanged, the entire NEPA system received a body blow. The weak excuse given was the failure to receive the official "signed" copy in time for the deadline.

On February 3, the blackbird drama moved to the U.S. Courthouse in Washington, D.C. Public interest lawyer Bruce Terris, representing the New York-based Society for Animal Rights and Citizens for Animals, and several individuals asked for a restraining order pending argument for a temporary injunction. This stopped the Army from making its decision on that deadline day.

Terris appeared before Federal Judge William B. Bryant on February 7, charging that NEPA had been violated by both the Department of Defense and the Department of the Interior. Also he argued that it was "capricious and an abuse of discretion" to kill the birds on the eve of spring migration departure. He maintained that the EIS had not "adequately" considered the environmental impacts of the killings or considered the alternative of thinning the trees in the roosts. Interior, he claimed, should have filed an EIS on each "go ahead" to the Kentucky and Tennessee communities planning to kill the birds with Tergitol.

Hopkinsville was hopping mad. Its mayor threatened to enjoin New York City from killing its rats. The hat was passed to pay lawyers appearing in court against Terris. And the Christian County Board of Health voted to ask Kentucky to quarantine Fort Campbell's 20,000 troops.

Judge Bryant denied the injunction. Terris moved to the Court of Appeals where, to me, his most memorable words were: "We are messing with nature. This kind of mass destruction is what NEPA is supposed to stop." Again, injunction denied. But that three-man court, in a six-page opinion, virtually invited him back to argue the case, in the larger sense, on its merits. It also suggested the Army get impartial scientific opinion on certain effects of Tergitol and the leaving of carcasses to rot on the ground.

Next, a request for a stay of execution, until the case could be argued on its merits, was taken to the Supreme Court Chief Justice Warren Burger. Denied!

By February 18, the media had moved in on Fort Campbell to witness the big kill. On the night of February 19, the spraying began.

After a few hours sleep, many of us were back at the killing site. To our surprise, we discovered that only about 500,000 of the several million birds had been killed. But many were fluttering helplessly, trying to keep alive until the sun could melt the ice that had unexpectedly acted as an insulator.

At an on-site press conference, the Fort's deputy commander, Brigadier General John M. Brandenburg, said in reply to my question: "If you ask me whether I am upset by the sight of the dead and dying birds, the answer is 'no'." The Army sprayed again on February 25 with indifferent results. Weather conditions were never just right for the Milan facility which had no fire hose equipment.

The sprayed birds could be the first of continued mass slayings of blackbirds, unless a national policy on these birds is enunciated soon by the federal government, possibly through the courts. Certainly the birds cannot look to the Federal Migratory Bird Act for protection. It permits killing of blackbirds thought to be causing agricultural damage. And it exempts starlings completely. The policy should be based on the birds' beneficial as well as detrimental effects on our ecosystem. In short, does the good these birds do, such as eating insects and weed seeds, outweigh the bad? One ecologist, for example, estimates that ten million blackbirds would consume 110,000 tons of insects and weed seeds in a year. Until this is decided—based on solid research—the lives of 340 million blackbirds remain in jeopardy.

STATEMENT BY SAMUEL S. EPSTEIN, PRESIDENT, AND SHIRLEY A. BRIGGS, EXECUTIVE DIRECTOR, OF THE RACHEL CARSON TRUST FOR THE LIVING ENVIRONMENT, INC. ON QUESTIONS RAISED BY THE PASSAGE OF H.R. 11510

The unusual means by which H.R. 11510 passed both Houses of Congress this past week constituted a serious assault on the integrity of the procedures and principles of the National Environmental Policy Act, of the Federal Insecticide, Fungicide, and Rodenticide Act, and thus of the authority of the Federal government to administer pesticide control. It has not been shown that the circumstances warranted any departure from usual procedures, but if they had, adequate emergency measures are available under the law.

The States of Kentucky and Tennessee claim that they have a very serious problem, and that it is confined within their borders so that no action they propose to take will affect anyone else. In fact, the birds in question are migratory species, and they will go to Illinois, Indiana, Ohio, Michigan, and Ontario in a few weeks, where their insectivorous summer feeding habits are considered beneficial in many areas. (This point was made in the Environmental Impact Statements on this issue last year. We suggest that this committee study especially the statement submitted at that time by the Department of the Interior. This was not included in the final EIS from the Department of the Army, that purported to be the complete survey of available evidence.)

If large scale spraying with toxic chemicals takes place, it is also not possible to assure that none of this will drift across state lines. But the main impact on the rest of the nation can come from the weakening, by such stratagems, of the law and the agencies that are supposed to protect us all from misuse of pesticides.

The magnitude of the emergency is also open to serious question. According to the blackbird experts of the U.S. Fish and Wildlife Service, there has been no appreciable change in the size of the blackbird population in Kentucky and Tennessee in the last 25 to 30 years. The birds shift from place to place on occasion, and as people move out into rural areas they may find themselves living close to a roost. As wooded areas are cut, birds will move to new roost sites, especially the pine stands planted in recent years. But the present crisis comes from a change of attitudes rather than a change in the physical circumstances. People have now been led to believe that the birds constitute a menace to health and property. Other witnesses will deal with these matters in more detail. Our understanding is summarized as follows:

Alleged health hazards from birds: It is claimed that the blackbirds create a hazard because of instances of the presence in accumulated bird droppings of the fungus that causes histoplasmosis. This can be a serious disease, but it is usually a mild respiratory ailment. From 70 to 90 percent of the people in areas in question show positive skin test evidence of exposure to the fungus, but most do not develop symptoms. The disease has been endemic in these states, as in many other areas, for a good many years. Most serious cases, where diagnosis is definite, come from intense or prolonged exposure to chicken, pigeon, or bat droppings. Only when these droppings in a blackbird roost have accumulated for at least three successive years and have reached a depth of some inches is the Histoplasma capsulatum apt to occur. It does not present a problem to anyone who does not approach or enter the roost area and disturb the droppings. Bulldozing or similar massive disturbances may send the fungus off in the wind to somewhat greater distances. But even the removal of all birds and roosts, including all the droppings, would not appreciably reduce the possibility of exposure of the human population, since there are many other sources in chicken houses, buildings where pigeon droppings accumulate, or caves or buildings where bats roost. The birds and animals themselves are not the source of any infection. Some people believe that the blackbirds flying about in the daytime carry the disease. Scattered fresh droppings do not contain the fungus, nor has it been found in fresh roosts. We do not find any plans to eliminate all the accumulated droppings at the roosts, which will continue to be just as much of a problem after the birds are either killed or move.

Were the killing methods successful, sanitary disposal of the dead birds can present a difficult and perhaps insoluble problem as well. Where roosts near urban areas may present more of a human health hazard than those at some distance, so also will any chemicals used, and problems caused by masses of dead birds be greater.

Histoplasmosis is not considered a disease serious enough to require that all cases be reported to the Center for Disease Control of the Public Health Service. If this were a real medical emergency, it would seem reasonable to believe that public health authorities would report cases. In the last annual summary of disease occurrence, issued by the Center's Morbidity and Mortality review for 1974, we find a total of 4 cases of histoplasmosis in Kentucky and none in Tennessee. The recent 9-year average is 77 annual deaths from histoplasmosis in this nation. Most were people who worked in poultry houses or similar places ideal for development of the fungus. In the figures submitted this year by Logan and Christian Counties, Kentucky, we do not find conclusive evidence that other possible sources of exposure were sought. Also, only a few of the diagnoses were "absolutely confirmed by positive cultures."

Before a blackbird roost can be considered a possible source of the disease, it must be shown to be in a place where people cannot avoid exposure, where the droppings have accumulated for at least three years, and where the fungus is actually present. It is our understanding that the roosts at Russellville, Kentucky, where the Department of the Interior has just granted an exemption to the restriction on the use of Tergitol, has not been tested for the fungus. Two conclu-

sions can be drawn from this episode: 1) existing procedures are responsive to requests for special consideration, and indeed may be in need of some tightening. Necessity for the drastic legislation now passed is not shown here. 2) we are not as confident now of Interior's inclination to be sure that exemptions granted are really needed, or might not create a health hazard themselves.

Public health hazards from proposed control measures: Proposals to use toxic chemicals to kill the birds should be closely scrutinized. Reasonable alternative methods that take advantage of the natural behavior of the blackbirds include thinning trees and bushes at the roost, discouraging establishment of new roosts with noise and other repellants, and changing agricultural methods to minimize losses to foraging birds. In contrast, the proposed use of toxic chemicals can introduce serious health hazards, both to people and to the environment, far in excess of the possible problems from the birds. Hazards in the use of Tergitol have been well documented in the recent court action, D.D.C. Civil Action No. 75–0159. We have heard also that blackbirds have already been sprayed with fenthion in one area, in advance of Federal action in this case, and in defiance of current pesticide registration regulations.

Fenthion is a highly toxic organophosphate, acutely poisonous to mammals (including humans) through either oral, dermal, or inhalation exposure. It is relatively persistent, keeping this level of toxicity for two to three months. It is even more toxic to birds, fish, and bees, and is classed as a biocide. Spraying of the kind required to treat a large roost will disseminate the poison widely. People who are especially susceptible to this poison because of age, illness, or exposure to other chemicals or drugs with synergistic effect may suffer from even a slight amount through aerial drift or touching tainted surfaces.

The bill does specify that pesticides used must be those registered for bird control. There are pesticides so registered only for use in controlled situations, which could be very hazardous if used in the massive outdoor spraying under consideration, or other broad-scale application. As the wording now stands, it would be possible for the state authorities to use such materials as Starlicide or Avitrol that are designed for indoor or very limited feed lot application. EPA would have no recourse to the provisions of FIFRA to require use according to the label.

We are also intrigued by the provision that would ask Interior to tell Kentucky and Tennessee where the roosts of over 500,000 birds are. Surely if they are so severe a problem someone out there must have noticed them.

Agricultural damage has also, as far as we can determine, been vastly exaggerated. Remember that these blackbirds have been wintering in these states for at least the last 30 years. Impartial checks last year did not produce evidence of large-scale agricultural damage, either to winter wheat or to grain in feed lots. To the extent that agricultural practices have encouraged large concentrations of blackbirds, changes in methods may help to disperse them. There are measures possible to mitigate such problems, and the Fish and Wildlife Service stands ready to advise, survey, and develop new angles. Blackbird damage to any summer crops, if it exists, would of course not be affected by killing the birds in roosts that are winter residents only.

Large blackbird roosts also occur in the other southern states from Louisiana up through the Carolinas into Virginia and Maryland. They seem to find no sudden emergency on their hands.

IN CONCLUSION

Past experience shows that effective and otherwise harmless means of killing most of the blackbirds in these roosts have not been devised. We must accept in such cases our position as one among many species of living creatures in a complex world. Our interrelationships may sometimes be troublesome and not subject to the "instant fix."

The wildly inaccurate notions that some of the public have been given of the health hazards involved, and of the possible property damage, should have been corrected by responsible officials rather than encouraged by the tactics of the state authorities. We have seen a continuing pattern of attempts to erode the pesticide control authority of the Federal Government, seizing upon one trumped-up issue after another. Whether this comes from an organized campaign by irresponsible agribusiness interests or other factions, or arises from chance misunderstandings growing upon themselves, the possible effect for all of us from ignorant or selfish abuse of our environment and fellow creatures can be most serious. We must depend on the integrity of these environmental laws. The responsibility of this committee is for the welfare of fish, wildlife, and the environment. By acting firmly to uphold this mandate and by seeking the veto of H.R. 11510, you will be acting in the national interest, and also will advance the real welfare of Kentucky and Tennessee.

We feel that many of the officials involved, both in the states and in Congress, have been gravely misled, and that their zeal to protect their citizens from health and property damage is commendable in its broad purpose but unfortunate in its methods and factual basis. We hope that this hearing can increase understanding of the actual situation. We especially commend to the attention of the committee the testimony of such experts as Dr. Ajello and the witnesses for the Fish and Wildlife Service, today and in previous testimony.

There are many unanswered questions about this whole episode. Congress might find it desirable to investigate the whole background and circumstances that led to this situation, perhaps with the assistance of the Government Accounting Office.

MILITARY ASSISTANCE TO AFRICA

Mr. CLARK. Mr. President, I am concerned about the amount and nature of U.S. military assistance to Africa. In each case, the U.S. assistance is going to countries which border on recipients of substantial Soviet military assistance. In two cases—Ethiopia and Zaire—the United States is providing military assistance to countries actively engaged in conflicts.

Angola appears to be the most extreme of a number of situations in Africa where the United States and the Soviet Union are aggravating tensions and intensifying conflicts with military assistance. If this continues, it will increase the chances of superpower confrontation on the African continent, heighten instability in various parts of Africa, and come at great cost to the African people. There must be some alternative. In the wake of Angola, the United States should make a serious effort to negotiate with the Soviet Union some kind of mutual restraint on military assistance to Africa.

The countries to which we are providing military assistance in Africa are very poor. Ethiopia, to which the United States will be providing $16.2 million in military grants, credit sales, and training, has a per capita GNP of $82. Zaire, which will receive $19.6 million in credit sales and training, has a per capita GNP of $151. Kenya has a per capita GNP of $182; and Liberia $248. These countries cannot afford to devote their scarce resources to military buildups.

During the coming year, the African Affairs Subcommittee will thoroughly investigate each of these areas of tension and conflict in Africa where the United States is providing military assistance. We will seek to determine whether attempts to arrive at diplomatic solutions to these problems have been encouraged or hampered by American military assistance. There is reason to believe, for example, that the United States has not applied sufficient pressure on the Ethiopian government to reach a negotiated settlement of the Eritrean conflict. American military assistance could easily prolong this costly struggle. Military assistance to Zaire could make accommodation with the government of Angola more difficult to achieve and prolong the MPLA's dependence of the Soviet Union and Cuba for military assistance.

The Organization of African Unity has over the years made every effort to negotiate settlements to conflicts in Africa. In many cases, it has been remarkably successful. Yet, when the United States and the Soviet Union are arming opposite sides in a conflict, the OAU's job becomes much more difficult. The Administration has recently expressed its commitment to African solutions to African problems and keeping superpower confrontation out of Africa. In this spirit, Congress should take a hard look at American military assistance to Africa

SAVING MEDICARE FROM "CATASTROPHIC" COMPLICATIONS

Mr. CHURCH. Mr. President, on January 22 I introduced Senate Concurrent Resolution 86, opposing President Ford's proposal to increase out-of-pocket payments for medicare beneficiaries.

At that time I was joined by Mr. KENNEDY, Mr. HUMPHREY, Mr. CLARK, Mr. WILLIAMS, and Mr. RIBICOFF as cosponsors.

Today I am happy to report that the resolution now has 24 additional sponsors. They are: Senators SCHWEIKER, PELL, CANNON, BAYH, ABOUREZK, MCGOVERN, RANDOLPH, PASTORE, PHILIP A. HART, BROOKE, STEVENSON, HARTKE, TUNNEY, CHILES, MONDALE, MANSFIELD, STONE, STAFFORD, METCALF, CULVER, INOUYE, DURKIN, JACKSON, and MCGEE.

Such immediate and emphatic support says a great deal about the so-called "catastrophic" medicare proposals advanced by President Ford in his budget last month.

It expresses the deeprooted congressional conviction that the Ford plan makes matters worse; it would have a devastating effect on the vast majority of elderly medicare participants.

President Ford says he wants to provide protection against catastrophic health costs that still occur, even under medicare.

That is, there would be a ceiling of $500 on patient's liability for covered hospital services for any one benefit period.

And for doctors' and other medical services under part B of medicare, the limit would be $250 each calendar year.

But the President did not stop there: He also threw in other provisions which would be very bad news indeed for the aged and disabled under medicare:

First, he would significantly increase the amount most medicare patients would pay for hospital services. Now, a medicare beneficiary pays a $104 deductible charge upon entering a hospital and nothing else on covered services until the 61st day. And most medicare patients are discharged from the hospital well before the 60 days have passed.

Mr. Ford's plan would still require the $104, and lots more as well: 10 percent of all eligible hospital charges then incurred. For a person hospitalized for 30 days at $125 a day, the Ford plan would cost $488.40, as compared to the $104 now paid.

Second, in addition, the part B supplementary medical insurance deductible cost would be increased from $60 to $77, and it would go up every time a cost-of-living adjustment is made in social security. And a part B coinsurance payment of 10 percent would be imposed for the first time on hospital-based physician and home health services.

Third, even the so-called catastrophic ceilings would not stand firm at $500 and $250. They would be adjusted downwards every time social security goes up—amounting to a built-in penalty for cost-of-living increases.

As chairman of the Senate Committee on Aging and as author of the 1972 provision which established the cost-of-living adjustment under social security, I am firmly opposed to any erosion of its effectiveness. That was true in 1975, when I fought President Ford's efforts to keep the social security increase to 5 percent instead of the 8 percent due under law. That is still true in 1976, when the President tries to reach a similar destination by a different route.

President Ford advanced a similar proposal last year and got nowhere with it, just as was true with President Nixon for 2 years running.

Why, then, does he persist in dusting off this regressive package?

Because he looks at medicare only in terms of budgetary politics and not in terms of what it can and should do for elderly people.

It is as though he were unaware of the harsh fuel and food inflation which is taking so huge a bite from retirement income.

Moreover, the President seems not to realize that his plan would also do major damage to medicare's social insurance philosophy, in that it would require workers to pay the same contributions into the medicare trust fund, but for reduced coverage.

And that, Mr. President, is exactly what should not be happening to medicare.

I could say a great deal more about the administration proposals from my vantage point here in Washington.

But fortunately the Senate Committee on Aging is getting information at the grassroots wherever possible. To investigate cost-of-living issues, I have conducted field hearings recently in Oregon, Tennessee, and Massachusetts.

And at another such hearing—in Providence, Rhode Island, on January 26—I received an emphatic appraisal of Mr. Ford's catastrophic health care plan.

The witness was Mary Mulvey, a vice president of the National Council of Senior Citizens, a former director of the Rhode Island agency on aging, and current chairperson of the Rhode Island Committee for National Health Security.

Dr. Mulvey had worked with Aime Forand and John Fogarty in their historic efforts to advance medicare. Since enactment of that program, she has been an ardent advocate of a stronger medicare program as one essential step toward a health program protecting all Americans of all ages.

What is her opinion of the administration proposals? At the hearing in Providence, Dr. Mulvey said:

> These changes are a hoax on the elderly. In reality it imposes upon the elderly $2 billion more than they are paying now, and provides a paltry $500 million rebate in the form of catastrophic coverage, the result being a Federal budget saving of $1.5 billion at the expense of the elderly sick and disabled. Implications are that the Federal Budget will be balanced on the backs of the elderly, sick and poor.

Dr. Mulvey, certainly one of the strongest voices raised in Rhode Island and the Nation on behalf of medicare in its early days, recognizes—as I do—that it is far from perfect. For example, medicare now covers only 38 percent of health care expenditures for older Americans. It leaves out of its coverage several essential items, including out-of-hospital prescription drugs, eyeglasses, and hearing aids. Its charges to participants, including premiums and deductibles, keep going up as health care costs in general go up.

But these defects would not be overcome at all by the President's latest proposals. Instead they would be magnified.

I am proud that Mary Mulvey urged the Senate Committee on Aging to prevail upon Congress to oppose the President's proposals. And I certainly welcome her congratulations for the introduction of Senate Concurrent Resolution 86.

It seems to me that such support and such clear recognition of the real issues should persuade President Ford and his advisers to seek more feasible means of reducing the budget.

President Ford, after all, has changed his mind on another matter. In 1976, he will not oppose the full social security cost-of-living increase due this year, as he opposed the one paid in 1975. If he can see the error of his thinking on that matter, perhaps he can be persuaded to see what is wrong with his "catastrophic" plan.

In any case, the Congress, through Senate Concurrent Resolution 86, should make its sentiments unmistakably clear.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire text of Dr. Mulvey's statement before the Committee on Aging. In addition to her comments about the medicare proposals, she also makes several notable suggestions for improving health care of older Americans.

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

STATEMENT BY MARY C. MULVEY

Senator Church, Senator Pell, honored guests and senior citizens of Rhode Island. As Vice President of the National Council of Senior Citizens (NCSC) and Director of the Rhode Island Council (RICSC), I am very much involved with issues concerning a better life for Seniors. And, the cost of maintaining good health directly relates to the quality of life.

I am deeply moved by the plight of the senior citizen living on a fixed income in these inflationary times, who can be financially devastated when faced with overwhelming health problems. Hospital and medical costs are soaring faster than all other items in the Consumer Price Index.

As Chairperson of the Rhode Island Committee for National Health Security, I am convinced that the only way to resolve health care problems for seniors, indeed for all Americans, is through passage of the Health Security Act (S3, HR 21), the Kennedy-Corman Bill.

President Ford promised a national health insurance program for this year in his 1975 State of the Union address; and he now declares that we cannot afford national health insurance. Yet, 20 million Americans have no health insurance, and another 30 million have inadequate insurance.

The way is not through the Catastrophic Health Insurance proposed by President Ford which would require the elderly to pay $500 out of pocket for qualifying hospital expenses, and a $250 limitation annually for medical services. These amounts would increase proportionately with cost-of-living increases in Social Security. This would be catastrophic—indeed a disaster for most of our elderly!

The Rhode Island Committee for National Health Security has statewide support for S3, HR 21, the Kennedy-Corman Bill. With us are: the entire R.I. Congressional delegation, state administration, leaders of community action and senior groups, labor, civic, student and religious organizations.

It is important also to note that the prestigious Cambridge Survey, conducted by Patrick Caddell, and released quarterly, revealed (Parade Magazine, 11/30/75) what many of us have known for a long time: "The people of this country are fed up with the usual way of paying for health care!"

We are finished with the old approaches. The Cambridge Survey asked for a response to four different health proposals. The results present such dramatic evidence of public thinking, I will read the four proposals and the percentage for each one as reported in the Cambridge Survey.

four proposals and the percentage for each one as reported in the Cambridge Survey.

1. Keeping things as they are today—only 13%!

2. A small system where poor people are given medical insurance and everyone is protected against sudden major illness—23%.

3. A system of national health insurance which guarantees every person as much care as he or she needs—35%!

4. An amazing 22% lined up behind the most radical alternative—a totally nationalized system where not only is everyone guaranteed as much health care as he or she needs, but doctors and hospitals are taken over by the government and prices are regulated—22%!

Yes, the people of this country are overwhelmingly in favor of a big change in health care—"a system of national health insurance which guarantees every person as much care

as he or she needs"—and that would be the Kennedy-Corman Bill! 57% of the population (totalling items No. 3 and 4) is for a national health insurance bill at least as comprehensive as the Health Security Bill!

Kennedy-Corman makes everyone in the U.S. eligible for coverage. The program would pay nearly all personal health care services including catastrophic coverage. Covered would be physicians' services, inpatient and outpatient hospital services, home health care, optometry and podiatry services, devices and appliances, prescription drugs, some psychiatric services and nursing home care. It would cover, at the outset, dental care for children up to age 15, and eventually the entire population. And, most important, it would establish pilot projects to determine the feasibility of home maintenance care for the chronically ill or disabled. Remember, even if a nursing home is good, most people can be better rehabilitated in their own homes with proper care!

Preventive care could be emphasized, as well as early diagnosis and medical rehabilitation through a vastly improved health care delivery system—pointing toward organized arrangements for patient care, such as HMO's (health maintenance organizations) and other prepaid group practice plans, such as the Rhode Island Group Health Association (RIGHA)! RIGHA is unique and has received national recognition for its innovative practices.

Other National Health Security aspects include: administration by the Social Security Administration; financing through a Health Security Trust Fund created by a tax on employers, employees and the self-employed, with the amount matched by Federal general revenues; a quality control commission to develop cost control features, including national standards for health care providers; consumer input in policy, administration and development of Health Security on national, state and local levels; public accountability; and a resources development fund to support innovative health programs in manpower, education, and group practice development.

We have had Medicare for nine years; and we are grateful for what it has accomplished. But Medicare covers only 38% of health care expenditures for older Americans. National Health Security is the answer; but even if enacted now, it could not become fully operative for several years. Therefore, I subscribe to the position of the national Council of Senior Citizens for prompt changes in Medicare, not only to close the loopholes, but also to conduct a "mini" Health Security Program for the older segment of the population as a prelude to, and demonstration for, extension to all segments.

Our recommendations are to merge Medicare and Medicaid in a Federally-administered program covering all persons, 65 and over, and all other Medicare and SSI beneficiaries. Part A and Part B would be combined so that premiums now charged under Medicare Part B would be terminated and beneficiaries would no longer have to meet these payments out of limited and fixed incomes.

Benefits now under Medicare would be expanded and payable without co-insurances or deductibles. Nursing home services, regardless of prior hospitalization, would be covered up to 120 days, and without limit if furnished in a nursing home affiliated with a hospital. Other benefits would include out-patient drugs, care of eyes, ears and feet.

Some portion of the cost of coverage would be borne by general revenues, and the remainder by payroll taxes—the same for employee and employer.

The need for these changes in Medicare is great because of the ever-increasing costs to Medicare beneficiaries—the latest being from $92 deductible charge to $104 for the first day of a hospital stay up to a 60-day period—plus increases in co-payments. No! Poor, sick, elderly and disabled people cannot bear additional out-of-pocket payments for medical treatment such as those proposed in President Ford's Medicare Catastrophic Health plan.

Many sources have labelled President Ford's Medicare Catastrophic Health Insurance proposal a fraud perpetrated on the elderly! He proposes to increase the out-of-pocket payments for Medicare beneficiaries by requiring them to pay a co-insurance charge of 10% of all daily hospital charges, following the first day for which they pay the full cost; to impose a 10% co-insurance charge on hospital-based physician and home-health services; and to raise the Part B supplementary medical insurance deductible from $60 to $77 in 1977, increasing thereafter proportionately with social security cost-of-living increases. These measures would wash out future social security cost-of-living increases.

These changes are a hoax on the elderly. For example, under present law, the patient pays $104 the first day in the hospital and no more for 60 days; but the President's plan would increase the cost for the Medicare patient upwards of $250 for an 11-day stay, which is the average Medicare patient hospital stay. Medicare patients will pay 10% day after day until they spend $500.

It is estimated that this proposal would not offer a savings until after a patient had been hospitalized for 75 days! Yet, only 1 out of 1,000 remains 75 days in a hospital; so the President's plan will benefit only one out of 1,000 Americans under Medicare—not the millions of senior citizens who are sick and infirm.

Actually, the President's catastrophic program for Medicare beneficiaries must be looked at within its devious context: in reality it imposes upon the elderly $2 billion more than they are paying now, and provides a paltry $500 million rebate in the form of catastrophic coverage, the result being a Federal Budget saving of $1.5 billion at the expense of the elderly sick and disabled. Implications are that the Federal Budget will be balanced on the backs of the elderly, sick and poor.

We urge the U.S. Senate Committee on Aging to prevail upon Congress to oppose the Medicare catastrophic health insurance proposal of the President and to consider our recommendations for improvement of Medicare until such time as the National Health Security is enacted. We congratulate you, Senator Church, on your initial step toward this goal through the submission of Concurrent Resolution No. 86 "Opposing Increases in Medical Costs for the Elderly."

Equally objectionable is President Ford's proposal to lump Medicaid with 15 other Federal programs, and give the states $10 billion in block grants with no strings attached for state matching funds. This revenue-sharing plan represents less money than before for those who need it the most since, under the present program, the Federal Government provides $11 billion and the states must provide $8 billion in matching funds. Furthermore, the Administration has expressed alarm over the 25 percent rise in Medicaid costs last year; but, if Medicaid costs should increase at even half the rate of last year, with only a $10 billion budget for all health programs for the poor, serious cutbacks in some programs and elimination of others would result.

Revenue-sharing could seriously affect such categorical programs as community neighborhood health centers which serve the poor of all ages, SPOC (Special Project for Older Citizens) which specializes in resocialization and de-institutionalization of older hospitalized persons, and other medical services to meet the needs of those who can least afford the costs—the poor, the elderly, the medically indigent, the underserved, and those who require mental health care.

Categorical grant programs were established to define problem areas, furnish Federal support to help deal with the problems, provide direction and control of funds as Congress intended, and establish priorities and standards of administration to assure quality and responsiveness. So, President Ford's proposal to consolidate categorical programs is a giant step backward!

Older persons have never received their rightful portion from revenue-sharing and other consolidated programs because they have had to compete with more vocal programs in the power structure; and this is the basic reason for our establishing categorical programs, including elderly housing, Medicare, Medicaid, the Older Americans Act of 1965 (authored by the late Rhode Island Congressman, John E. Fogarty), and its subsequent amendments. Incidentally the President already proposes cutbacks in the nutrition program for the elderly under the Title VII of the Older Americans Act. Again, as in the proposed Medicare cutbacks, the President's proposal is a well-planned method of cutting health care specifically designed to help the underprivileged to survive in the abyss of poverty.

The logical solution is to scrap the patchwork approach to health care through enactment of S3, HR 21, The Kennedy-Corman Bill—not only for the elderly but for all Americans! Our objective is a better life for everyone. It is everyone's right to have the best of health care in our society. We are the only industrialized nation which still makes adequate health care a privilege of those who can pay for it.

We speak of our freedoms in this country. If we are to hold up our heads among other industrial countries in the world, we must affirm one more freedom—the freedom from fear of ill-health and its financial consequences for the old and the young, poor and affluent, employed and unemployed. Comprehensive health care for all our people must be established as a matter of right—like the right to education and the right to vote! Thank you for giving me the opportunity to present this statement.

PALM OIL IMPORTS HURTING AMERICAN SOYBEAN PRODUCERS AND PROCESSORS

Mr. HUMPHREY. Mr. President, imports of palm oil into the United States have been growing at a rapid rate in the past few years, reaching an estimated 400,000 tons in 1975. The Department of Agriculture estimates that this level could triple by 1985.

American soybean and cotton farmers have become extremely concerned over these duty-free imports. The Department of Agriculture has been opposing additional credits through international lending institutions, but the State Department has supported such loans in recent years.

Our soybean producers are extremely concerned over this development and particularly since the Government seems unresponsive to their situation. The sales embargo of last fall put a crimp on their market, and now they are being forced to compete with relatively cheap palm oil—which originates mainly from Southeast Asia.

In Mankato, Minn., one of our farm cooperatives owns and operates a soybean oil processing plant, Honeymead, Inc.

This processing plant, among others, has been injured by the importation of palm oil, and, of course, the earlier estimates on which this plant was built are no longer current.

I had earlier written to the Department of Agriculture expressing my concern over the importation of palm oil and the lack of any effective protection for our producers.

I have now written to the President outlining my concerns regarding these imports. It appears that the position of the Department of Agriculture has been overruled in favor of other considerations.

I am well aware of the need for the developing countries to expand their exports, but, at the same time, we cannot allow our country to become a dumping ground for cheap imports. We need to consider carefully the impact of these trends on our own domestic producers.

Mr. President, I wish to share with the Senate the letter which I sent to the President on this subject along with an article from the Washington Post entitled "Agricultural Department Asks a Halt to Palm Oil Aid." Accordingly, I ask unanimous consent that these two items be printed in the RECORD.

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

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., February 5, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to you to express my deep concern over the rising volume of imported palm oil and the impact which it is having on our domestic soybean markets.

Our soybean producers have grown extremely concerned over the threat of duty free imports which reached an estimated 400,000 tons in 1975. Combined with last fall's embargo on exports and the 1972 embargo on sales to Japan, this situation has caused grave concern over the future of our soybean markets. I understand that the Department of Agriculture has been bringing these matters to your attention, but other foreign policy considerations have been given a higher priority than our own domestic producers and processors.

I realize that this issue relates to our efforts to improve trade opportunities for less developed countries. However, it hardly seems fair to leave this sector of our agricultural economy completely without protection.

I am hopeful that you will give this matter your urgent attention and take steps to give increased protection to our soybean producers and processors.

Sincerely,

HUBERT H. HUMPHREY.

AGRICULTURE DEPT. ASKS A HALT TO PALM OIL AID

(By Dan Morgan)

A sharp increase in the volume of palm oil imported into the United States has caused the Agriculture Department to recommend that the government reverse a long-standing policy of helping poor, tropical countries plant palm trees and build processing plants.

The department has warned that duty-free imports of the relatively cheap palm oil will severely hurt U.S. soybean and cotton farmers whose products also are used to make shortening, margarine and cooking oil.

In November, the National Advisory Council, a little-known interagency body that sets government loan policy, gave support to an $11.3 million loan by the Asian Development Bank to Indonesia for a new palm oil processing plant.

The Agriculture Department opposed supporting the credit, but the State Department argued that this would create a poor political climate for President Ford's visit to Indonesia in December, according to informed sources.

However, a Treasury Department official said last week the government would look with "skepticism" on any new requests, pending the completion of an Agriculture Department study of the impact of the global palm oil boom.

Government officials conceded last week that the palm oil situation has posed a dilemma for policymakers.

The United States is committed to helping poorer countries abroad expand their agricultural production so they can feed themselves and raise cash for economic development.

But to the extent this cuts into American food exports or limits the ability of farmers at home to sell their products at profitable prices, such an aid policy leads to domestic political strains.

American assistance in palm tree planting and building processing plants has been given mainly through international lending institutions such as the World Bank and the Asian Development Bank. The United States contributes to the capital of those banks and appoints a director who has a say in loan decisions. Since 1965, international banks have extended 46 credits for palm oil development.

Many of the trees planted since 1965 have just begun to produce oil, and many more will not reach maturity until 1980.

Most of the expansion took place in Malaysia, where rubber producers suffering from a decline in prices switched to oil palms.

Duty-free imports of palm oil into the United States have been rising rapidly, with Malaysia and Indonesia providing the lion's share. Palm oil is also produced in a number of African countries, including Nigeria, Zaire, the Ivory Coast and Cameroon.

The imports reached an estimated 400,000 tons in 1975 and could triple by 1985, the Agriculture Department estimates.

American food manufacturers have begun to substitute palm oil for cottonseed oil in making margarine. A paper prepared by the Foreign Agriculture Service in January warned cottonseed oil sales could be nearly wiped out by 1985 if imported palm oil keeps underselling them. Officials said a disadvantage of palm oil is that it is highly saturated and may be less desirable than soybean oil for persons on low-cholesterol diets.

In addition to the edible oil, the oil palm fruit also yields kernels which are crushed to produce an oil that is used in soap manufacturing to produce lather.

Cotton and soybean organizations have asked the Agriculture Department to try to halt new palm oil loans, and some members of Congress have asked that the government reappraise its agricultural aid policies, sources said last week.

Deputy special trade representative Clayton K. Yeutter said it would be extremely difficult to impose duties on palm oil imports at this time because the United States has pledged to seek "special and differential treatment" for less-developed countries in the current international trade negotiations in Geneva.

The situation is exacerbated by changes in the world economy, which have decreased demand for vegetable oils, at least temporarily. The support for the palm oil expansion came when vegetable oil was in short supply.

The United States has a huge surplus of expensive peanut oil, and some countries abroad have complained the United States has been dumping this surplus on the depressed world market under the guise of the Food for Peace program.

Vegetable oil is also an issue in the relations between the United States and the Philippines. At their meeting last year President Ford and Philippine President Ferdinand Marcos agreed to discuss the American duty on coconut oil, now running around a penny a pound.

Philippine officials claim the import duty is unfair considering the zero tariff on palm oil.

NEXT STEPS IN THE FIGHT FOR CLEAN ELECTIONS

Mr. CLARK. Mr. President, in Wednesday's edition of the Washington Post, David S. Broder comments on the recent decision of the Supreme Court regarding the Federal Election Campaign Act. In his column, Mr. Broder concludes:

The Supreme Court decision saved what was useful in Congress' first try at a campaign finance reform law and discarded what is most dangerous. Now, the Congress has the opportunity to build onto that sound foundation—by reconstituting the Federal Election Commission as a genuinely independent body, and by ending the anomaly of providing public financing for the presidential candidates, who need it least, but not for the congressional candidates, who need it most.

On Monday, Senators EAGLETON, PHILIP A. HART, KENNEDY, MATHIAS, HUGH SCOTT, and I introduced S. 2912, the Federal Election Commission Reform Act of 1976. That bill calls for:

First, a six-member Federal Election Commission appointed by the President with the advice and consent of the Senate; and

Second, comprehensive public financing of both primary and general elections for the Senate. We intend to press for Senate adoption of this legislation in the immediate future.

Mr. President, I offer Mr. Broder's column to our colleagues for their consideration, and ask unanimous consent that the full text of the column be printed in the RECORD.

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

UNDOING HAYS' MISCHIEF

(By David S. Broder)

Of the many ways in which it is possible to commend the Supreme Court decision on the Federal Election Campaign Act of 1974, perhaps the simplest is to say that the high court systematically undid the mischief of Rep. Wayne Hays.

The Ohio Democrat—who heads both the House Administration Committee and the Democratic Congressional Campaign Committee—had used his strategic legislative position to assure the well-being of his fellow Democratic incumbents when the post-Watergate campaign finance bill was going through Congress.

By bottling up the measure in his committee for months, Hays managed to extract a high price from the bill's Senate sponsor—so high a price that some observers, including this reporter, concluded that the legislative cure was worse than the Watergate disease.

The bill the Senate sent to Hays set stiff disclosure requirements for campaign fi-

nances, to be enforced by an independent Federal Election Commission. It limited the size of private campaign contributions and provided substantial public financing for all federal offices.

When that bill reached the House Administration Committee, Hays—one of the few surviving autocrats of the gavel—went to work gutting it on behalf of the incumbents' club.

The first casualty was the provision giving public funds to candidates for the House and Senate. Hays was not about to allow the challengers to compete effectively against the incumbents by assuring them a parity of financial resources.

Instead, he moved in the other direction—putting a low ceiling on how much private money House candidates could spend on their races. Incumbents enjoy more than half-a-million dollars' worth of taxpayer-financed staff assistance, travel, mailing and publicity services each term. But Hays tried to limit expenditures by congressional candidates to a fraction of that sum, finally agreeing to an allowable maximum for a House race of only $70,000—substantially less than the average expenditures for those challengers who were able to oust incumbents in 1972 or 1974.

As a final fillip, Hays insisted that the majority of the members of the "independent" Federal Election Commission be appointed by Congress—hoping to assure that they would be dominated by the very people they were supposed to police.

It was those Hays-inspired revisions that the high court struck down in its decision last week while approving the basic and much-needed reforms.

The justices sustained the constitutionality of the disclosure requirement and the limitation on private contributions. They also validated the principle of public financing for presidential campaigns. While they could not command Congress to extend that financing to House and Senate elections, they certainly gave an impetus to that effort by their decision.

The court cracked down hard—and rightly so—on the spurious arguments for expenditure limitations that had been concocted by Hays and his allies and accepted in the court of appeals.

The phoniest of those rationalizations was that campaign expenditures are too high or are increasing too rapidly. The majority opinion challenged the factualness of that claim and said, "In any event, the mere growth in the cost of federal election campaigns in and of itself provides no basis for governmental restrictions . . . the First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise. In the free society ordained by our Constitution, it is not the government but the people . . . and candidates . . . who must retain control over the quantity and range of debate on public issues in a political campaign."

In addition to that strong affirmation of the practical reality that in modern society, freedom of speech requires the free expenditure of funds, the justices took measured but effective cognizance of the fact that the Hays' provisions had turned the supposed "reform law" into an incumbents' security bill.

"The equalization of permissible campaign expenditures through tight-spending ceilings," they observed, "might serve not to equalize the opportunities of all candidates but to handicap a candidate who lacked substantial name recognition or exposure of his views before the start of the campaign," i.e., a challenger.

In a final demonstration of good sense, the high court told Mr. Hays that the Constitution forbids his clever scheme to have Congress name the majority of the commission members.

The Supreme Court decision saved what was useful in Congress' first try at a campaign finance reform law and discarded what is most dangerous. Now, the Congress has the opportunity to build onto that sound foundation—by reconstituting the Federal Election Commission as a genuinely independent body, and by ending the anomaly of providing public financing for the presidential candidates, who need it least, but not for the congressional candidates, who need it most.

It would be nice to think this effort will have the assistance of chairman Wayne Hays. But nobody should be on it.

INTERNATIONAL HEALTH—PROBLEM OF THE THIRD WORLD

Mr. KENNEDY. Mr. President, on February 18, 1976, the Subcommittee on Health will hold a hearing on the subject of international health.

Among the problems that afflict mankind, few cause so much pain and suffering, few impede the world's search for peace, and few interfere with the struggle of developing nations to improve their lot as much as the major diseases which ravage much of the world today. Among these, the tropical infectious diseases exact a fearful toll of mankind, even in this technological age.

Great numbers of people now living in many regions of the tropical world are afflicted not only by most of the well-known diseases of temperate climates, but also by a whole range of vicious and often fatal tropical infections. The burden of disease affects every aspect of human life. At the individual level, it slows down or stops work, and so accentuates poverty and starvation. At the community level, the threat of disease often determines where people live and what they do. This causes large fertile areas to be abandoned; land which might otherwise help to solve the other major problems of the world, malnutrition, and starvation. At the national level, health and economic improvements are obviously interdependent. Nevertheless, health budgets are frequently low, because so many of these countries are poor and pessimistic about whether any in-road into the disease is possible. It is difficult for those living in temperate climates with good standards of public health and medical care to realize the impact of disease on rural communities in the tropics.

Two points deserve special emphasis at the outset. The first is that economic development in the third world is inextricably related to the improvement of the health of their peoples. Without a healthy and well-nourished population, no nation can hope to make significant economic progress. The second point concerns the cost of programs to fight diseases of the types that plague these countries. At this level of health care, it is not an expensive fight, and its cost-effectiveness is remarkable. Beyond this, a Nation like the United States, with its broad pool of basic scientists and health experts could contribute most effectively to the fight by contributing not so much its dollars as its knowledge and the expertise of its research scientists and health professionals.

The World Health Organization has identified six infectious diseases which are major contributors to individual suffering, family and community dislocations, national underdevelopment, and international unrest throughout much of the world: These six diseases are susceptible to alleviation by a rational approach through basic scientific research and the development and application of the scientific advances aimed at preventing the disease before it strikes or effecting a cure before too much damage has been done.

Three of these diseases, malaria, filariasis, and schistosomiasis, each now affect over 200 million people throughout the world, numbers comparable to the entire population of the United States—that is 1 person in 20 of the world's inhabitants. In Africa alone, malaria kills some 1 million children a year. In some parts of Africa, 1 person in 10 is blind due to filarial worms which cause river blindness, or onchocerciasis. Schistosomiasis is another insidious and subtle disease, also caused by worms, which undermines health by causing damage to many organs of the body, and which not infrequently kills its victim.

Only in terms of total numbers are the remaining three diseases less serious. Throughout the world, well over 10 million people are infected with trypanosomiasis or with leprosy, and a somewhat smaller number with leishmaniasis. Chagas disease, the South American form of trypanosomiasis, damages the heart and may be fatal and is, unfortunately, presently incurable. Sleeping sickness, the African form of this infection, threatens epidemics of brain damage, which lead to a lingering and degrading death. Leprosy erodes and scars and distorts, especially the face and extremities. The list goes on and on, a litany of some of the major problems facing mankind.

Mr. President, the United States, as the richest and most advanced Nation in the world, owes a humanitarian obligation to the rest of the world to contribute to the solution of these serious disease problems. But even beyond purely humanitarian motives, there are strong selfish reasons why we should participate in a worldwide battle against disease. The world grows ever smaller, and no American traveler abroad, or even an American at home, can feel fully protected from the spread of these infectious diseases. Further, any contribution to the improvement of the health of the people of the world must inevitably contribute to a reduction in national and international tensions, and thus to enhancing the prospects for world peace which will benefit us all.

Above all, Mr. President, it is right and appropriate that the United States involve itself in the fight against these diseases, just as it is right that we involve ourselves in the equally important fight against malnutrition and famine. We have here in the United States the world's leading biomedical research establishment, and the fruits of its medical

progress should be shared with the rest of the world. A nation that so generously shares its riches with others in the form of foreign aid must continuously reassess the form which that aid takes, and should be wise enough to recognize that dollar for dollar, aid in the area of international health and the solution of important disease problems must inevitably have more significant and lasting effect, and bring more thanks from the recipients of that aid, than many of the foreign aid mechanisms in which we are now engaged.

Mr. President, the seriousness of the world's health problems and the importance of our contribution to their solution has been ably pointed out by Prof. Barry Bloom of the Albert Einstein College of Medicine in an article last October in the New York Times. 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:

CONSIDER THE ARMADILLO

(By Barry R. Bloom)

Try to imagine the quality of life of the people of New York City if every man, woman and child suffered from malaria, 40 per cent had tuberculosis, one in 30 were afflicted with leprosy, and 4 in 10 children died before age 5 from measles. This is the quality of life, differing only in detail, endured by 500 million people in parts of Africa, Asia and Latin America.

In large areas of Africa, half the population suffers from schistosomiasis,. a chronic disease caused by a parasite harbored in snails that thrive as arid lands are irrigated.

One in ten might suffer from filariasis, caused by tiny worms that clog the circulation, thereby leading to elephantiasis of the limbs. Or the worms, which are water-borne, may invade the eye, causing what is known as river blindness. And then there is sleeping sickness and yellow fever spread by insect bites.

In Latin America, Chagas disease, caused by a parasite that invades heart tissue, causes death at an early age. There is also the disease called *espundia* in Spanish (the scientific name is leishmaniasis), in which the soft tissues such as the nose and mouth are progressively eaten away until the victims are literally faceless. Cures for most of these diseases are yet unknown.

In recognition of the tremendous medical problems in developing countries, the General Assembly of the World Health Organization, an agency of the United Nations, has voted to undertake a unique experiment, a Special Program in Tropical Diseases, designed to improve methods to control some of these diseases based on greater scientific knowledge. This will require basic research by scientists in developed countries, training in sophisticated medical techniques in developing countries, and ultimately a network of collaboration linking the basic laboratories and the patients.

If awareness can be awakened in developed countries and the priorities for research on tropical diseases can be raised, real hope exists for the development of effective vaccines and drugs. The annual cost will be about $15 million, less than the price of a single jet fighter.

The United States has the most advanced biochemical research establishment in the world and the capacity to make enormous contributions toward eliminating communicable diseases.

The National Institute for Allergy and Infectious Diseases could be given more funds to support research on immunity and infectious diseases; the Agency for International Development should contribute to the World Health Organization special program. What is needed is the support of the Administration, the Congress and the public.

From some quarters there is bound to come the objection that such a program will only exacerbate the population problem. The fact is that the six major diseases identified by the World Health Organization are primarily debilitating diseases, the elimination of which could lead to significant improvement in economic productivity and quality of life. Improvement in the standard of living is a crucial element in acceptance of population-control measures.

Even more fundamental, perhaps, is a kind of myopia that dictates that we commit only a negligible fraction of our expertise and wealth to support research on diseases that do not afflict Americans. It is common sport both in and out of the Congress to be skeptical of research programs that appear to have no "relevance" to targeted goals or American problems. But the essence of fundamental research is that no one can predict what area of knowledge may contribute crucially to long-range progress in another.

A case in point is the armadillo. Absurd as it may seem to believe that study of the armadillo could have any practical relevance, it has become clear that the lowly armadillo holds the key to the possible eradication of leprosy.

Probably because of its low body temperature, the armadillo is the only animal in which the human lepra bacillus grows in sufficient quantities to be potentially useful for the production of a vaccine against leprosy.

For those who demand relevance closer to home, it may be added that cancer researchers believe that leprosy patients will provide insights into the failure of cancer patients to reject their tumors.

Why should the United States give of its intellectual, technical and financial resources? Because it is right, and because we have the opportunity—at a cost far lower than providing arms—to ease the suffering of the poor.

The question of "relevance," as we should by now have discovered, is as problematical at the level of national policy as it is in science. One has only to reflect on our failures in foreign and domestic policy in recent years to appreciate that commitments made on a moral basis may well be of greater and more enduring relevance than those based on perceptions of immediate self-interest.

FEDERAL SPENDING AND AMERICAN WORKERS

Mr. HUMPHREY. Mr. President, last fall the Joint Economic Committee asked for the advice of many budget experts in formulating its evaluation of the current services budget. I was very pleased that so many outstanding people were willing to devote their time to helping the committee and its staff. Some of the recommendations we received found their way into the staff evaluation of the Current Services Budget published last December; others are being studied more fully. We have asked the Congressional Budget Office to assist the committee in evaluating some of the suggestions we have received.

Last week I received a very thought-provoking letter from Prof. Robert Hartman at the University of California, Berkeley. Because of his expertise in the area, I had earlier asked Dr. Hartman for his thoughts concerning the relationship between Federal spending and education. In his letter and the attached memorandum, Dr. Hartman goes much further. He begins by discussing two questions that I think disturb every person in this country and should disturb every Senator in this body. First, why are people so down on Federal spending? And second, what accounts for the rise in Federal spending? I want to share his thoughts with you and will request that the full letter and memoranda be made a part of the RECORD.

Dr. Hartman suggests that a prime reason people are so down on Federal spending is that the American workers' ability to purchase goods and services has risen very little in the last decade. Following a decade of prosperity, this has caused great disappointment. In 1954 the average spendable weekly earnings of the American workers were about $111.65. By 1964 this had risen to $131.27. That is a 17.8 percent increase in 10 years. In other words the average worker found $2 more in his weekly paycheck each year between 1954 and 1964. In 1974 average spendable weekly earnings were $134.37. Thus, while earnings went up $20 per week between 1954 and 1964, they only went up $3 per week between 1964 and 1974.

Dr. Hartman goes on to discuss the rise in Federal spending. He says:

Before embarking on a crusade for budget cuts, it seems proper to look at the sources of growth in Federal spending over the last decade or so.

As he shows, for every dollar of growth in spending between 1966 and 1974 about 28 cents went to social security benefits, 13 cents went to medicare and medicaid, 15 cents went to pay and related items in national defense, 13 cents went to interest on the debt, 8 cents went to welfare programs, 6 cents went to veterans programs, and 2½ cents went to education. And as Dr. Hartman points out:

Big money savings will be possible only by directing attention to those areas where the big money is: social security, defense personnel, medicare and medicaid.

Dr. Hartman's comments contain some cogent advice both for a Congress and a President trying to economize in the budget. It is, first, to concentrate on the big-ticket items, and second, to be patient. "A maintainable long-term diet is a better program for reducing the waistline than is pulling your belt three notches tighter."

I ask unanimous consent that the letter and memoranda referred to be printed in the RECORD.

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

BERKELEY, CALIF.,
January 13, 1976.

HON. HUBERT H. HUMPHREY,
Chairman, Joint Economic Committee,
Washington, D.C.

DEAR SENATOR HUMPHREY: I am delighted to respond to your request of November 5,

asking for my views on eliminating waste, inefficiency and duplication of federal programs without reducing the real level of services, especially in the area of higher education.

I have found it useful to put my thoughts on this matter into two general contexts:

Why the sudden interest, even on the part of the common person, in paring back federal spending? I conclude that the primary answer is not to be found in soaring federal spending, nor in the loss of faith in the specific elements of expenditure that have expanded, but in the standstill in real wages over the last decade in the face of growing productivity of the average worker. Since people (correctly) perceive that economic mismanagement by the federal government is to blame for their problems, they are hitting out in the only way they know: to deny "them" their spending and to demand a return of taxes to be spent by "us."

What does account for the rise in federal spending? Federal spending doubled between fiscal years 1966 and 1974. For every dollar of increase, 34 cents is attributable to national defense (mainly pay and related items), veterans' programs and interest on the debt; another 42 cents is attributable to income security programs (mainly social security); another 15 cents to health programs (mainly Medicare and Medicaid). All of federal education spending accounted for 2.5 cents of the rise in federal outlays. Even if every economy and efficiency imaginable had been achieved in the area of federal education spending, the effect on overall federal outlay trends would have been imperceptible. To make a real dent in expenditure growth, the Congress must look to the big ticket items: defense manpower costs, social security, and health service programs. While I am not an expert in these areas, I believe that economies saving billions without significant real service losses can be achieved provided that sufficient advance planning is undertaken.

In the higher education budget, there is clearly a costly duplication of federal student aid programs at present. But some justification can be made for duplication on the grounds that particular programs have been underfunded. Thus we have added programs—or refused to eliminate old ones—in response to under spending in other programs. The only way out of this box that is responsible both to taxpayers and to higher education is to set forward goals to fully fund the key programs and to simultaneously phase out the duplicating and overlapping budget lines.

I have spelled out these views in some detail in the attached memorandum. I would be happy to expand on these ideas if you wish.

Sincerely,

ROBERT HARTMAN.

MEMORANDUM—REQUEST FOR VIEWS ON BUDGET

Before offering some suggestions for revision of the federal government's higher education assistance programs, I would like to offer some background views, if only to put my own biases on display. Accordingly, this note is devoted, first, to two background issues: (1) Why are people down on federal spending? (2) Why has federal spending grown so much? and then to: (3) Reform of federal higher education aid.

(1) Why are people down on federal spending?

Working on the theory that successful politicians are ones who strike a responsive chord in the electorate, it appears that antagonism to governmental solutions to social problems is widespread. Certainly, there has been plenty of denigration of big government in recent years. As a working hypothesis, I am willing to accept the notion that the public has grown increasingly distrustful of the government recently. The question is why?

Aside from blaming obvious phenomena like Vietnam and Watergate, social commentators have begun to weave sophisticated theories for growing alienation. These range from the contention that there has always been a latent conservatism among the majority, but the majority is quiescent (until riled up) to the notion that the public did and does believe in governmental solutions to social problems, but even these liberals have lost faith because of an alleged manifest of government botching of every problem it has turned to.

There is no doubt some truth to all these views (even when they seem contradictory—there are a lot of different "people" in the "public"), but I believe that there is a simpler, more old-fashioned explanation that has been overlooked in the rush to find new causes of the bad news.

The old-fashioned explanation is simply that:

(1) Between 1964 and 1974 (before the full effects of the current recession took hold), the spendable weekly earnings of the average American worker hardly rose at all—in terms of his ability to purchase goods and services—in contrast to the previous decade of growth. Only a small portion of this freezing of real wages is attributable to a growing federal tax burden; wages, before taxes, have barely kept up with rising prices.

Table 1 illustrates these trends in earnings, showing the slowdown in growth of real wages in the late 60's and the halt in growth since 1969. Coming after a decade of prosperity—the average worker found $2 more (in 1974 dollars) in his weekly paycheck each year between 1954 and 1964—the last decade's economic fruits—the average worker's weekly check went up $3 (in 1976 dollars) in the entire decade—have been, understandably, very disappointing. Moreover, since output per man-hour has been increasing in the past decade, workers do not blame themselves for their inability to realize larger real earnings, but they blame the government.

TABLE 1.– EARNINGS AND PURCHASING POWER OF THE AVERAGE WORKER IN PRIVATE NONFARM INDUSTRIES, SELECTED YEARS 1954–74

					Percent growth	
	1954	1964	1969	1974	1954–64	1964–74
Average gross weekly earnings	64.52	91.33	114.61	154.45	41.6	69.1
Less withholding of taxes [1]	3.67	8.76	14.62	20.08	138.7	129.2
Equals average spendable weekly earnings	60.85	82.57	99.99	134.37	35.7	62.7
Average spendable weekly earnings in 1974 dollars	111.65	131.27	134.57	134.37	17.8	2.4
Consumer prices (1974=100)	54.5	62.9	74.3	100.0	15.4	58.9

[1] Worker with 3 dependents.

Source: Economic Report of the President, February 1975, pp. 285, 300.

(2) The growth of federal spending—and taxing—accounts for only a small portion of the failure of the average worker's real wages to rise. Almost the entire increase in the growing public sector share of national income is attributable to state and local government spending growth. Moreover, two-thirds of the increase in federal spending since 1966 is accounted for by rising outlays for national defense, veterans' programs, interest on the debt, social security and Medicare programs—all expenditures that the general public supports.

(3) The public seems unaware of the great benefits to our society that have been attained through the growth in domestic transfer payment programs. Poverty rates for the elderly have been reduced enormously by the growth in social security spending. The well-being of disadvantaged groups is obviously enhanced by over $30 billion in federal spending for food stamps, Medicaid, Medicare, housing assistance, and child nutrition programs—expenditures that are not even counted as income in poverty statistics. The public seems swayed, instead, by social critics' bemoaning of the "failures" of the 60's (including the failure of these programs to reduce inequility in incomes, a result that is statistically necessary because, as noted, these expenditures are not counted as income to beneficiaries).[1]

I feel certain that if national economic policy were again to turn toward full employment goals, thus raising real take-home pay, if the public were made aware of what the bulk of federal spending is all about, and if social critics were to tell the truth about the social programs of the sixties,[2] public distrust of federal spending would dissipate. Moreover, it is likely that the forces that drove up state and local spending in the last decade have run their course; if so, even a rapidly growing federal budget is compatible with a reduced public sector share of national income.

(2) What accounts for the rise in federal spending?

Before embarking on a crusade for budget cuts, it seems proper to look at the sources of growth in federal spending over the last decade or so.

Between fiscal years 1966 and 1974, federal spending doubled (Table 2). A good part of this increase merely reflects inflation; according to OMB, outlays in constant dollars rose only 24 percent over the same period. (See "The Budget in Constant Dollars," OMB Technical Staff Paper BRD.FAB 75–3 p. 12).

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[1] On the importance of in-kind transfers and other distortions in our inequality statistics, see M. Paglin, "The Measurement and Trend of Inequality," American Economic Review (September 1975), pp. 598–609, and Blechman et al., Setting National Priorities: The 1975 Budget (Brookings, 1974), Chapter 7.

[2] The truth is that the programs performed about as well as the Washington Redskins: cumbrous, not pretty to watch, often confusing, with a large payroll—but many more wins than losses.

TABLE 2.—BUDGET TRENDS, 1966–74

[Outlays in billions of dollars]

	Fiscal year— 1966	1974	Amount of change 1966–74	Percent of total change 1966–74
National defense and international affairs	$60.4	$82.2	$21.8	16.3
Pay and related items [1]	(31.5)	(51.3)	(19.8)	(14.8)
Other	(28.9)	(30.9)	(2.0)	(1.5)
Veterans' benefits and services	5.9	13.4	7.5	5.6
Interest	11.3	28.1	16.8	12.6
Income security	28.9	84.4	55.5	41.5
General retirement	(21.4)	(58.6)	(37.2)	(27.8)
Federal employee retirement	(1.7)	(5.6)	(3.9)	(2.9)
Unemployment insurance	(2.3)	(6.1)	(3.8)	(2.8)
Public assistance	(3.4)	(14.1)	(10.7)	(8.0)
Health	2.6	22.1	19.5	14.6
Health care services	(1.2)	(18.5)	(17.3)	(12.9)
Other	(1.4)	(3.6)	(2.2)	(1.6)
Education, manpower, and social services	4.1	11.6	7.5	5.6
Education	(2.7)	(6.1)	(3.4)	(2.5)
All other functions	21.5	26.6	5.1	3.8
Total outlays	134.7	268.4	133.7	100.0

[1] Subfunctions: military personnel, retired military personnel, operations and maintenance.

Source: The budget of the U.S. Government, fiscal year 1976, table 17.

As shown in Table 2, for every dollar of growth in spending in the 1966–74 period:

About 28 cents went to social security cash benefits.

13 cents went to Medicare and Medicaid.

15 cents went to pay and related items in national defense.

13 cents went to interest on the debt.

8 cents went to "welfare."

6 cents went to veterans.

2.5 cents went to education.

Most of these increases were in programs that "entitled" a larger number of people to larger benefits. Even though such entitlements are difficult to reduce, projections of future expenditures based on present law do not imply a runaway growth in Federal spending.[3] Nonetheless, the Congress may wish to make cuts in existing programs to provide more elbow room in future budgets.

I know that the Joint Economic Committee is receiving expert opinion about potential budget savings in most of these budget areas, but I would like to make a few general observations:

"Big money savings" will be possible only by directing attention to those areas where the big money is: social security, defense personnel, Medicare and Medicaid. In each of these areas, there are well-known escalatory factors that should be scrutinized carefully.[4] These include the excessive coupled system for compensating for inflation in social security, the excessive numbers of support personnel in the defense establishment, and the inability of the federal government (or anyone else) to gain control over escalating medical care prices. New legislation dealing effectively with these issues may save tens of billions of dollars and are, accordingly, a proper focus for intense Congressional scrutiny. I emphasize these points because I think the temptation is great to chip away at less basic (and less costly) elements in these and other programs.

The savings that can be realized in the big ticket programs will all take time to materialize and the one-year-at-a-time focus of most budget-cutting exercises is most inappropriate in generating a list of sensible cuts. Thus, the dollar savings next year if social security were "decoupled" and if an effective reimbursement system were implemented in Medicare and Medicaid would be very, very small. Attempts to realize large defense manpower savings in one year would not only result in small outlay savings, but in positive harm to the efficiency of the military establishment.

My counsel to the Congress is, thus, a) to concentrate on the big-ticket items and b) to be patient. A maintainable long-term diet is a better program for reducing the waistline than is pulling your belt three notches tighter.

(3) Saving budget dollars in higher education.

As noted in Table 2, all of federal education aid accounted for only 2.5 cents of every dollar expansion in federal spending in the 1966–74 period. Higher education accounted for less than a penny increase per dollar of federal spending growth, expanding from about $700 million in fiscal 1964 to $1.35 billion in 1974,[5] while total federal outlays grew by $134 billion. Although federal expenditures for higher education have accelerated in growth since 1974, the general point—higher education expenditures account for a very small part of recent federal expenditure growth—would still hold. Thus no amount of economizing in the federal higher education programs of the past decade would have significantly affected today's federal spending total.

Having put higher education spending in some perspective, let me now note that this certainly is an area of duplication and likely waste of federal resources. Over 80 per cent of federal obligations incurred in 1974 were devoted to various forms of student assistance, and it is in that area that most of the duplication occurs.

The duplication and overlap can best be illustrated by looking at the different programs under which a particular student may receive a "grant," in the broad sense of a federal subvention that need not be repaid. Under present law, such aid is available in the form of:

Basic Educational Opportunity Grants: Cash grants based on a national financial needs test.

Supplementary Educational Opportunity Grants: Cash grants allocated by institutions.

National Direct Student Loans: Free interest in-school and below market rate during repayment constitutes the grant; allocated by institutions.

Guaranteed Loans: Free interest in-school and some subsidy of interest thereafter constitutes the grant; allocated by lenders, mostly banks.

Incentive Grants for State Scholarships: Cash grants from the state; federal government pays half above a base period sum; allocated by states.[6]

It is hard to believe that the five programs of grants listed are necessary to fulfill the federal government's goals in providing student aid. The duplication came about, in part, because when the Congress observed a need for additional aid, it added programs instead of revising existing programs. The upshot has been a system in which students who are equally situated from the point of view of need for aid are treated in vastly different ways. Some receive multiple benefits; some none. Moreover, the paperwork, administrative and psychological costs of this system are much higher than is necessary. However, the very inefficiency of this student aid system makes it difficult—and meaningless—to answer the question whether there is too much federal spending for higher education. While some college-age people receive too little, other expenditures are wasted. The waste in the system consists of those federal dollars that overcompensate some students, or pay for the unnecessary administrative and paperwork burden that this duplicative system evokes.

The road to reform consists of carefully delineating federal objectives in higher education student aid, redrawing and funding existing programs to meet these goals, and eliminating programs that are unneeded. Such a procedure must be done as a "package" since the justification for elimination of program A will be the greater efficiency of program B. In addition, overall spending for higher education student aid might rise in the near term because redesign and full funding of the consolidated list of aid programs might be more costly in the transition than maintaining the present inadequate hodge-podge system. In the long-run, such reform should, however be cheaper than maintaining our present system.

Reform and streamlining of federal student aid involves answering some key questions about the role of the federal government in higher education. There are many different views on this question; what follows is my personal view.

Almost everyone now accepts the idea that the federal government has a role to play in equalizing the chances of access to post-secondary institutions. This means that for low-income students, who might attend a tuition-free institution, the federal government should provide funds to allow such students to have enough money for non-institutional expenses—room, board, books, commuting costs, etc. Such equalization of access is clearly a federal responsibility in that "leaving it to the states" would result in the greatest burden being placed on those states that can least afford it.

Second, there is a clear federal role in broadening students' choice among institutions. Since students would have very limited access to capital markets absent intervention, very little choice would be possible. This kind of market imperfection can best be solved by federal intervention, although state participation may be helpful as well.

These two federal objectives are, I believe,

[3] See Blechman, et al., Setting National Priorities: The 1976 Budget, Chapter 7.

[4] In defense, see M. Binkin's The Military Pay Muddle (Brookings, 1975) and Blechman, et al., Setting National Priorities: The 1976 Budget (Brookings, 1975), pp. 137–140. On social security, see Blechman, et al., ibid., pp. 175–184. On Medicare and Medicaid, see K. Davis, National Health Insurance (Brookings, 1975), Chapters 2, 3, and 7 and sources cited therein.

[5] These are OMB functional account 502 expenditures only; they do not include veterans' education or social security payments on behalf of surviving students which are classified elsewhere.

[6] I have omitted from this list College Work-Study in which the federal government pays 80 per cent of student wages on the grounds that this is more a form of subsidy to employers, rather than to students.

widely shared and they imply two federal programs:

First, a grant program based on a student's financial need. The grant maximum would be based on non-instructional cost and would be independent of actual charges incurred. The Basic Educational Opportunity Grant Program comes very close to this description, needing only amendments to remove the "half-cost" provision.

Second, a loan program open to all students, regardless of need, in which students pay the full cost of the loans. Annual loan extensions would be limited by the total costs of attendance or a lesser amount if Congress decided that some self-help is essential. This program could be implemented by phasing out interest subsidies in the guaranteed loan program and revising its annual loan limits (as well as bolstering the Student Loan Marketing Association, "Sallie Mae," to play a larger role).

The above two objectives/two program strategy leaves unanswered a major question for the Congress. The question is:

What is to be the role of the federal government in encouraging or discouraging state policies on low tuition charges and support of the private sector?

The failure to address this question directly has probably contributed to some of the observed waste and duplication in existing programs. Most of the college-based aid programs [7] disproportionately aid private institutions and this constitutes one reason for their continuance.

I believe that a case can be made for federal encouragement of the maintenance of low net tuition (net tuition is tuition minus student aid) charges for low-income students in public and private institutions. The attainment of this goal is best handled by federal assistance for state-scholarship programs; the existing state incentive grant program could probably be revised to fill this bill.

Beyond inducing states to offer low net tuitions to low income students, I believe (somewhat less firmly) that the federal government should, somehow, induce states to treat private and public institutions more evenhandedly. The motive here would be to ensure that a student choosing between a public and private institution would be basing his choice on a meaningful set of relative prices (ones that reflect relative costs) rather than on the basis of the distorted, anti-private, price relations that exist today. There are a wide variety of possible state programs that could accomplish this objective ranging from income tax credits to a program of state grants to private institutions. To my knowledge there is no existing or proposed federal program that would induce states to pursue such assistance while simultaneously limiting federal aid to just such support. In any case, it is clear that the duplicative federal student programs do not provide incentives for the states to treat their educational sectors more evenly. They are simply inefficient responses to a general feeling that something should be done for the private sector.

From these observations, a fairly straightforward reform proposal for federal aid to postsecondary education emerges. The basic programs are a complementary package of—

Basic Grants.

Unsubsidized Loans.

State Scholarship Support.

These might be supplemented by a program to help states spread subsidies more evenly over private as well as public institutions.

This package would vastly simplify the present hodge podge system of aid. In the long-run, it will allow Congress to consciously control the degree to which it wishes to aid higher education and will ensure that such aid is economically (that is, without waste) provided.

Let me close with two caveats:

Moving to a consolidated system all at once—say, by terminating all existing student aid programs except the ones listed—would be a mistake. Institutions of higher education, especially private ones, cannot adjust overnight to a withdrawal of federal funds that may now be supporting over half of their student aid budget. Neither can students, who are presently receiving subsidies but will lose eligibility under a reformed program, adjust quickly to new circumstances. A careful plan phasing in full funding over a four or five year period would most likely take care of the transition needs.

The reform package will, therefore, probably cost the federal government more in the short-run than a do-nothing policy. First, some recipients of aid under duplicative programs will have to continue to receive aid during the transition, while newly entitled recipients are also added to the rolls. Second, the current interest subsidies under the guaranteed loan program largely pay for loans issued several years ago. There is no way to eliminate outlays for this program even if subsidies on future loans are terminated immediately.

The federal budget dollar savings in this plan come in the future. The size of such savings depends on how Congress will respond to the inequities its own programs now create. If there is a lesson from all this it is that it would be better to consolidate and fully fund efficient programs now than to wait and see how large an unwieldly set of programs becomes.

[7] Supplementary Educational Opportunity Grants, National Direct Student Loans and College Work-Study.

NATIONAL HEALTH INSURANCE

Mr. PELL. Mr. President, on January 19, President Ford announced that he was proposing major changes in this Nation's medicare program through which we provide health and hospitalization insurance to our senior citizens. The President's proposal combined a $500 million program of Federal support for long term catastrophic illness insurance, with a $2 billion decrease in coverage for short and average term illness costs.

Just one week after the President announced his proposal, the Senate Special Committee on Aging, of which I am a member, held a hearing in Providence, R.I., on "Future Directions in Social Security: Increases in the Cost of Living." Almost every one of the witnesses who testified before us that day, as well as many persons in the audience, argued persuasively that President Ford's proposal was wrong, ill-conceived, and not what this Nation's senior citizens urgently need in the way of national health insurance. I agree with them entirely.

Particularly insightful and forceful was the testimony of Dr. Mary C. Mulvey, a Providence, R.I., resident and vice president of the National Council of Senior Citizens, who noted that:

These changes are a hoax on the elderly. For example, under present law, the patient pays $104 the first day in the hospital and no more for 60 days; but the President's plan would increase the cost for the Medicare patient upwards of $250 for an 11-day stay, which is the average Medicare patient hospital stay. Medicare patients will pay 10% day after day until they spend $500.

It is estimated that this proposal would not offer a savings until after a patient had been hospitalized for 75 days! Yet, only 1 out of 1,000 remains 75 days in a hospital; so the President's plan will benefit only one out of 1,000 Americans under Medicare—not the millions of senior citizens who are sick and infirm.

We speak of our freedoms in this country. If we are to hold up our heads among other industrial countries in the world, we must affirm one more freedom—the freedom from fear of ill-health and its financial consequences for the old and the young, poor and affluent, employed and unemployed. Comprehensive health care for all our people must be established as a matter of right—like the right to education and the right to vote!

In fact, medicare truly needs to be improved. But the improvement should be in the direction of providing broader and more rational coverage, and lifting a greater percentage of this burden from the elderly, rather than in the President's direction of cutting back on coverage.

Last year, medicare only covered 38 percent of the health care costs of our older Americans. This is a smaller piece of the pie, and less adequate coverage, than when medicare was first enacted into law.

Under the President's proposal, an elderly person would pay three times as much for an average, noncatastrophic hospitalization, than he or she would pay this year.

I cannot accept the President's proposal: and I have joined with Senator CHURCH, the chairman of the Senate Special Committee on Aging, in cosponsoring Senate Concurrent Resolution 86, a resolution opposing increases in medical costs for the elderly.

It is my hope that our message will ring clear to the President: "Do not try to balance the Federal budget on the backs of our elderly citizens. Medicare and national health insurance must be our goals, not our political footballs!"

CHILD AND FAMILY SERVICES ACT

Mr. CULVER. Mr. President, in recent weeks my office and those of other Members of Congress have been receiving letters and telephone calls from constituents who are very concerned about S. 626, the Child and Family Services Act.

Their concern is largely based on unsigned mimeographed literature which falsely claims that this measure would lead to the "Sovietization of the American family" by giving Government parental responsibility for millions of children, prohibit parents from providing religious training to their children, and give children the legal right to disobey their parents without "fear of reprisal." These inflammatory allegations are absolutely and totally false.

The material also states that a "Charter on Children's Rights," from the British Advisory Center for Education and the National Council of Civil Liberties in Great Britain, and the so-called "Child Advocacy Clause" are part of the Child and Family Services Act. This claim is again completely unfounded and untrue. Neither of these documents nor any part of them is included in S. 626.

S. 626, a bipartisan bill, would make available parent-controlled voluntary basic health, education, and other child care services. It authorizes a flexible system which would allow communities to develop their own programs according to their own needs on a totally voluntary basis. It would provide services for working people who need child care programs and want these opportunities for their children, but often cannot afford them.

This legislation is widely supported by over 100 religious and civic organizations including the PTA, the National Education Association, the U.S. Catholic Conference, the United Methodist Church, and the Child Welfare League of America.

There is, of course, room for legitimate disagreement on such legislation, but it is unfortunate that the organized attack against the bill is largely based on misrepresentation of the provisions and purposes of the Child and Family Services Act.

For this reason, I feel that Members of Congress and the public should judge this measure on its merits, based on the facts; and I think it might be of interest for those concerned to read an editorial from the Cedar Rapids Gazette and one from the Minneapolis Tribune, which was reprinted in the Des Moines Tribune. These editorials set the record straight on the misconceptions that have been created.

I ask unanimous consent that 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 Cedar Rapids (Iowa) Gazette, Feb. 1, 1976]

CHILD CARE DISTORTION

One of several possibilities for better day-care service being studied by congress is a bill called the child and family services act. It would provide federal funding for a new program of comprehensive services of care for children whose parents are away at work—all on a completely voluntary basis.

The bill proposes an expansion of federal spending at a time when budget cutting and election-year considerations overshadow other kinds of concerns. It faces a veto if enacted. The timing is doubtful and prospects of passage are currently dim.

In view of all this background, plus the basically good motive of providing better lives and opportunity for youngsters otherwise confronted with neglect or deprivation, another thing about the bill is most surprising: why it has come under fire as the worst threat to American ideals since Marx put communism on the board.

Legitimate objections from reasonable critics paint the day-care promotion, understandably, as a weakening of family fabric; a move toward government control in the rearing of children. Printed fliers circulating widely in this part of the country—unmarked as to source—distort that to a point that strains the credibility.

To quote one example, allegedly drawn from the Congressional Record:

"As a matter of the child's rights, the government shall exert control over the family because we have recognized that the child is not the care of the parents, but the care of the state. We recognize, further, that not parental but communal forms of upbringing have an unquestionable superiority over all other forms."

Manifestly, that is utter fabrication. No congressman could sponsor such a piece of infamy, let alone vote for it, and ever pull two dozen votes again. Factually, the bill itself asserts that nothing in it can be "construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians" or to permit "any invasion of privacy otherwise protected by law."

Realistically, the child care proposal answers a need, raises no dire threat and grows out of respectable motives but stands little chance of going far very soon on its merits, all pressures considered. What bids to be the biggest lie since Goebbels masterminded Hitler's is a useless contribution to debate, deserving nothing but contempt from earnestly concerned Americans on either side of the issue.

[From the Minneapolis Tribune, Feb. 2, 1976]

FALSEHOOD, FEAR IN ATTACKS ON CHILD-CARE BILL

Attacks on Senator Walter Mondale's child-care bill are being circulated more widely than ever, cropping up with increasing frequency in Minnesota. They're generating more letters to members of Congress and to newspapers; Mondale's office, in fact, has received a record volume of mail on the bill.

But as the attacks mount, they also sink—to new lows of irresponsibility and falsehood. They are, Mondale complains, "based on distortion, falsehood and fear." And they're anonymous, making it impossible for the bill's supporters to confront and refute their opponents.

The object of the attacks is a bill called the Child and Family Services Act of 1975, sponsored by Mondale in the Senate and by Representative John Brademas (Dem., Ind.) in the House. Its intent is "to provide a variety of quality child and family services in order to assist parents who request such services. . . ." It would provide funds for local communities and parent organizations to set up such services as prenatal care, medical treatment to detect and remedy handicaps, nutrition assistance and day-care programs for children of working mothers.

ORIGIN OF ATTACKS

The attacks seem to have originated in Texas and Oklahoma and moved northward and eastward. A Houston Chronicle reporter, trying to trace their origin, was unsuccessful. All he could find was a retired director of a Kansas Bible camp who said he reprinted and circulated about 1,000 copies of one version—but quit when he found that the information in it was misleading.

The versions now appearing in Minnesota are nearly identical—and equally anonymous. A letter from a LeRoy, Minn., man to the Austin Herald is typical. Using the language of the unsigned fliers, it contends that the bill would "take the responsibility of the parents to raise their children and give it to the government," going on to cite four examples of how it would do so.

A similar argument was made in a letter from a Marietta, Minn., woman that became the basis for an editorial in a Madison, Minn., weekly shopper. That version, however, actually attributes to Mondale one of the false statements of what the bill would do.

In fact, the bill would carefully protect the rights of parents. Participation in any program would be completely voluntary; children could not be included without the specific request of their parents or guardians. The bill would prohibit anything that would "infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians."

CURTIS SPEECH

What, then, of the four examples of usurpation of parents' rights cited by the LeRoy letter-writer? And what of the anonymous fliers' contention that what they contain is true because it appeared in the Congressional Record? The examples, it appears, are taken from something called the Charter of Children's Rights of the National Council of Civil Liberties. But no such charter is included in the bill. It first surfaced in 1971, during Senate debate on another bill that contained child-care provisions.

Senator Carl Curtis of Nebraska, who opposed that bill, said that in England "child-development advocates have gone so far as to draft a charter of children's rights," which he then read—and which has been picked up by opponents of the Mondale bill. But the so-called charter, if it ever existed, had nothing to do with the 1971 bill, much less the current Mondale proposal. Still, irrelevant though it was, the Curtis speech was indeed reported in the Congressional Record, giving the authors of the anonymous fliers a false claim to authenticity.

The allegations contained in the anonymous attacks "are false and misleading" and contain a wealth of inflammatory information and untruth," according to the Baptist Standard. Archbishop John Roach of the Archdiocese of St. Paul and Minneapolis, writing for the board of directors of the Minnesota Catholic Conference, said that the attacks "are dishonest, and we, as bishops of Minnesota, deplore them."

Charges about the child-care bill are being given wide currency. We hope that Minnesotans will look beyond the anonymous attacks, however, and will base their judgments of the bill on what it actually contains. On that basis, the bill stands up well—and it deserves support.

LABOR UNIONS AND POLITICAL CONTRIBUTIONS

Mr. GOLDWATER. Mr. President there has been a lot of moralistic breast beating in this Chamber in the last few days about what corporations do with their money, or what generals and admirals do at duck hunting establishments, and with all of this I have not heard a word said about the continuing growing control by the labor unions of this body in which we serve. To try to prove my point, I put together the other night just a few items picked up from available sources to indicate that what the political contributions of the unions come to is not exactly small potatoes. For example, in just a matter of 5 months $34,200 was given to one announced candidate for the Presidency and this came from 27 different unions across this country. Other notations are similarly interesting and I ask unanimous consent that a compilation of these items that I have collected be printed at this point in my remarks.

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

FEBRUARY, 1976

It is interesting to note that the Communications Workers Union—C.O.P.E. gave $1,000 to each of the following Presidential candidates: Bayh, Bentsen, Carter, Harris, Jackson, Sanford, Shriver, Shapp and Udall.

* * * * *

The United Auto Workers' political arm raised $585,383.02 and spent $141,214.33 in

1975. As of 12/31/75 they had cash on hand of $683,904.42. Several contributions of interest were as follows:

December 5, 1975—Democratic National Committee, $10,000;

June 2, 1975—Democratic National Committee Telethon, $25,000; and

February 28, 1975—Matt Reese & Assoc. (for Congressional Study Project) $2,500.

* * * * *

It would appear that organized labor is setting up a special task force for the Senate campaigns. The U.A.W. sent $5,000 on 8/15 to the A.F.L.-C.I.O. C.O.P.E. Marginal Senate Campaign (perhaps for Durkin (N.H.) campaign). The check was returned and reissued to the A.F.L.-C.I.O. C.O.P.E. Political Action Dept.

* * * * *

The United Steelworkers—Political Action Fund raised $299,360.86 and spent $71,075.15 in 1975. They had cash on hand 12/31/75 of $458, 225.07. In 1975 they gave $15,000 to the Democratic Congressional Dinner Committee on March 13.

Mr. GOLDWATER. Now there is nothing wrong with any group in this country wanting to have a better Congress, but it seems strange to me that on neither of the floors of the Congress, nor in the media of this Capital City, do we ever read about the millions of dollars spent legally or illegally by the labor unions on political efforts.

MR. JUSTICE WILLIAM O. DOUGLAS

Mr. KENNEDY. Mr. President, the Senate has unanimously passed legislation dedicating the C. & O. Canal to Justice William O. Douglas. Similar legislation is pending in the House of Representatives and action on that bill is expected soon. I can think of no more appropriate honor for this extraordinary man than the dedication of the canal to his achievements.

When the canal and the great scenic beauty bordering it were threatened with destruction, two decades ago, it was Justice Douglas who brought leadership and commitment to the cause of protecting the canal and saved this precious landmark.

If we are to single out the one person most responsible for awakening this Nation to the hazards of inaction while our natural resources dwindled and decayed, it is to Justice Douglas that we owe our deepest gratitude.

And it has been our great good fortune during the most hazardous period of our constitutional history to have Justice Douglas guard our most precious first amendment freedoms with a fervor and courage unequaled in the history of this Nation.

The extraordinary gifts and talents of Justice Douglas has led neither to arrogance nor narrowness. His spirit is as broad as this land he loves and as limitless as the individual freedom he cherishes.

Our language is too pale to describe our love and respect for Justice Douglas. He illuminates the finest qualities of our people—humor and energy and compassion and courage. It is our privilege to share these years with him; it is our sadness that we cannot share the pain that caused his retirement.

THE CONCORDE

Mr. CASE. Mr. President, I was distressed Wednesday to learn that Secretary of Transportation William Coleman had decided to allow British and French supersonic transports to use Dulles and Kennedy International Airports—for what he terms a 16-month trial period.

In my view, the Secretary has failed to provide any substantial basis for allowing these planes to land at our airports.

Congress spoke decisively on the issue of the SST in 1971 and nothing in the intervening years has convinced me that our earlier decision was wrong.

The Concorde/SST is noisy; it pollutes the air; it wastes fuel; it is not economical; it depletes the ozone. In short, the Concorde—as presently designed—is a menace.

I am glad to join Senator WEICKER in sponsoring legislation to ban the Concordes, and I fully intend to support all additional legislative efforts which will accomplish this same purpose.

EARTHQUAKE IN GUATEMALA

Mr. KENNEDY. Mr. President, more complete reports are now available on the extent of the massive earthquake which struck Guatemala on Wednesday—leaving behind an awesome trail of destruction and death and human misery.

Registering 7.5 on the Richter scale, it was one of the most destructive earthquakes of this century in Central America. Although reports are still scattered, the Guatemalan Government, disaster relief teams, and journalistic accounts all report a tragic toll in human life—at least 3,000 to 4,000 persons dead, and 8,000 known injured. But as the rubble is cleared, the death toll will surely climb.

For those still alive, many thousands are homeless—living in the streets or fields. Entire communities have been cut off, with roads destroyed and communications severed in many areas. Although the center of Guatemala City has been spared, the surrounding residential areas and, typically, the poorest sections of the city, have been hardest hit. Once again, those who can least afford it have lost everything.

Mr. President, as chairman of the Subcommittee on Refugees, I express my deep sympathy and concern to the people and government of Guatemala, and to urge our Government, in concert with international relief agencies, to spare no effort in responding to the urgent humanitarian needs of the devastated people of Guatemala.

From a report the subcommittee received this morning from officials in the Office of Disaster Relief in the Agency for International Development—AID—our Government has, to date, made a commendable response to the emergency needs in Guatemala. In just over 24 hours, some $525,000 in disaster relief funds have been obligated, and more is available as relief needs are identified.

AID has dispatched a 100-bed hospital with necessary support facilities and medical supplies, including 500 pints of blood, and penicillin for 5,000 people. In addition, 500 family tents have been flown in for temporary shelter, along with first aid supplies, and 12 3,000-gallon water tanks. An AID disaster assessment team has also been flown to Guatemala City for a first hand report. American voluntary agencies are also mobilizing relief supplies.

Mr. President, I commend AID's Disaster Relief Office for its rapid response to the Guatemala earthquake, and to urge its full cooperation with other international relief efforts now underway. Hopefully, the United Nations Disaster Relief Office, with the full support of our Government and the international community, will serve as the focal point for international disaster assistance in Guatemala.

Mr. President, yesterday's massive earthquake in Guatemala represents another link in the chain of natural and man-made disasters which have circled the globe in recent years—once again putting the ability of the international community to respond on trial. I know our Government, in concert with others, will help meet the challenge.

THE MAJOR OIL COMPANIES ARE LOYAL TO OPEC

Mr. MCINTYRE. Mr. President, the largest major oil companies have used their great size and vertical integration to keep prices artificially high, costing the public billions of dollars a year.

In addition, since the upheaval of the Arab oil embargo and the unilateral raising of prices by the Organization of Petroleum Exporting Countries, the biggest majors—known as the seven sisters—have become concubines of the OPEC countries.

Naturally, the oil companies refute these assertions. They say that their vertical structure brings about "efficiencies" that lower prices. They say that they are not slavishly attached to their hosts in the Persian Gulf.

I ask unanimous consent to have printed in the RECORD two recent statements before the Senate Subcommittee on Antitrust and Monopoly, whose chairman is the most distinguished Senator from Michigan (Mr. PHILIP A. HART.)

One statement is that of Frederick M. Scherer, Director of the Bureau of Economics of the Federal Trade Commission. A distinguished economist, Mr. Scherer refutes the major companies' claim that vertical integration brings about money-saving economies.

The other statement is that of world-renowned journalist, Anthony Sampson, author of "The Seven Sisters." Mr. Sampson has interviewed the very people who run OPEC—such leaders as the Shah of Iran and his oil minister, Dr. Amouzegar. These OPEC leaders them-

selves say that the oil companies help operate the cartel smoothly.

I urge all my distinguished colleagues to study these documents carefully.

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

TESTIMONY OF F. M. SCHERER BEFORE THE SENATE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY, COMMITTEE ON THE JUDICIARY, JANUARY 30, 1976

It is a pleasure and an honor to appear before the Subcommittee today. I should note at the outset that I have been asked to testify as individual author of a recently published book on industrial scale economies,[1] rather than in my role as director of the Federal Trade Commission's Bureau of Economics. Therefore, with one exception which will be identified as such, I draw only upon evidence which I had already accumulated before joining the FTC. And of course, the views I express are strictly my own and not necessarily those of the Commission, other Bureau of Economics staff, or my co-authors.

The issue I address is a straightforward one: what impact would structural reorganization, horizontal and/or vertical, have on the efficiency of the United States petroleum extraction, refining, and distribution industry? It has been suggested that structural divestiture would propel the nation into an era of one dollar per gallon gasoline. Is there any reason to believe that reorganization would in fact lead to inefficiencies of that or even a lesser but appreciable magnitude?

The question of structural fragmentation vs. industrial efficiency is of longstanding interest. It surfaced frequency early in this century when Theodore Roosevelt and others were debating what the nation's policy should be toward "the trusts." It reappeared in the perennial conflict over expanded enforcement or statutory toughtening of Sherman Act Section 2. As is often the case, these important deliberations had to go forward without a solid base of theory and evidence on the economic advantages of corporate size.

To help fill that knowledge gap, several colleagues, students and I embarked more than six years ago upon a major research effort exploring the nature and magnitude of scale economies, or advantages of size, in twelve significant industries. In addition to petroleum refining, the industries covered were brewing, cigarettes, fabric weaving, paints, shoes, glass bottles, cement, steel, anti-friction bearings, refrigerators, and storage batteries. To maximize insight into the character of scale economies under diverse market conditions, our empirical research investigated those twelve industries in six nations—the United States, Canada, the United Kingdom, West Germany, France, and Sweden.

The research had three main thrusts: we extended the theory of scale economies, carried out statistical analyses, and developed qualitative information through interviews with 125 producers in the six nations and twelve industries. The book summarizing our findings was published in December under the title,

The economics of multiplant operation

The title reflects what I consider the most unique of our contributions—a thorough exploration of the economic advantages realized by firms operating multiple plants, rather than just one. Considerable prior work had been done by economists and engineers on the advantages derived from controlling numerous plants, each perhaps of the most economical internal size. What was known when we started, and what lent urgency to remedying the remaining knowledge gaps, was that in most industries the leading firms in fact operate multiple plants and owe much of their overall size to their multi-plant posture. Thus, if one seeks to understand the structure of manufacturing industries, or what might happen if structural fragmentation took place, one must understand the economies of multi-plant operation.

THE EXTENT OF MULTI-REFINERY OPERATION

This generalization clearly applies to the U.S. petroleum industry. All of the leading eight domestic refiners operate multiple refineries at widely scattered U. S. locations, as the following listing derived from Department of the Interior data for 1969 indicates:

NUMBER OF DOMESTIC REFINERIES WITH AVERAGE CRUDE OIL INPUT

Company	At least 30,000 barrels per day	At least 120,000 barrels per day
Exxon	[1] 5	3
Texaco	8	2
Shell	7	3
Standard/Indiana	9	2
Mobil	8	1
Standard/California	6	3
Gulf	4	2
Atlantic-Richfield	4	3

[1] Includes Exxon's Benicia, Calif., refinery, which came on stream with a small output in the reporting period ending Sept. 30, 1969.

Some changes have occurred since 1969 through the closure or expansion of refineries near my 30,000 bbl/day size cutoff, but the basic conclusion remains unaltered: the size of the leading U.S. petroleum refiners is attributable in significant measure to multi-plant operation. And of course, most operate numerous additional refineries in other parts of the world.

THE CONSEQUENCES OF INCREASED PLANT SIZE

The sizes of the refineries operated by the domestic industry leaders vary widely both between firms and between locations within a given corporation. Exxon had in 1969 the largest single refinery (at Baton Rouge, Louisiana) among the eight, averaging 415,450 barrels per day crude input. California Standard's largest refinery (at El Segundo), on the other hand, processed only 153,000 bbl/day. Only eleven of the refineries operated domestically by the Big Eight had a capacity in 1969 of 200,000 barrels per day or more—the volume which, my co-authors and I found, was necessary to achieve all significant economies of scale at the single-plant level, assuming 1965 technology and economic conditions.[2] [3] We estimated that in a plant with only one-third that capacity, 1965 processing costs per barrel (including capital and crude oil input costs) were roughly 4.8 percent higher than in a 200,000 bbl/day refinery. Most refineries of the Big Eight have been built at scales considerably smaller than 200,000 bbl/day because of limited market absorption potential and/or because the cost savings from operating larger, less decentralized refineries would be more than offset by increased product transportation costs except where excellent water or product pipeline transportation facilities exist.

Before turning to the evidence on multiplant scale economies, I should like to note one further consequence of size at the individual plant level. Social psychologists have in recent years accumulated an impressive amount of evidence that workers' satisfaction with their jobs, and especially with the challenge their jobs offer, declines at the size of the plants in which they work increases.[4] Job satisfaction is particularly low in establishments with 500 or more employees—a threshold surpassed by 56 domestic petroleum refineries in 1967. Employers evidently compensate their workers for the lower psychic satisfaction large-plant jobs offer by paying premium wages. There is also evidence that the large plant/small plant wage differential is rising over time, suggesting that the incremental level of job dissatisfaction which must be overcome in large plants has been increasing. We know far too little about this dimension of the plant scale problem, which may have potent implications for the kind of society in which we shall live in coming decades.

THE ADVANTAGES OF MULTI-REFINERY OPERATION

Given the sizes of a particular collection of petroleum refineries appropriately distributed over the map, what advantages flow from having them controlled by a single firm, as compared to the situation which would prevail if each refinery operated as an independent corporate entity? Again, this was a prime question addressed by colleagues Kaufer, Bougeon-Maassen, Beckenstein and Murphy and myself.

We found that multi-plant operation did offer certain economic advantages under the conditions existing in the U.S. petroleum refining industry as of 1970. The nature of those advantages is quite complex, so the most we could conclude was that a firm operating only one efficient-sized refinery experienced anywhere from a very slight to moderate price/cost handicap relative to a firm enjoying all the benefits of multi-plant operation. "Very slight" was defined to mean a price or unit cost handicap of less than one percent, and "moderate" a handicap of two to five percent. Where in this range the single-plant refiner fell depended upon its regional market position (e.g., whether its sales were concentrated in a small area or widely dispersed) and its access to crude oil. We concluded too that to experience price-cost handicaps of not more than about one percent, a firm needed to operate two to three refineries of minimum optimal scale—that is, with capacities of roughly 200,000 barrels per day each. Although the complication is not discussed in our original work, the disadvantages of single-plant as compared to multi-plant size would not differ appreciably if the comparison were between a firm operating one 120,000 bbl/day refinery and a company operating multiple refineries with individual or average capacities of 120,000 barrels. To be sure, some "plant-specific" cost advantages would be sacrificed, but the multi-plant cost and price relationships would remain nearly invariant.

The advantages of multi-refinery operation identified in our study were distributed across a number of functional areas. Table 1 estimates in eleven categories the extent to which single-plant refiners were handicapped relative to multi-plant firms and the number of efficient-sized refineries needed to enjoy all observed benefits of multi-plant operation. In developing this table, it should be noted, no attempt was made to quantify in any standard way the meaning of "slight," "moderate," etc., as they were quantified for the overall summary assessment above. Among the perceived detailed advantages associated with multi-plant size, four appeared to be of paramount importance: those involving vertical integration into key inputs (notably, crude oil production), optimal investment staging, access to capital, and advertising and image differentiation. Each of these four warrants more detailed analysis in the context of a proposal to restructure the U.S. petroleum industry.

Footnotes at end of article.

TABLE 1.—ESTIMATED EXTENT TO WHICH EFFICIENT SINGLE-PLANT REFINERS WERE DISADVANTAGED AND THE NUMBER OF REFINERIES REQUIRED TO REALIZE ALL MULTI-PLANT ECONOMIES UNDER U.S. MARKET CONDITIONS, CIRCA 1970 [1]

Category	Handicap of single-plant refiner	Number of efficient refineries needed to realize all advantages
Advertising and image differentiation.	Slight to moderate	1–4
Access to markets and distribution channels.	None	1
Procurement of materials	No evidence; probably none.	[2] 1
Vertical integration into key inputs.	Moderate	2–5
Outbound transport pooling	None	1
Peak spreading, risk spreading, and other massed reserves.	Slight	2, 3
Acquisition of capital	Moderate	([3])
Optimal investment staging	Slight to moderate	2–3
Product specialization and lot-size economies.	Little or none	1
Managerial and central staff economies.	([4])	([4])
Research, development, and Technical services.	Slight	2–4

[1] Source: Scherer et al., The Economies of Multi-Plant Operation, pp. 334–335.
[2] Questionable.
[3] No clear limit.
[4] Multiplant size probably disadvantageous.

VERTICAL INTEGRATION

When we made the summary subjective evaluations of Table 1 nearly four years ago, we assigned high weight to the possibility that single-plant refiners might suffer significant crude oil access difficulties, reflected either in a price squeeze or the inability to obtain adequate crude supplies in a tight market. Our conclusion differed from that of Professor Joe S. Bain in a 1950's study using similar methodology.[5] Attempting to reconcile the difference, we wrote:

". . . For petroleum refining [Bain] finds no significant economies of multi-plant operation while we do. We share his judgment where crude oil markets function competitively and competitive product market transactions make optimal internal multi-plant investment staging redundant. The rising scale requirements for crude oil exploration as inland reserves have become exhausted, the imposition of mandatory import quotas from 1959 to 1973 and the more recent tightening of domestic crude markets, and the rise of national television advertising directed toward increasingly mobile consumers may represent sufficient changes to explain the differences in our evaluations." [6]

Since our field research was virtually completed in 1972 there have been further radical changes: the enormous OPEC-led increase in crude prices, the elimination of percentage depletion for large producers and the end of mandatory import quotas, and the institution of pervasive industry regulation by the Federal Energy Administration.

These events have changed the imperatives for vertical integration in complex ways. To summarize briefly, after some initially counterproductive steps, FEA regulation has lessened the danger of a crude oil price or quantity squeeze on non-integrated refiners; the rise in crude prices and further depletion of inland reserves has escalated exploration costs and risks; and the abolition of percentage depletion has removed what we considered to be the principal inducement to squeezes on non-integrated refiners.[7]

When and if FEA controls are stripped away, the last of these effects will assume critical importance. With no percentage depletion, the risk of a crude oil squeeze will be greatly reduced. Further assurance would undoubtedly come from a restructuring of the industry which lessened the concentration of crude oil production. Indeed, one of the strongest generalizations that emerged from our twelve-industry study in this: the more prone input markets are to a breakdown of price competition, the stronger is a firm's incentive to integrate upstream. Or obversely, workable competition in an input market substantially lessens the incentives to integrate.

It is conceivable that refiners might nevertheless prefer the extra security that integration into crude oil production confers. If integration were permitted under reorganization but other industry institutions remain the same, the risks of offshore and Alaskan slope exploration would be severe and perhaps prohibitively high for a firm of efficient single-refinery scale. One possible solution is joint exploration ventures, but they almost surely enhance respect for mutual interdependence among firms and hence lessen the likelihood of achieving workable competition. To advance an alternate solution, I am forced to draw upon knowledge acquired in my duties at the Federal Trade Commission. Last October the staffs of the Bureaus of Economics and Competition issued a joint report on Federal energy land leasing policy, including an intensive analysis of oil and gas tract leasing methods.[8]

We concluded that the bonus bid system used for offshore oil tract leasing had magnified the risks and capital barriers to the independent entry of smaller producers, among other things increasing thereby the concentration of offshore reserves, and that the problem appeared likely to become even worse with the rise in crude oil prices and the movement to new exploration frontiers. We also proposed various alternative leasing methods—most notably, a two-stage competitive bidding approach—which would significantly reduce exploration risks and hence encourage small-firm exploration while enhancing the Federal Government's leasing revenues. I have seen nothing since then to suggest that our analysis was wrong, and the disappointing results of the California offshore lease sale last December lend support to our findings.

In short, by declining to provide special tax immunities for crude oil production, by reforming government oil land leasing policies, by deconcentrating existing crude oil reserves, and by discouraging joint crude exploration and production ventures, it would be possible to eliminate most, if not all, of the integration advantage multi-plant refiners have enjoyed over efficient single-plant firms. Thus, one of the most important scale-increasing propensities identified in our multi-plant operation study could be attenuated greatly.

Persistent economies of scale tend to make petroleum pipeline operations between two points a "natural monopoly." Regulation has been imposed to combat market failure problems, but the regulation has been rather ineffective, largely because of provisions relating the allowable profit to *total* capital thus encouraging high debt leveraging. This and certain other features have spurred companies to integrate into pipeline ownership, thus increasing the capital costs required of a single-refinery firm. More effective regulation, perhaps coupled with vertical divestiture making pipelines truly independent comomn carriers, would enhance the viability of single-plant refiners.

OPTIMAL INVESTMENT STAGING

Another potentially significant advantage of multi-refinery petroleum companies is the ability to expand capacity in more efficient stages at refineries linked by good product transportation networks. Very briefly, a firm experiencing demand growth in the natural market territories of its refineries A, B, and C can first expand in a large lump at refinery A, simultaneously cutting back on the shipping radii of refineries B and C and taking up the slack by shipping the increased output from A over a broader area. In later stages it then effects similar expansions and territorial redistributions centered on sites B and C. Through such investment staging it may be possible to build larger plant increments at any given stage, and hence to realize the advantages of plant scale more fully, while reducing the amount of excess capacity carried following major expansions.

Nevertheless, the generalization identified earlier with respect to vertical integration also applies to such multi-region horizontal investment integration. Specifically, the more effectively competition in petroleum product markets is working, the less beneficial the multi-plant coordination of investments in different regions becomes. My colleagues and I found sufficient competition in petroleum product markets that reliance upon market transactions often proved a good substitute for intra-firm investment staging. To the extent that horizontal and vertical reorganization improves the workability of product market competition, the incremental investment phasing advantages associated with multi-refinery operation will be rendered correspondingly less important. They are not apt in any event to be as substantial as they have been in the past, since the demand growth which calls forth plant expansions will undoubtedly be curbed by rising crude oil and product prices as controls are removed and (over the much longer run) as high-grade crude reserves are gradually depleted.

CAPITAL ACQUISITION COSTS

Largely because of greater risk-spreading ability, transaction cost savings when securities are issued in large blocks, and their higher public visibility, large corporations are able to raise additional capital at a lower cost per dollar than small companies. This is an advantage of large scale which appears to persist out to very high levels of multi-plant operation, all else equal. Studies which would permit precise estimation of single-plant firm's capital cost-rising handicap have not, to the best of my knowledge, been carried out. Extrapolating from an analysis of size-related debt cost differentials out to average corporation sizes of only $1 billion,[9] I estimate that the capital raising advantage of a petroleum firm with assets of $30 billon over an equally integrated firm operating one 200,000 bbl/day refinery would be somewhere between 0.3 and 0.6 cents on the incremental pertroleum product wholesale sales dollar. Of course, for entities formed through structural reorganization, this effect would be relevant mainly to securities issues for expansion, and not to the capital they inherit from the reorganization.

ADVERTISING AND IMAGE DIFFERENTIATION

Multi-plant, multi-region petroleum companies are also able to derive certain advantages in brand recognition and in the cost of advertising their products. For one, they can advertise their products on nationwide network television—an option effectively denied single-plant firms selling in only one geographic region. They may also spread virtually fixed advertising preparation costs over a larger advertising dollar volume. Although the evidence is meager, I estimate that these savings from network advertising and preparation costs spreading could not have amounted to more than one-tenth of a cent per dollar on petroleum products sold during the late 1960's.

If the leading petroleum companies were broken up horizontally, they would no longer be positioned to sell gasoline in all or most parts of the United States. Therefore, they would lose the brand recognition advantage which comes when, say, a New York resident travels to California and sees the

familiar Exxon sign. Since our interviews revealed that most gasoline consumers exhibit only weak brand preferences, it is unlikely that such a change would have much adverse impact on either consumers or the refining companies. If I am wrong on this judgment, the loss of nationwide brand coverage could be remedied by voluntary or compulsory brand name licensing at very low royalties.

SUMMARY

In sum, the studies by my colleagues and me suggest that the advantages enjoyed by large multi-plant refiners over efficient single-plant firms have been modest in the past, and they would be even less significant if competition in crude oil production and refined product sales were enhanced through structural reorganization. If large petroleum firms are at best not much more efficient than single refinery operators, it follows that the fragmentation of multi-refinery companies into smaller units operating only a single large refinery or a few smaller refineries would cause little efficiency loss. To be sure, there might be transitional inefficiencies if the reorganization were carried out with a heavy hand. But once the industry had adapted to its new structure, the sacrifice of multi-plant operating economies would be modest—almost surely not more than one percent of sales, or about one-tenth the probable free market impact on gasoline prices, had a full $3.00 tariff on imported crude oil come into effect. And this, I believe, is a rather pessimistic estimate. The market, if kept competitive but otherwise left unfettered, is a robust diciplinary mechanism. Enterprises which once enjoyed certain efficiencies through multi-plant operation would undoubtedly adapt after reorganization and find new opportunities for achieving the same result through competitive purchases and sales in the marketplace. This, at least, is one of the most powerful lessons we learned in our interviews with 125 U.S. and foreign companies, some with extensive multi-plant operation and many others with only one or a very few plants. It seems to me then that the feared social costs of petroleum industry reorganization ought, if assessed correctly, to be only a minor deterrent to action. The more important question is what kind of industrial power structure and hence, ultimately, what kind of society we wish to have, That fundamental value judgment must be resolved either by Congress or the judicial system.

FOOTNOTES

[1] F. M. Scherer, Alan Beckenstein, Erich Kaufer, and R. Dennis Murphy (with the assistance of Francine Bougeon-Maassen), *The Economics of Multi-Plant Operation: An International Comparisons Study* (Harvard University Press, 1975).

[2 3] See the appended analysis of the technological bases of petroleum refinery scale economies, drawn from F. M. Scherer, *Economies of Scale at the Plant and Multi-Plant Levels* (privately published, 1975), pp. 15–19.

[4] See F. M. Scherer, "Industrial Structure, Scale Economics, and Worker Alienation," in Robert Masson and P. David Qualls, ed., *Essays on Industrial Organization in Honor of Joe S. Bain* (Ballinger, forthcoming).

[5] Joe S. Bain, *Barriers to New Competition* (Harvard University Press, 1956), especially pp. 85–88, 137–138, and 152–154.

[6] Scherer et al., pp. 341–342.

[7] *Ibid.*, p. 263.

[8] Federal Trade Commission staff report, *Federal Energy Land Policy: Efficiency, Revenue, and Competition* (October 1975).

[9] Scherer, *Economies of Scale at the Plant and Multi-Plant Levels*, pp. 126–133.

APPENDIX—SCALE ECONOMIES IN PETROLEUM REFINING

A petroleum refinery is in essence an aggregation of plumbing, much of which conforms over broad ranges to the two-thirds rule: as throughput and hence processing vessel volume increases, vessel surface area and hence (roughly) materials and fabrication costs rise by the two-thirds power.

Refineries extract and transform from crude petroleum a variety of products, including gasoline, fuel oil of various densities, kerosene, jet and Diesel fuels, propane gas, lubricating oils (after further processing, often at separate plants), asphalt, coke, and various petrochemical feedstocks such as benzene, xylene, and propylene. The mix of products depends partly upon the composition of the crude oil processed but mainly upon the processing equipment and operating modes selected. Refineries may emphasize gasoline, fuel oils, feedstocks, or various combinations thereof. U.S. refineries tend to be more gasoline-oriented than northern European refineries, where fuel oil is the leading product. Average 1967 gasoline yields were 48 percent in the United States compared to 17 percent in Germany, France and England combined.

The most basic processing unit at a refinery is the distillation stage, consisting of a furnace to boil the crude oil and a fractionation tower to separate components of diverse boiling points and densities. The emerging distillation fractions tend for most crude oil inputs to be rich in fuel oil and lean in gasoline. U.S. refineries therefore require fairly intensive further processing, while European refineries need much less. Major post-distillation units may include catalytic crackers or hydrocrackers, in which heavy fractions (e.g., fuel oils) are exposed to a catalyst under heat and pressure to break down their molecules into lighter gasoline-like components; catalytic reformers, in which naptha molecules are rearranged in the presence of hydrogen to form high-octane gasoline or other light products; alkylation units combining gaseous hydrocarbon molecules to form liquid gasoline; coking units, in which very heavy residual fractions are heated and broken down into fuel oil, gasoline, and coke; hydrogen or chemical treating units for desulfurization; and blending units to combine fractions and additives (such as tetraethyl lead) into end products with the desired chemical properties. Few refineries incorporate all these processes. Processes are chosen to satisfy a particular market's product mix demands. All else equal, the more processes a refinery includes, the more gasoline-rich its end product mix will be and the more flexibility it will have in adjusting to changing crude oil input characteristics and end product mix demands.

Investment scale economies are realized out to substantial unit sizes in nearly all the major refining processes. Since all crude oil inputs must pass through it, the distillation unit plays a key role in determining the minimum optimal scale. In principle the two-thirds rule holds approximately for fractionation towers even larger than any constructed to date, but many design and metallurgical problems must be solved in building larger units, and "first-time" versions of a new scaled-up unit tend to cost considerably more per barrel of capacity than simple extrapolation by the two-thirds rule would suggest. Progress has been unrelenting, however, and by the mid-1960's single distillation units capable of processing 200,000 (42 U.S. gallon) barrels of crude oil per day, or roughly 10 million metric tons per 365-day year, had been developed to the point of having lower capital costs per barrel than facilities of lower capacity.

This fact was decisive in several firms' estimates of the minimum optimal scale. Nevertheless, there is some risk in putting all one's eggs in a single basket susceptible to catastrophic failure, so a refinery with two smaller 150,000 barrel per day distillation units might have lower perceived cost per unit, including a risk premium for lost sales, than one with a single "best practice" furnace and tower. Since this risk cost is strictly private, since supply interruption risks can also be reduced by operating multiple refineries spaced within tolerable shipping distances of one another or through market transactions, and since many firms in fact appear willing to operate refineries with only one distillation unit, we have not considered such hedging to be essential in determining an MOS refinery's size.

None of the major "downstream" processes requires throughputs as large as the distillation unit to achieve all known scale economies. However, most receive only a part of the still's output as input, and for units such as catalytic crackers and cokers, scale economies persisted out to throughputs of 40–50,000 barrels per day with mid-1960's technology or as much as 80,000 barrels per day in the early 1970's. Complicated least common multiple problems therefore arise. There is no single best combination; much depends upon the desired product mix. For a U.S.-type refinery with a high gasoline yield, all or nearly all scale economies are likely to be attained in downstream processing 000 barrels of crude oil per day, and indeed, some replication might occur. The amount of units when total refinery inputs reach 200,-replication again depends upon the technology vintage. There has been more or less continuous progress in scaling up not only major units such as catalytic crackers but also high-flow valves, compressors, and other components. As of 1965, the main advantage other than risk-spreading enjoyed by a U.S.-type refinery with more than 200,000 barrels per day capacity was ability to dovetail individual units somewhat more effectively, thereby minimizing the sacrifice of scale economies on units processing only a small fraction of total refinery throughput. For a European refinrey with a much lower gasoline yield, installing full-size crackers is more difficult at distillation capacities of 200,000 barrels per day.

The cost of certain refinery overhead facilities such as administrative offices, a control center, a quality control laboratory, and perhaps an electrical generating plant also rises less than proportionately with throughput, with some (probably minor) savings continuing beyond 200,000 barrel per day capacities. More important are possible crude oil receiving and storage scale economy possibilities. The laid-down cost of crude oil was in 1965 four to six times in-plant processing costs for a typical refinery. By 1973 it was seven to ten times as costly. Obtaining crude oil at the lowest possible cost is therefore vital. If deep-draft tankers can be used, they are likely to be the least-cost medium, with shipping costs per ton mile one-fifth to one-tenth as high as large-diameter pipelines. There was a sharp jump in best-practice tanker sizes from 105,000 deadweight tons in 1960 to 367,000 tons in 1971, and 500,000 ton ships were under construction in the early 1970's. Tanker unloading facilities require a substantial investment almost invariant with respect to capacity. A 250,000 ton tanker takes about 30 hours to unload but can supply a 200,000 barrel per day refinery for nine days. Much larger refineries served by supertankers utilize their unloading facilities more fully, achieving lower dock investment carrying costs per barrel.

Nevertheless, it is common for several refineries located in the same geographic area to share the use of a single unloading facility, in which case smaller plants are not necessarily disadvantaged. Also, less crude oil storage capacity (increased by replication of tanks at constant unit cost) is required per barrel of refinery throughout when the interval between tanker calls is short. Except with ex-

tremely large tankers, however, this scale economy is probably exhausted at refinery capacities near 200,000 barrels per day, since some reserve against supply interruptions must be carried in any event, and the risk to be minimized is apt to be more closely correlated with time (and hence with total usage) than with the capacities of individual ships. Moreover, many refineries are simply not in a position to be supplied by supertankers—e.g., because their markets lie too far inland, or in the case of U.S. eastern seaboard refineries, because port channels were deep enough to accept tankers no larger than 80,000 deadweight tons.[1] Thus, the scale economies associated with receiving crude oil from deep-draft tankers apply only in a special, limited set of cases.

Our emphasis thus far has been on investment economies, which in the capital-intensive refining industry are particularly important. Many overhead work force requirements also expand less than proportionately with throughput, and for functions directly linked to the operation and routine maintenance of specific processing units, employment may come close to being fixed, irrespective of size.[2] Still our interviews revealed that many other jobs, especially in the maintenance area, increase with scale, perhaps even proportionately as further capacity expansion begins to require unit replication. There was also reason to believe that larger refineries had less taut staffing standards than small works, in part because the geographic expanse of a sizeable refinery is so vast that it is hard to keep track of what roving maintenance personnel are doing. Quantitative analysis of this phenomenon is complicated by the tendency of refineries to pursue widely varying policies with respect to the amount of non-routine maintenance work contracted out.

Bringing together the various strands, we conclude that significant scale economies persisted out to a capacity of at least 200,000 barrels crude input per day for 1965-vintage refineries, and it is there that we have pinpointed our minimum optimal scale estimate. Slight low-volume process balance and overhead economies may have continued into higher capacity ranges, perhaps more in refineries with characteristically European than American product mixes. More important ship unloading facilities economies may not be exhausted even at Shell's 500,000 barrel per day complex at Pernis near Rotterdam—the world's largest refinery as of 1970. We ignore the deep water port case in part because deep-draft tankers were only beginning to appear in 1965 and partly because joint use of port facilities minimizes the disadvantage of smaller size when several refineries are clustered in the same general area.

There have been several published analyses of scale economies in refining. Not all have attempted to identify a single size as the minimum optimal scale. McLean and Haigh, for example, made no explicit MOS judgment in their study of scale economies for 1950-vintage U.S. Gulf Coast refineries, but they show declining long-run unit costs out to a capacity of 200,000 barrels per day—the largest scale to which their estimates were carried.[3] A 1962 United Nations analysis extended only up to capacities of 140,000 barrels per day, showing unit costs declining at a diminishing rate up to that volume.[4] Bain placed the MOS for an early 1950's seaboard refinery at 120,000 barrels per day.[5] Ostensibly employing an MOS definition similar to ours, but dismissing the savings shown by McLean and Haigh in the 100–200,000 barrel range as insubstantial, Eastman and Stykolt pinpointed the MOS under Canadian conditions for 1956 at a capacity of 100,000 barrels per day.[6] The 1965 study by Pratten and Dean also analyzed the behavior of costs only up to capacities of 200,000 barrels.[7] In his 1971 addendum Pratten fixed his MOS estimate at 200,000 barrels, using an MOS definition conceptually analogous to Cockerill's. He noted that recent technological advances permitted 400,000 barrel refineries to operate at unit costs (including crude oil inputs introduced at constant unit cost) roughly 1.2 percent lower than a 200,000 barrel plant.[8] In general, our estimates appear to lie in the same range as those of other analysts after differences in the technology vintage assumed are taken into account.

FOOTNOTES

[1] See "No Superports for Supertankers," *Business Week*, May 20, 1972, pp. 108–110.

[2] Cf. Lau and Tamura, "Economics of Scale, Technical Progress, and the Nonhomothetic Leontief Production Function," *Journal of Political Economy*, Nov.–Dec. 1972, pp. 1180–1183.

[3] John G. McLean and Robert V. Haigh, *The Growth of Integrated Oil Companies* (Boston: Harvard Business School Division of Research, 1954), p. 567.

[4] *Techniques of Petroleum Development*, Proceedings of a United Nations Interregional Seminar (New York, 1962), cited in Gunnar Ribrant, *Stordriftsfördelar inom Industriproduktionen* (Stockholm: Statens offentliga utredninger, 1970), pp. 249–250).

[5] *Barriers to New Competition, op. cit.*, pp. 76–80 and 233.

[6] H. C. Eastman and Stefan Stykolt, *The Tariff and Competition in Canada* (Toronto: Macmillan, 1967), pp. 311–313, and 56–57.

[7] C. Pratten and R. M. Dean, *The Economies of Large-Scale Production in British Industry* (Cambridge: University Press, 1965), pp. 83–96. A survey of other estimates is included by the authors.

[8] *Economies of Scale in Manufacturing Industry, op. cit.*, pp. 33–36.

STATEMENT BY ANTHONY T. S. SAMPSON BEFORE THE SENATE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE COMMITTEE ON THE JUDICIARY

My name is Anthony Sampson. I am a writer and journalist, and author of several books about politics, current affairs and multinational corporations, the last of which, *The Seven Sisters*, was concerned with the international oil corporations and their relationships with governments.

I am honored, as an Englishman, to be invited to testify to your subcommittee. I would like to emphasize that I appear before you simply as an individual, representing no organization, government, or newspaper. I do not claim to be an economist or oil specialist. But as a writer and student of politics, I have enjoyed some freedom of access to some of the principal policy-makers on all sides of oil diplomacy, and I have been to some pains to try to assemble evidence from different viewpoints. I hope my observations may be of some help to your subcommittee.

What concerns me particularly are the relationships of the major oil companies with the Middle East, especially with Saudi Arabia, Iran and Kuwait. It is with this area that the Western world is likely to be more and more concerned: To quote Exxon's latest projections, published last month, "By the late 1980's OPEC could well be looked on to provide some 45–50 million barrels a day of production" and "the burden of balancing world oil requirements will fall increasingly on Saudi Arabia."

It is in the Middle East, I believe, that we are faced with a quite new kind of problem in dealing with the major oil companies, and particularly with the so-called "Seven Sisters." The new problem is not only that the price of oil has quadrupled; it is also that the balance of the world has changed. A group of thirteen countries have suddenly emerged with the power to fix the price of the fuel on which the whole western world is dependent.

Two years ago, many economists, experts and administrators predicted that, once the oil consumption began falling, the OPEC cartel would begin to fall apart. Dr. Milton Freidman confidently announced the impending collapse of OPEC. Dr. Kissinger proclaimed that the high oil price was intolerable. William Simon predicted its imminent fall. Thomas Enders publicly announced the intention of the State Department to break up OPEC.

But, in fact, as we all know, OPEC put up the price still further. And gradually the line of the State Department and the Treasury—at least as far as I could perceive it—began to change. In the first place, many experts came round to the view that perhaps the price of oil was not, after all, much too high.

And secondly, the State Department began to become less antagonistic to OPEC. So that only a few weeks ago (December 4th). Mr. Parsky told us that OPEC would continue to determine the world oil prices for at least 2 to 3 years; that its power would only be eroded through the development of alternative sources of energy; and that to try to break it up through other means would only be counter-productive.

But it is important to distinguish very clearly, I think, between these two separate changes in policy. It is one thing to decide that perhaps the right price for oil is the one that OPEC happens for the time being to have fixed. It is quite another thing to accept that the price of oil will continue to be fixed by a group of thirteen countries.

The fact that the petrodollar surplus in the OPEC countries has proved much smaller than expected, and that the West has been able to export a good deal in return for the oil, does not alter the fact of this great shift of economic power. Indeed it must not be forgotten that we have paid for some of this oil with a very dangerous currency—with huge sales of arms.

The sudden shift of power is without precedent in the recent history of the West. Perhaps it might be compared to the influence of the Middle East on the Roman Empire in the second century AD. The question to which I want to address myself is this: what role are the international oil companies playing in this new development, and how far is it in the Western interest?

I have seen no convincing evidence that the big oil companies deliberately engineered the price increase in 1973 to increase their own profits and resources. I do not believe there was any kind of secret conspiracy between the companies and OPEC.

But I do believe that it would have been very much more difficult, perhaps impossible, for the OPEC countries to organize their cartel and maintain it so effectively if a few companies had not been dominant in the main producing countries, serving as the machinery for maintaining the OPEC cartel. And those companies now find themselves in a position of being closer in their interests to the producing countries than to the Western consumers.

This partnership is not sudden. It was planned and foreseen by the Arab oil producers in the aftermath of the Six-Day War, in 1968. It was then that Sheikh Yamani described how he aimed to create an "indissoluble marriage" to unite the oil companies and the producing countries. This was the intention behind the whole policy of "participation," as opposed to nationalization, a policy which would make the companies the partners of the producing governments in running the oilfields. And even though these governments, since 1973, have been asking for a hundred percent participation, they have taken care to ensure that the major oil companies will still be bound to them by long-term contracts, attracted by preferential prices and by guaranteed access to oil.

The producing countries, from everything that they have done and said, have shown

that they are still very anxious to keep the major oil companies close to them—not only for their technical expertise, but in order to ensure the smooth working and marketing of their oil; in fact, to act as agents for their cartel.

It's important to remember that the OPEC members have never been able to agree among themselves as to how to ration their production of oil. In the sixties, they tried several times to produce systems of prorationing or programming, and each time they failed. They needed the companies—and particularly the big companies—to make sure that there would not be a sudden glut of Saudi oil, or Libyan oil, or Abu Dhabi oil, which might flood the marekt and bring the price down.

Traveling through the Middle East last year, I was very impressed by the extent to which the leaders in the oil producing countries felt a sense of dependence on the international companies. The Shah, for instance, described to me how OPEC first established its effective cartel: "with the seven sisters controlling everything," he said, "once they accepted, everything went smoothly." I asked him specifically: "Will you be prepared to cut production in order to maintain the price, even if that diminishes your total revenue?" He replied: "Yes, we will do that, but the companies are doing it for us." And the Shah's oil minister, Dr. Amouzegar, enlarged on this theme: "The Shah was right. Why abolish the Majors if they can find markets for us and regulate them. Iran can just sit back and let the Majors do it for them."

The OPEC countries could only operate their cartel on their own if they could agree on their own pro-rationing. To quote Professor Neil H. Jacoby, in his book on Multinational Oil (p. 271):

"To succeed, the OPEC must become another Texas Railroad Commission, prorating allowable output among its members to levels the market will absorb at the price it has established.

But OPEC has never succeeded in becoming a Texas Railroad Commission, and Shiekh Yamani himself explained to me why: "They could not agree on the basis of the rationing: whether it should be in terms of capacity, or of population, or of need." So how does OPEC survive, without being able to proration? Because, I submit, the oil companies do it for them.

I don't want to simplify the problem of how the OPEC cartel has held together. Of course, OPEC has a very great advantage over other potential cartels: namely, that its strongest member, Saudi Arabia, is in a position to cut back or expand production as it wishes. It is not in grave need of the money, and has huge potential production.

As Sheikh Yamani described it to me: "Usually any cartel will break up, because the stronger members will not hold up the market to protect the weaker members. But with OPEC, the stronger members do not have an interest to lower the price and sell more."

But OPEC as a whole derives great strength from the fact that its key members—Saudi Arabia, Iran, Kuwait—are dealing predominantly with a few giant companies who can guarantee their markets and help maintain their prices. This affinity between the companies and countries has been commented on by many oil economists. Only recently, Dr. Paul Frankel of *Petroleum Economics* in London has re-stated the problem:

"The fact that OPEC is not confronted with a multitude of miscellaneous buyers but by a limited number of takers makes easier, nay perhaps is what makes possible, the maintenance and control of prices and terms."

It is this relationship, I maintain, which introduces a new dimension to the old problem of controlling the international oil companies. For the earlier cartel of the companies that was evident in the 1950's now has taken shape in a cartel of foreign producing nations, with the companies operating in the background to help them maintain it. And the companies find themselves with heavy obligations and commitments to foreign countries, which raise recurring questions about their true loyalties.

Moreover, these overseas commitments are likely to become greater rather than less. For while the big companies may eventually become less important in running the Middle East oil fields, in other fields they will become more important. The governments in the Persian Gulf area are desperately concerned to develop themselves industrially, to build their own power-plants, petrochemicals, agriculture, infrastructure. And for this huge development most of them look to the great companies with whom they have worked for the past forty years.

Nowhere is this more marked than in Saudi Arabia, where the four oil companies that make up Aramco have already played a crucial role, not only in discovering and exporting the oil, but in developing the whole country.

The role of Aramco in the next years, as universal contractors to the Saudis, is likely to become much greater. They know the country, they are trusted, and they have the expertise. When I was in Saudi Arabia a year ago, the Minister of Planning, Hisham Nazer, stressed that much of his huge development plan would depend on Aramco. And the President of Aramco, Frank Jungers, explained to me that his problem was not how to distance himself from the Saudis, but how to get still closer.

But, of course, there will be conditions. The Saudis will look to the four parent companies as their allies—perhaps their chief allies—not only in the Middle East, but in the American domestic, political scene. And the Saudis will not want the companies to do anything that might disrupt the smooth working of the OPEC cartel.

The question will thus continually be asked of the oil companies: where exactly do their true loyalties lie? And it will become more difficult to answer.

Moreover, it is not just from the Western side that the companies will find themselves under fire. Within the producing countries, too, their position is delicate. In Saudi Arabia the basic alliance is not so much between two nations; it is between one company and one family. The Saudi government's dependence on a single consortium may eventually make them more vulnerable to attack from radicals within, or from jealous neighbours.

There is an important warning in past history. Twenty-five years ago in Iran there was a comparable relationship between a single government and a single company—the British Anglo-Iranian company—now called BP. By 1950 the company had become the target and the scapegoat for all radicals and nationalists in Iran, while the BP monopoly of Iranian oil was bitterly resented by other consuming countries. The nationalist leader Dr. Mossadeq in 1951 nationalized the oil fields and expelled BP and later the Shah. They were eventually both reinstated, but with great difficulty, and at a cost for which we have paid heavily.

Likewise, I believe, the close relations between Aramco and the Saudi government present a position of great political danger for the four Aramco partners. Much of their future growth, as well as their chief product, comes from a single foreign country whose own foreign policy is bound to be continually controversial.

Even without the Arab-Israel conflict this dependence would be tricky enough. But with it, it is explosive. The more the Arab Israel conflict is fought inside the United States, the more the Aramco partners will find themselves in the front line of the political battlefield.

It can be argued that the companies' predicament is only part of the whole predicament of American foreign policy, and that the companies are simply their scapegoats for the national quandry. I do not wish to belittle this argument: with or without the companies, the United States finds itself more and more dependent for its vital oil supplies on the Middle East.

The State Department or the Treasury will instinctively be reluctant to do anything to break up the great companies which are helping to forge this critical relationship. The whole security of the West, they claim, will be threatened for the sake of some idealistic trust-busters.

This argument has a very familiar ring. It sounds very like the argument that raged through Washington twenty years ago, at the time of another great crisis in the American policy towards oil and the Middle East.

It was then that the antitrust movement had once again come to a peak, with the publication of the famous 1952 report of the Federal Trade Commission on the International Petroleum Cartel. It was then that Dean Acheson, as Secretary of State, insisted that nevertheless the oil companies must be encouraged to form a new consortium in Iran, to ensure the stability of Middle East supplies and to provide a bulwark against communism.

The arguments that followed between the State Department and the Justice Department went to the fundamental issues. Dean Acheson, in an outspoken memorandum, maintained that the oil companies were "for all practical purposes instruments of our foreign policy towards these countries." Attorney General McGranery replied that "the world petroleum cartel is an authoritarian, dominating power over a great and vital world industry, in private hands."

Today again we have an apparent conflict between antitrust policy and defense and foreign policy. But the issues have become very different and more critical, in the face of the special relationships between the companies and OPEC. For antitrust policy has now become intimately linked not only with foreign policy, but world economic policy. And the critical question today, I believe, is this: Is the price of supporting these great companies, with their heavy foreign commitments, worth paying in view of the political problems they create? Are they entitled to diplomatic and fiscal support, at a time when their real loyalties are in doubt? Or would the interests of the West be better served by a multiplicity of companies, who can represent a less exclusive interest, and provide a more diversified, and thus less vulnerable, commitment?

Of course the companies have been unfairly blamed for many of the faults of governments and consumers. But for many of their troubles, I believe, the companies have only themselves to blame. They have insisted on keeping control of their global organizations in the hands of very unrepresentative boards, who have been far too slow to face up to a changing world.

It would have been possible, I believe, to have made these great corporations into much more genuinely international companies, much more accountable and open in their dealings with the public. Instead, they have tended with each crisis to close their ranks.

The current scandals about bribes, I suggest, is part of the price that is being paid for their secrecy. Bribes are a problem for all companies, national or multinational, of whatever nation, dealing with certain parts of the world. But the payment of big bribes, within the closed world of a giant company, raises the whole question of the accountability of multinationals. If a company can

conceal $50 million dollars paid to Italian parties from its shareholders and auditors, what else can it not conceal? And how can it establish its credibility with the public or politicians?

For this reason and others, I have felt there is quite a good case for legislation to insist that companies beyond a certain size should have a public director on the board, directly accountable to the government, or better to Congress. Such a scheme has often been put forward, and strongly opposed by the companies. But I am not sure they are sensible to oppose it. If there had a public director on the boards of each of the international companies over the past few years, reporting to Congress, enforcing greater disclosure, they might have avoided some of the disastrous scandals about bribes; and might now be more credible. And I simply do not believe that the giant companies can hope to regain the trust of Congress, or shareholders, or client nations, with a narrow representation on their boards.

I suggest that if they remain unreformed the giant oil companies are likely to become an increasing embarrassment not only to Congress but to government, too. For as long as they retain their unpopularity and noncredibility, they must be an obstacle to calm consideration of sensible energy policies. The problem of developing alternative energy sources, like the problem of relations with the Middle East producers, will be muddled, not simplified by the presence of these all-too-visible giants.

I am not convinced that nationalization provides the answers to a more efficient oil industry. I have enough experience of the limitations of nationalization in my own country, and it has to be said that governments have made a fairly poor showing in their past handling of oil problems.

I am not convinced that by breaking up the integrated companies within the United States into their four components you would do much to bring down the price of oil. I believe that the most crucial area for increasing competition is between the producers and buyers of crude; and it is here that the integrated oil companies present a threat to the consumer.

This threat is most serious in the case of production abroad, and particularly in the Middle East. The case for governmental control is here doubly strong; for the relationships of the integrated companies with the OPEC cartel raise questions not only of antitrust policy, but of foreign policy commitments.

In the interests both of diplomacy and of free enterprise, I believe the companies should be kept at arm's length from the producing countries. I see a strong case for legislating to prevent the companies making long-term contracts with the producers and for establishing a freer market at the production end. There is an even stronger argument for preventing the same companies that are concerned with the worldwide distribution of oil from being the industrial partners of the producers.

There is no reason why American companies should not be permitted to become the general contractors for the Saudi government, but there are strong reasons why this operation, which carries such a large political commitment, should not be undertaken by four oil companies which have such an important influence on world oil policy, and such a large stake in the domestic American oil market. The same is true of British and other European companies operating in other countries.

I don't believe that such legislation should be regarded as a threat to the oil industry as a whole, or an interference with free enterprise. In fact, it is opposite. Much of the dynamism of the industry has come from smaller companies exploring at home and abroad. And I believe the restriction of the links between the majors and the producing countries would bring greater opportunities to the independents. A limitation of the giants might well help to revive the whole industry—as happened you will recall, after Standard Oil was broken up in 1911.

The huge expansion of the international oil companies was not a simple question of heroic free enterprise. Any reading of oil history will show that it is misleading to suggest, as some oilmen maintain, that "like Topsy, they just growed." They were encouraged, prodded, and often protected by their governments, as the favored purveyors of cheap oil. As Acheson said, they were regarded as instruments of foreign policy.

Professor Neil Jacoby, in his book *Multinational Oil*, has rightly stated: "In the end, governments determine the number of firms in the industry and how vigorously they compete. Nations have gotten as much or as little competition as they deserve."

I submit that the United States government, and other Western governments, today deserve to have much greater competition in dealing with the producing countries than exists at present. The structure of the great consortia in the Persian Gulf, with a few integrated companies working in harmony, may earlier have served Western interests, in the short term, when they were able to bargain effectively with the producers. But now the whole mechanism of the integrated company has been turned round, to serve the interests of a foreign cartel.

What we do about the oil companies must eventually depend on what we want to do about the price of oil and about OPEC. Do we want to get the oil price down? Or to keep it up? If the second, do we really want to break up altogether the OPEC cartel, which is the instrument for keeping it up? Or do we want to keep some kind of controlling system, modified and expanded to give representation to the rest of the world?

I think myself that we want this last objective. I think in the long run it will not be tolerable for the rest of the world to have its oil supplies controlled by thirteen countries—or fifteen or sixteen, even if they include Britain.

It will be not just because the cartel will keep prices high, but perhaps more important they—or at least some of them—could push prices down. This was always the deadliest weapon in the armoury of the first oil monopolist, John D. Rockefeller. Whenever faced with a potential rival, he could afford to bring his price down to rock bottom, until he had undercut and destroyed the opposition. And this is still the nightmare of investors in shale oil or tar sands.

Moreover, it is possible, I believe, that some of the members of OPEC may themselves become increasingly aware of the strains of their own isolation. Many of them, after all, are in very exposed parts of the world, up against unfriendly neighbours, and some of them are already beginning to show some signs of millionaires' neurosis, worrying about not being loved, and being alone in the world.

The members of OPEC may themselves become more aware of the perils of being rich nations surrounded by poor ones, and they may seek more anxiously to find allies and props in the West. There is every reason why the West should benefit from this insecurity to establish a broader base for controlling the world's oil supplies, in which the consuming countries and the third world will have a say.

But this brings us back to the problem of the international oil companies. For one of the chief effects of their agreements in the Middle East, their apparently indissoluble marriages, is to reassure their partners. But these close relationships are not, in the end, I maintain, in the interests of either Western security or the Western consumers. It is not simply that they are underpinning the self-contained OPEC cartel, and giving hostages to the producing countries. They are providing bridges that are altogether too brittle, too short term and too vulnerable. The more companies that can be involved as the buyers and distributors of oil from the key producing countries, the less vulnerable we, and they, will be to political resentments and upheavals.

So I submit that we are not now faced with the old problem of a conflict of interest between antitrust policy and Western security. I think both interests now converge, and should come together to devise a system to limit the connections and long-term contracts between the international giants and the producers. If this were to be done, the oil might not necessarily be cheaper, but our oil policy in America and in Europe, would be more competitive, more flexible, and in the long term more secure. And the democratic interests of antitrust policy would be much better served.

MANAGEMENT-EMPLOYEE COOPERATION IN THE CONTROL OF INFLATION

Mr. CANNON. Mr. President, 1975 was not a good year for the scheduled airlines generally and it is now a foregone conclusion that America's five largest airlines will report a combined loss of more than $200 million for the calendar year, 1975.

Continuing inflation and specifically the skyrocketing costs of fuel and labor have added enormously to the cost burden.

Eastern Airlines—one of our major carriers which has been severely impacted by these pressures—has been able to reach final agreement with its employees and unions this past weekend which could well be one of the most significant actions taken this year by any corporation and group of employees to control inflation.

The Air Line Pilots Association, the International Association of Machinists, the Air Transport Division of the Transport Workers Union and the majority of Eastern's nonunion employees have agreed to a wage freeze which will save that carrier $46 million in 1976.

This action helps the airline and the employees at a time when the most important consideration is to keep jobs and to bring the carrier through its crisis period.

In these times of economic stress the unions and management and employees of Eastern Airlines are to be congratulated on their demonstration of statesmanship and cooperation for an achievement without parallel in the industry.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

Mr. KENNEDY. Mr. President, when the Senate reconvenes after the recess, we will return to consideration of S. 2662, the International Security Assistance and Arms Export Control Act of 1976. This is one of the most important pieces of legislation that we will consider this year, and I commend members of the Foreign Relations Subcommittee on Foreign Assistance—and particularly its distinguished chairman, Senator

HUMPHREY—for the thorough painstaking, and constructive work they have done on this measure.

For more than 2 years, several of us in this Chamber have tried to understand administration policy toward the sale of weapons abroad, as we have watched this program soar to nearly $12 billion annually. In a dozen different ways, we have sought to clarify and understand that policy, and have urged the administration to set criteria and guidelines that would enable us as a Nation to gain some real control over weapons sales. No such policy has been forthcoming from the administration; no real rationale, no justification, for an indiscriminate purveying of arms that truly makes us the arms merchants to the world.

At any time in the past 2 years, the administration could have come to us, sought to work with us, in devising real policies on arms sales that make sense. But it has failed to do so. This legislation is the result. It is a comprehensive bill, dealing with some of the most controversial aspects of our arms sales practices. It will provide Congress with the information we need to be able to make our own judgments—based on our constitutional responsibilities—about arms sales policies. In particular circumstances—where sales are contemplated in excess of $25 million—we would have 30 days in which, by concurrent resolution, to exercise a veto. I should point out that at the moment we have such a provision, for a 20-day period.

Since that amendment was passed—at the urging of the distinguished Senator from Wisconsin (Mr. NELSON)—we have chosen to exercise our prerogative only once, out of total sales of close to $10 billion. Thus Congress has already shown that it will act responsibly, that it is not capricious in seeking greater definition and understanding of weapons sales policies.

Mr. President, if anything, this legislation does not go far enough. While it will for the first time require the administration to provide a real rationale for weapons sales, it does not appreciably increase congressional control over those sales. At least it is a beginning, a useful beginning. For we all realize that the United States is not really uninvolved in potential conflict abroad, simply because we supply arms instead of our own forces. Conflict begun and sustained with our arms—perhaps in a volatile area like the Persian Gulf—could still affect U.S. vital interests, and could still raise the risk of our being dragged into conflict we do not want.

When S. 2662 comes before the Senate again, after the recess, I will offer some amendments to strengthen the bill, and then will strongly support its passage. But that must not be the end of our efforts. We must use what limited authority it will provide; we must exercise the oversight; we must examine the details of administration policy; we must continue to press for real efforts to secure control of the flow of arms to volatile parts of the world. I am gratified that two of my amendments were accepted by the subcommittee—broadening the effort at arms control—with seller and buyer nation alike—requiring the Arms Control and Disarmament Agency to provide Congress with arms control impact statements about the effects of arms sales.

Mr. President, during the recess, I urge our colleagues to study this bill very carefully, along with the committee report. I am sure that they will agree with my belief that Senator HUMPHREY and his colleagues on the committee have done excellent work; and I am sure that we in the Senate will be able to make a substantial contribution to the shaping of sane and sensible foreign policies for our Nation in this vital area.

AMENDMENT TO THE CLEAN AIR ACT AMENDMENTS BAN ON AEROSOL SPRAY PRODUCTS

Mr. PACKWOOD. Mr. President, I am entering today an amendment to the Clean Air Act amendments that were voted to be reported out of the Committee on Public Works yesterday afternoon. The Clean Air Act amendments contain a specific part dealing with ozone protection, which I and several of our colleagues drafted last fall and had adopted by the Committee on Public Works. However, the specific section legislating a prohibition, or ban, on a date certain for the use of aerosol products containing halocarbons was not added in committee. While there was support for this action, and a number of our colleagues support such an action, I believe we shall need to address this issue before the Senate. Therefore, once the Clean Air Act amendments have been reported to the Chamber, and we commence debate on the bill, I shall offer this amendment to the ozone protection section to ban the manufacture, production, export and import of aerosol products containing halocarbons after January 1, 1978.

At this point I ask unanimous consent that the text of the amendment I intend to offer banning aerosol spray products be printed at this point in the RECORD.

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

AMENDMENT

"SEC. 153. (a) On and after January 1, 1978, except as provided in subsection (b), it shall be unlawful for any person to manufacture, produce, import or export from the United States, aerosol containers containing halocarbons.

"(b) The Administrator shall consider the available reports, consult with appropriate Federal agencies and scientific entities, and afford the opportunity for public hearing, and if he then

"(1) finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers, then he shall, by rule, modify or rescind the prohibition in Sec. 153 (a) in whole or in part consistent with that finding, or

"(2) determines that a particular use of halocarbons in aerosol containers is essential for the public health or welfare and an adequate substitute for halocarbons is not available, he may grant specific permits for the use of small quantities of halocarbons in aerosol containers in such situations. Essential uses may include but are not limited to, some of the various applications of halocarbons in the pharmaceutical and electrical industrial industries.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this section in the light of new evidence as to the need for such regulations.

Mr. PACKWOOD. My efforts to see a ban enacted on aerosol products has involved testimony before the Senate Aeronautical and Space Sciences ad hoc Subcommittee on the Upper Atmosphere, and numerous statements in the RECORD on this vital issue of concern to the country.

My reason for pursuing an outright ban on aerosol products is based on three specific reasons for this action to be taken now. The first, there is a nearly 10-year lag time between the release of halocarbons and their impact on the ozone layer. Even if a ban were in force today, the deleterious effects due to ozone depletion would continue for a decade; of potential damage we cannot anticipate with certainty.

Second, consider the degree of certainty, often absolute, which some say must be demonstrated before aerosol controls are initiated. Again, let me reiterate the preponderance of evidence which monthly, for the last year, has made the probability of ozone depletion more likely and closer to certain. I question how long we can await proof positive while risking the sizeable, unforeseen impacts to our environment.

Third, I seriously doubt that the consequences of controlling halocarbons as I have proposed imposes any undue or inequitable hardships on the public or industry. On balance, recognizing the great risks we take by waiting longer to restrict the present level of emissions, by waiting longer for research results that may be years away, and by not realizing the reasonable alternatives to halocarbon propellants now, we may be making a grievous error.

SENATOR GLENN CLARIFIES POSITIONS ON WEDNESDAY VOTES

Mr. GLENN. Mr. President, on Wednesday of this week, the Committee on Government Operations began a symposium on long-range policy planning by Government, under the title of "Our Third Century: Directions." Because of my interest in this subject, Chairman RIBICOFF was kind enough to designate me ad hoc chairman of the committee for purposes of the symposium. Our discussions began with a presentation by Vice President ROCKEFELLER, who, because of his lengthy experience in all levels of government and his work on the Commission on Critical Choices, is uniquely qualified to speak on the subject matter being addressed by the committee.

In the middle of his testimony we were notified of a vote on an amendment proposed by Senator STEVENS to S. 2371 which would have excluded from the provisions of the bill certain sections of the Glacier Bay National Monument. Had I voted on that amendment, I would have had to interrupt the Vice President and recess the session of the committee.

In view of the tightness of the Vice President's time schedule, and my view of the importance of what he had to say, I chose not to do so. My vote would have been against the amendment which was rejected by the Senate by 33 yeas to 53 nays. My decision not to vote was based in part on indications that the amendment would be defeated handily in spite of my absence.

The press of business of Wednesday was also responsible for my vote on the veto override of the milk price support bill. I voted to override that veto. I had been advised the bill did not exceed our budget limits but at the time of my vote I had not been advised that a letter had been issued by the Senate Budget Committee shortly before the vote indicating that enactment of the legislation would have been inconsistent with the second concurrent congressional budget resolution. Had I known that, I would have voted to sustain the President out of concern for fiscal responsibility, despite my sympathy with the objectives of the bill. I am pleased that the Senate as a whole decided to sustain the veto and adhere to the budgetary principles which we have established and are obligated to observe.

SENATOR KENNEDY'S ROLE IN HEALTH

Mr. SCHWEIKER. Mr. President, I call our colleagues' attention to an article in the New England Journal of Medicine which points out the outstanding leadership of the chairman of the Senate Subcommittee on Health and the Special Subcommittee on the National Science Foundation, Senator EDWARD M. KENNEDY, in the area of scientific and medical affairs. These issues are not ones which gain high public interest but they do have a great impact on our society. The Senator is to be commended for such outstanding leadership. 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:

MEDICINE AND PUBLIC AFFAIRS

(By Daniel S. Greenberg)

(Kennedy—He Has Assumed a Major Role in Scientific and Medical Affairs.)

Amidst the abundance of defects and virtues that are publicly ascribed to Edward M. Kennedy, sparse notes has been taken of the Senator's enduring and influential presence in national policymaking on scientific and medical affairs.

Within the Congress, the field, though not empty, is not crowded with competitors, probably because the issues are mostly esoteric and low in public interest and political profit. Kennedy's motives for involvement will thus evoke a variety of theories, ranging from base to noble. But let us sidestep such stuff and take inventory of the role—a generally constructive one, it seems to this observer—that Kennedy has assumed on matters that are usually below the threshold of general press notice.

During 1976, at least five particular items of importance to the scientific and medical communities will, let us call it, go critical in Washington. On four of them, Kennedy has been a prime mover, while on the fifth, his presence is of major importance to the parties involved. In all cases, his vantage point for involvement has been one or another of two subcommittees that he chairs on the Labor and Public Welfare Committee—the subcommittee on health and the special subcommittee on the National Science Foundation. By and large, the issues involved are centered on the ground rules for the federal government's relations with the two professional communities. But serious questions of public policy are clearly involved, and Kennedy has tended to focus on these. Let's look at the five items:

1. April is the scheduled delivery time for what is supposed to be a major contribution toward clarifying the government's confused and unraveling responsibilities toward biomedical research. At Kennedy's prompting, and following laborious dickerings with the Administration, the White House last year finally created the President's Biomedical Research Panel to undertake an examination of the biomedical research programs of the Department of Health, Education, and Welfare, which mainly means, of course, the National Institutes of Health. The political geneses of this creation are complex and covered by the debris of many upheavals in the upper echelons of NIH and HEW, but the issues persist.

Among them are the need for some policy guides on the purpose, scope, and scale of federal support of biomedical research, the wisdom of privileged positions for cancer and heart research in the NIH complex, and the extent of federal responsibility for training researchers. The study is the first of its kind in over a decade, and, assuming that it is persuasive, is likely to have a major effect on Congressional and Executive dealings with virtually all aspects of this nation's vast biomedical research enterprise. Kennedy has said that his health subcommittee will hold hearings on the Panel's report, and, on the basis of his past performance, it may be expected that the hearings will be long, detailed, and illuminating. The imminence of the report has already had an affect on Congressional deliberations concerning NIH. When an effort was made in September to pare down a budgetary increase for the National Cancer Institute, and spread some of the funds to other parts of NIH, the Panel's inquiry was cited as an argument for leaving things as they are until the report can be taken into consideration. Whatever it is that results from the Panel's work, it is to be noted that if Kennedy had not conceived of the study and bargained it out with a resistant Administration, there would be no Panel.

2. The same can be said of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, which was created by the National Research Act of 1974. The genesis of the Commission was in the emotion-ridden controversy that has been generated by fetal research. As pressures grew for banning federal support for such research, Kennedy effectively cooled the dispute by proposing a temporary moratorium while the newly created Commission concentrated its initial efforts on drafting guidelines for HEW. The result is a matter of dispute among various contenders on this issue: the prohibitionists contend that the rules allow too much, while some researchers believe that the rules are too restrictive.

But considering the lunatic mood that was beginning to take over the debate, and the legal perils that confronted many researchers, the Commission maneuver probably accomplished as much of a salvage operation as could be hoped for. The Commission, which has since turned its attention to other aspects of human experimentation, is due to expire at the end of this year. Kennedy, however, has introduced legislation (S. 2515) that would make it permanent and extend its jurisdiction—now restricted to HEW—to all government agencies. The inspiration for this was the hearings that Kennedy recently held on the Army's and CIA's experimentation with hallucinogenic drugs on unwary subjects.

Many researchers regard the Commission as a dangerous intervention into freedom of research. It may, in fact, turn out to be just that. But, composed as it is of physicians and scientists who are at least informed about the peculiar problems involved in human experimentation, the Commission is surely preferable to leaving the issue to the public-relations ploys of various interest groups. Its products are advisory rather than mandatory; thus, there is no danger that it will write unappealable rules. Presumably, however, it will take a wide body of fact and opinion into consideration. The same cannot be said of the interest groups that are deployed around this complex subject.

3. Kennedy is only one of several legislators who have investigated and exposed the infirmities of the Food and Drug Administration. Rep. L. H. Fountain (D-N.C.) and Senator Gaylord Nelson (D-Wisc.) were on the scene long before him and merit praise for important work well done. But when it comes to the FDA's performance and nonperformance, there's plenty to go around to keep all inquiries occupied, and Kennedy has found much to ferret out. While the investigation by his legislative colleagues have produced reforms in the FDA, Kennedy's inquiries have prodded the Secretary of HEW into setting up what is described as the most far-reaching study yet made on how the agency goes about its task of assuring the safety and efficacy of drugs. This study titled the Secretary's Review Panel on New Drug Regulation, was initiated after a group of past and present FDA employees and consultants charged before Kennedy's health subcommittee that FDA is excessively accommodating to the interests of the pharmaceutical industry. The head of FDA has denied this following a study that he made of the charges, but the Review Panel, in an interim report, has rejected his findings. The Panel's final report is scheduled to be delivered in June and will almost certainly be examined by Kennedy in public hearings.

4. On the amorphous issue of national science policy, whatever that might be, and the specific issue of White House science advice, Kennedy has long been the most influential figure in the Senate. Three years ago, he sponsored a bill that, among other things, would have made it national policy to assure employment for all scientists, engineers, and technicians; the bill would also have required that federal spending on "civilian" research and development be brought up at least to the level of military R & D—a matter of three or four billion dollars. There was never a chance of the bill making it through both houses, though in 1974, the Senate passed a pared-down version, apparently out of deference to Kennedy's interest in the subject.

Since the House showed no interest in the measure, the bill was becalmed after that, but it was placed on center stage this month because one of its provisions concerns the restoration of the White House science office that Nixon abolished in 1973. The House, in close collaboration with the Administration, passed a bill in November that would create an Office of Science and Technology Policy whose director would also serve as presidential science adviser. The Administration, working through Vice-President Rockefeller, urged the Senate to approve the House version. Kennedy, however, balked on the grounds that the House-passed version fails to give the director sufficient authority for assuring that scientific and technical advice is integrated into policymaking. Kennedy insists that the director of the office should also serve on the National Security Council and the Domestic Coun-

cil, and that his office should report annually to the Congress—provisions not contained in the House bill. Their importance is that the council memberships would take the director deep into policy deliberations, if only as a witness, and the annual report would give the Congress an opportunity to take a close look at White House decision making on science and technology. Backers of the House version point out that the President traditionally has had the right to work out his own staff procedures; furthermore, they argue, there is no way to require the President to heed advisers who have been forced upon him by Congress. At this writing, the matter is not settled, but Kennedy is deeply involved with it and is working to persuade his Senate colleagues that his formula is the one they should support.

5. Finally, there is the issue of peer review on research proposals. The two major users of peer review, the National Science Foundation and the National Institutes of Health, are periodically beset with charges that the method encourages backscratching, enrichment of the already rich, and reinforcement of scientific orthodoxy. They reply, in effect, that it may be a problem-ridden system for giving out research money, but it's better than all the others. As chairman of subcommittees with jurisdiction over both agencies, Kennedy has been providing them with defensive support against their more primitive right-wing assailants. This has been particularly useful for NSF, which has been having a bad season in Congress.

At the same time, however, Kennedy has been thumping on the issue of getting broader public involvement into science-policy decisions, in which he would include the granting process. The Senator is yet to spell out in any detail just how he would cut the general public into deciding which grant application on molecular biology is most meritorious. But NSF, always eager to please Congress, has already responded with a series of meetings around the country at which representatives of public interest and citizens groups, as well as just plain citizens, will have an opportunity to discuss science policy matters. The forums are NSF's own creation, but directions to broaden citizen participation were written into NSF's authorization bill last year by Kennedy.

Skeptics will point out that the deeds attributed above to Kennedy are, for the most part, actually the work of his large and able staff—which is true. But then, any Senator can hire a large and able staff. They are all large, but Kennedy's is, by general agreement, one of the most able in the Congress. Furthermore, he is usually there throughout the long and often tedious hearings that take up these matters, and he comes across as being well informed and alert about the complex issues involved.

None of this washes out the stain of Chappaquiddick or tells us whether the Senator someday ought or ought not to be President, or why he is bothering with these less-than-cosmic issues that most of his colleagues consider beneath serious notice. This report is simply to take note of the generally neglected fact that on matters concerning science and medical affairs—including several not cited above, such as national health insurance and medical-school finances—Kennedy has been deeply involved and responsible, more so than any of his 99 colleagues in the Senate.

THE DOMINION OF NEW ZEALAND NATIONAL DAY

Mr. HARTKE. Mr. President, geographically isolated but generally prosperous, New Zealand places great importance on the United Nations and its role in the world organization.

New Zealand, composed of two major islands is situated about 1,200 miles southeast of Australia, was populated many centuries ago by a sturdy race of Polynesians called Maoris; however, it was not until 1642 that the world knew of the existence of these islands. New Zealand's foreign policy orientation is chiefly toward the developed democratic nations and Southeast Asia, with special concern for the South Pacific. While the maintenance of Commonwealth ties remains one of the major guiding principles in its international relations, New Zealand has also established a close working relationship with the United States to attain the common objectives of the two countries.

New Zealand has a parliamentary system of government closely patterned on that of the United Kingdom and is a fully independent member of the British Commonwealth of Nations. It has no written constitution. Executive authority is vested in the 16 member Cabinet, led by the Prime Minister—the leader of the political party or coalition of parties that holds the majority of seats in Parliament. All Cabinet ministers must be Members of Parliament and are collectively responsible to it.

The unicameral Parliament—House of Representatives—has 87 Members, four of whom must be Maoris who are elected on a separate roll. Representatives are elected for 3-year terms.

The judiciary consists of the Court of Appeal, the Supreme Court, and the Magistrates' Courts. The law applied in the courts has three principal sources—the common law of England, certain statutes of the British Parliament enacted before 1947, and statutes of the New Zealand Parliament. In interpreting the common law, the courts have been concerned with preserving uniformity with the common law as interpreted in the United Kingdom. This unity is insured not only by the existence of the Privy Council as the final court of appeal but also by the practice of the judges of following English decisions, even though they are, in theory, not bound by them.

Such a good neighbor deserves an ovation from the American people on its National Day.

LEBANON

Mr. KENNEDY. Mr. President, little more than 2 months ago, in a statement to the Senate, I expressed the concern of many Americans over the human and political tragedy of Lebanon. As chairman of the Subcommittee on Refugees, I was especially concerned over the mounting humanitarian problems resulting from the civil strife, and made a number of suggestions for American policy and action, including strong support for the humanitarian efforts being made by the International Committee of the Red Cross—ICRC.

At the time, another cease-fire had been declared, and there was new hope in many quarters that meaningful efforts were underway by all parties concerned to bring peace and relief to the Lebanese people. Developments since then are a matter of record, however, and last month saw some of the heaviest fighting of the long civil strife.

A short time ago a new cease-fire was announced. Although the situation remains critical, and new fighting is predicted by some, reports suggest for now that conditions are stabilizing and that all parties are working to promote a separation of forces and an equitable resolution of the political issues at stake. And this morning's report of meetings between the Presidents of Lebanon and Syria is a hopeful sign for the future.

But in the aftermath of many months of civil strife, we must not forget the very serious humanitarian problems resulting from the tragic conflict—especially after the heavy fighting earlier this year.

Field reports on the full extent of humanitarian needs are still sketchy, and assessments are continuing by the Lebanese Government, the ICRC and others. But at least four problems deserve our immediate interest and concern.

A major problem relates to displaced persons, most of whom lost their homes and possessions. They are in urgent need of blankets, clothing, shelter, medicine, and other necessities of life. Conservative estimates put the number of displaced persons at some 10,000 in an area of greater Beirut, and some 150,000 more in the rest of Lebanon, mainly in the south. A good share of the latter group is now found in make-shift camps on the outskirts of Beirut. The number of displaced persons within the country is continuing to mount, however, as Lebanese who fled the country in recent months return to find their houses destroyed.

A second problem concerns the proper care and treatment of uncounted thousands who were wounded in the fighting. Medical supplies and equipment, as well as hospital beds, are in very short supply, and the Lebanese Government has made special appeals through the ICRC and other channels for immediate assistance in this area of urgent need. Compounding the situation is the breakdown of normal medical services in Lebanon, as a result of the civil strife.

A third problem, of special concern to many Americans, relates to the continuing desire of many Lebanese nationals, including displaced persons, to leave their country, most often to join close family members in the United States and elsewhere. No figures are available on the number of those wishing to leave. But I bring it to the attention of the Senate, because of many appeals in their behalf which have been made to the Subcommittee on Refugees.

Finally, Mr. President, apart from the general humanitarian problems of Lebanese nationals outlined above, there is also a very special problem relating to some 2,000 Middle East refugees who are currently in transit in Beirut and who are eligible or slated for entry into the United States under the seventh preference of the immigration and nationality laws. These refugees are under the mandate of the United Nations High Commissioner for Refugees—UNHCR.

The bulk of these refugees are Assyrians, but they also include several hundred Armenians. And nearly all of them have family members or friends in the

United States. Reports from the voluntary agencies working in the field indicate these refugees are an especially vulnerable group, and their care and protection is a matter of very urgent concern.

Our Government has known this for many months. But, despite the emergency, for unknown reasons it has failed to move expeditiously on the processing of those refugees requesting resettlement in the United States. The time is long overdue for immediate action in this matter of concern to many Americans.

Mr. President, the agenda for Lebanon is clear.

First, I strongly recommend that the President make an immediate contribution, from available funds, to the ICRC. The humanitarian services of the ICRC have been indispensable in helping to bring peace and relief in many areas of the world. And today in Lebanon the efforts of the ICRC—in cooperation with the Lebanese Red Cross, Palestinian Red Crescent, and other groups—deserve the full support of concerned governments in a position to help.

An ICRC appeal to our Government has been pending for nearly 2 weeks. Although I fully recognize that we have been sending medical supplies to Lebanon through the American University Hospital in Beirut, it distresses me that we can treat so lightly an appeal for aid from the ICRC. Humanitarian needs among the people of Lebanon are urgent today, and I strongly recommend an immediate contribution to the ICRC.

Second, in the interest of family reunion, I recommend that the Department of State thoroughly review the situation of Lebanese nationals wishing to emigrate to the United States, and do what it can to facilitate the processing of their visa applications under the immigration and nationality laws.

Third, I recommend that the Department of State and the Immigration and Naturalization Service immediately dispatch to Beirut sufficient personnel to expedite the processing of in transit refugees who are under the mandate of the UNHCR. The UNHCR is prepared to assist this movement, but the major key to resolving the current problem of these refugees lies in Washington.

And, fourth, I am hopeful that S. 2941—the Lebanese relief bill introduced yesterday by Senators ABOUREZK and HUMPHREY and myself—will be acted upon very soon with the full support of the administration.

Mr. President, I have briefly outlined some urgent humanitarian problems in Lebanon and the kinds of efforts our country should be making. Peace and relief are needed in Lebanon today. And hopefully all concerned with the human and political tragedy of Lebanon will work to accomplish these ends.

SHEILA YOUNG—GOLD MEDAL WINNER

Mr. GRIFFIN. Mr. President, I take pride in bringing to the Senate's attention the fact that a courageous, young lady from the State of Michigan is the U.S. first gold medal winner in the XII Winter Olympiad. I speak, of course, of Olympic speed-skater Sheila Young of Detroit, who today won the first-place Gold Medal in the 500-meter race in Innsbruck, Austria. Sheila's remarkable accomplishment came only one day after she surprised all competitors by winning a second-place Silver Medal in the grueling 1,500-meter race. Only last week, Sheila had set a new world women's record for 500 meters during a pre-Olympic race in Switzerland.

Olympic speed-skating victories are somewhat of a Michigan tradition. It is interesting to note that at the 1964 Winter Olympics also held at Innsbruck, Austria, there was another Michigan speed-skater—Terry McDermott of Essexville—who won the only Gold Medal for the United States in the men's 500-meter event.

Mr. President, I ask unanimous consent that an article about Sheila Young's great victories which appeared in today's Washington Star be printed in the RECORD.

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

SHEILA SKATES TO RECORD GOLD MEDAL FOR U.S.

INNSBRUCK.—Speed skating star Sheila Young of Detroit added a gold medal to her previous silver by winning the 500-meter speed skating race at the 12th Winter Olympics Games today.

Young, who set a world record of 40.91 for the 500 meters at Davos, Switzerland last Saturday, broke the Olympic record today with a clocking of 42.76.

Cathy Priestner of Canada won the silver medal and Tatiana Averina of the Soviet Union took the bronze. Averina also won the bronze medal in the 1,500-meter race.

Young, a 25-year-old powerhouse, won the silver medal Thursday in the 1,500 meters and moved into the gold medal class by winning her specialty today.

Young's victory put the second dent in the Soviet Union's gold medal domination. Earlier today, the Russians won their third gold medal of these young games when Nikolay Kruglov won the 20-kilometer biathlon race at nearby Seefeld in 1 hour 14 minutes 12.26 seconds.

The Russian skier-shooter had only two minutes in penalties added to this racing time for misses from the targets to give the Soviet Union its third gold medal of these games. Austria's Franz Klammer won the men's downhill Thursday for the other non-Russian gold medal.

Heikki Ikola of Finland won the biathlon silver medal in 1:15:54.10, also with a two-minute penalty. Aleksandr Elizarov of the Soviet Union was third in 1:16:05.57 for the bronze.

Margit Schumann, East Germany's reigning world champion, set a new track record on the 870-meter-long run and took over the lead today by winning the third of four heats in the women's singles luge.

The East German gold medal favorite slashed down the course in 42.28 seconds for an aggregate three-run time of 2 minutes 7.96 seconds and jumped from fifth to first place.

Elisabeth Demleitner kept West Germany's hopes alive with a run of 42.38 seconds for a second-place overall time of 2:08.06. She also eclipsed her old record of 42.53 on this track.

Kathleen Homstad of Goleta, Calif., was the top American finisher, ending up 18th in the run at 44:85 for a three-run time of 2:16.00 that left her in 21st place.

In Thursdays results, Young and Bill Koch confounded the experts, including themselves, while Klammer, the Austrian folk hero, confirmed the opinion of the experts and the faith of an entire country in outstanding performances at the 12th Winter Games.

Young, who said she "wasn't really expecting a medal," struck a surprising silver in the 1,500-meter speed skating event Thursday and Koch of Guilford Vt., whose goal was finishing in the top 10, wound up No. 2 to win the silver medal in the 30-kilometers (18.6 mile) cross country ski event.

ALISTAIR BUCHAN

Mr. KENNEDY. Mr. President, Alistair Buchan, who died Wednesday at his home in England, was a remarkable man. British by birth, he was perhaps as well known—and respected—in the United States and around the world as he was in his native land. He had a major impact on modern thinking about international politics; indeed, many of the key elements of our own Nation's search for control over the weapons of war owe much to his analysis, judgment, and leadership.

As the first director of the Institute for Strategic Studies in London, Mr. Buchan recognized early that a revolution in military technology also required a revolution in understanding the strategic implications of this technology; and a revolution in means to place military power and strategy firmly under the control of foreign policy and civilian leaders.

In Mr. Buchan's decade as the ISS, it became the leading institute in the world for the study of these vital problems. It brought together leaders from dozens of countries, and produced much of the world's original thinking in strategy, arms control, and foreign policy. One annual publication he founded—the Military Balance—has long been the standard reference in its field: Quoted widely in such different places as Washington and Moscow.

Mr. Buchan himself was a gifted writer and speaker. The clarity and precision with which he expressed his thoughts—and the historical vision he brought to all his work—illuminated the most difficult issues, and raised the level of debate both within governments and in public discussion. He also had a rare ability to gather talented people together, inspiring them with his own insight and seriousness of purpose.

Mr. President, I doubt whether there is any serious student of foreign affairs—or leader in foreign policy, both here and elsewhere—who was not affected by the force of Alistair Buchan's mind and personality. For everyone concerned about the pursuit of peace, his death is a great loss. I ask unanimous consent that an obituary about Mr. Buchan, from yesterday's Washington Post, be printed in the RECORD.

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

ALISTAIR BUCHAN, 58, DIES, SCHOLAR, MILITARY EXPERT

(By Stephen Klaidman)

Alistair Buchan, 58, Montague Burton professor of international relations at Oxford

University and a founder of the Institute for Strategic Studies, died yesterday after a heart attack at his home in Brill, Buckinghamshire, England.

Mr. Buchan, the first civilian to serve as a commandant of the Royal College of Defense Studies in London, was a world-renowned expert on international relations and military affairs.

He also was well known as a writer on strategic affairs, and perhaps most of all for his 1959 biography, "The Spare Chancellor: The Life of Walter Bagehot." Bagehot was a 19th century editor, economist and political philospher whose book on British politics, "The English Constitution," became a classic.

Other books by Mr. Buchan include "China and the Peace of Asia," "War and Modern Society," "A World of Nuclear Powers," "Europe's Futures; Europe's Choices" and "Power and Equilibrium in the 1970s."

As the titles suggest, his arena was the world of nuclear strategy and superpower rivalry. He dealt in the major themes of postwar diplomacy. Stephen S. Rosenfeld reviewing "Power and Equilibrium in the 1970s" in The Washington Post wrote:

"To Buchan, the world is essentially an integrated political unit, or at least its medium and big powers compose such a unit."

To better understand the power balance in the world, Mr. Buchan joined in founding the Institute for Strategic Studies in 1958. The institute's staff analyzes strategic data and publishes annually what is generally considered the most reliable unofficial compilation of military information available anywhere. Mr. Buchan served as director of the institute from 1958 to 1969.

Mr. Buchan was the son of novelist John Buchan, later Lord Tweedsmuir, governor general of Canada.

He served in Europe with the Canadian Army during World War II, rising to the rank of lieutenant colonel.

In 1948, he joined the Economist Weekly in London as an assistant editor. Three years later he went to work for The Observer as diplomatic and defense correspondent, and from 1953 to 1955 he represented the newspaper as its Washington correspondent.

When he returned to London he continued covering international affairs. In 1958, Mr. Buchan left The Observe to start the Institute for Strategic Studies.

He served as head of the Royal College of Defense Studies, which is roughly equivalent to the U.S. National War College, from 1969 to 1972.

Mr. Buchan, who was made a commander of the Order of the British Empire in 1968, was a fellow of the Woodrow Wilson International Center for Scholars of the Smithsonian Institution during the 1973–74 academic year.

Survivors include his wife, the former Hope Gordon Gilmour of Brill; two sons, David and Benjamin of London; a daughter, Anna Virginia of Brill; two brothers, John Lord Tweedsmuir, and William, and a sister, Alice Lady Fairfax-Lucey.

SUPPORT GROWS TO SAVE FEC

Mr. SCHWEIKER. Mr. President, on Monday I introduced S. 2911, which is now sponsored by Senators BEALL, CRANSTON, HASKELL, HUMPHREY, MATHIAS, METCALF, MONDALE, PEARSON, and STAFFORD.

This measure would reconstitute the Federal Election Commission in a valid constitutional fashion, by providing for Presidential appointment of Commissioners, with Senate confirmation. I think it is vital that this be accomplished prior to the Supreme Court-imposed deadline at the end of this month, in order to insure that election law enforcement is not splintered into pieces and randomly scattered throughout the Federal bureaucracy during this election year.

The following articles demonstrate the growing public support for prompt action on this measure. I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Washington Star, Feb. 4, 1976]

FIX THE CAMPAIGN LAW

The ball on campaign financing is in Congress's court and if the legislators put as much concentration and effort into it as they did when televised football games were at stake, we may get through the presidential election without total chaos.

Some see last week's ruling by the Supreme Court as the beginning of the end for the 1974 campaign reform law enacted during the throes of Watergate. But that need not be so.

There is ample portion of the law remaining to make at least a stab at carrying out the aim of the legislation, which was to reduce corruption in politics by lessening reliance on big private contributions to candidates.

Three vital parts of the law were upheld: limits on individual contributions to candidates; full disclosure of contributions and expenditures; and the new departure in American politics—public subsidies to presidential campaigns.

The court, with sufficient reason relating to the First Amendment, did throw out the limits on total spending for presidential and congressional campaigns, as well as the limit on the amount a person can spend of his own money on his own candidacy, and the limit on the amount an individual can spend indirectly in behalf of a candidate. The full effect of this lifting of restrictions cannot be assessed at this time, but certainly it does not mean that the sky's the limit.

For example, the court said that if presidential candidates want to get federal campaign subsidies they will have to abide by the total spending limits established by Congress. That undoubtedly means that despite the court's general ruling against a limit on overall campaign expenditures, most of the presidential candidates will in fact limit them because they want the government subsidies. Probably many congressional candidates also will voluntarily abide by the limits that had been set for House and Senate campaigns. And the chances of a Rockefeller buying the presidency for himself or a Stewart Mott or some other fatcat buying it for someone else are pretty remote.

The real danger to the 1974 reform act is not in the court's knocking out some spending limits but in ts decision that the Federal Elections Commission, which was set up to administer and enforce the law, was illegally constituted. The court held that enforcement powers could be exercised only by officers of the executive branch, and since the Elections Commission was partially an appendage of Congress it could not enforce the law.

Without an agency to administer and enforce the law, the presidential campaign could degenerate into a shambles. There must be someone to interpret the law, someone to enforce it, someone to authorize the treasury to disburse government campaign subsidies.

The Supreme Court gave Congress 30 days to reconstitute the Elections Commission. Congress will be derelict if it does not.

The simple answer is to amend the law so that all six members of the Elections Commission shall be appointed by the President and confirmed by the Senate. Under the present arrangement, two members are appointed by the President and four by Congress. The White House already has indicated that it will reappoint all the sitting members.

There are two main problems: Some members of Congress want to fiddle with other portions of the law; for example, Senator Kennedy and Senate Republican Leader Scott want to bring congressional campaigns under the federal subsidy program. Others who never wanted a reform law to start with or were lukewarm about it, such as Representative Hays, chairman of the House Administration Committee, would prefer to let the Elections Commission go out of existence.

It seems highly unlikely that the dispute over whether to subsidize congressional elections can be resolved by the March 1 deadline for reconstituting the Elections Commission. Senators Kennedy and Scott surely know that; the cause of election reform would be better served if they put their effort behind the bill introduced by others dealing only with the Elections Commission.

As for Hays, the House leadership ought to get tough with him if he tries to tie up the legislation in his Administration Committee. There is no excuse for the entire Congress kowtowing to a tyrannical chairman like Hays. It was ironical that in regard to Hays, House Democratic Leader O'Neill would say that House leaders are "not one to step on the toes of our chairman" only a few days after the way Speaker Albert stepped all over the toes—and feet and legs—of Commerce Committee Chairman Staggers on the natural gas deregulation bill.

Some on Capitol Hill think that 30 days is just too short a time to fix the Elections Commission. Hogwash. When the legislators wanted to watch Redskin games on television a few years ago, it took only a few days to pass legislation to kill the TV blackout of home games. The conduct of presidential and congressional elections surely is as as important as watching football games.

[From the New York Times, Feb. 4, 1976]

CAMPAIGNS UNLIMITED

By abolishing all restraints on political expenditures by individuals and organizations, the Supreme Court in its decision last week opened wide the doors to a return of the evils that the 1974 Federal Campaign Reform Law was intended to prevent.

The Court upheld the limit of $1,000 on individual contributions to a candidate but probably rendered the limit a nullity by permitting a contributor to spend unlimited amounts on behalf of a specific candidate as long as he did not coordinate his expenditures with the candidate's own campaign committee.

The Court tries to deal with this seeming contradiction in two ways. On practical grounds, it argues that "such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive." Yet few big contributors are likely to share this view. If they place newspaper or television advertisements or rent space on a thousand billboards carrying the message. "Elect Candidate Jones," most will be reasonably sure that Mr. Jones will not consider their efforts "counterproductive" or of "little assistance."

Secondly, the Court notes that, if such expenditures can be shown to be controlled or coordinated by the candidate, they should be treated as if they were direct contributions and be subject to the $1,000 limit. But can control or coordination be proved? That will be difficult at best; it will be impossible unless there exists a Federal Election Commission with a large, well-trained staff capable of policing this gray area.

Since the Court declared that the existing commission had been appointed in a constitutionally defective way, it is imperative that Congress in the next thirty days adopt legislation establishing a new commission on

a sound basis. Without such action, there will be no one to carry out the important sections of the law that the Court upheld—public financing of Presidential candidates, full disclosure of campaign contributions and the limit on the size of contributions.

Representative Wayne Hays of Ohio and other enemies of the law won a substantial victory in the Court's ruling last week. That victory will be greatly enlarged if Congress now defaults on re-establishment of the election commission. The leadership of the House has a responsibility to see that no such default occurs.

[From the Philadelphia Inquirer, Feb. 3, 1976]

CAMPAIGN REFORM RULING: FEC NEEDS QUICK REPAIR

The Supreme Court's opinion on the Federal Election Campaign Act of 1974 ran 227 pages. Like the law itself, and those major portions of it which the court confirmed as being constitutional, the opinion will require the passage of time and the experiences of the 1976 national political campaigns to find and reveal all its practical meaning.

In broad terms, however, the court appears to us to have pondered earnestly and ruled responsibly. The elements of the campaign spending reform law which it struck down or severely limited were found wanting for their implicit conflict with the free-speech guaranteed of the First Amendment. This is a righteous concern; free expression of ideas is the most vital of all foundation stones of democracy.

The court did light a fuse on a dangerous bomb, however, in striking down the constitutionality of the Federal Election Commission. The FEC was found wanting not in its function, its authority—or even in the rulings it has issued thus far as the watchdog-enforcer of the campaign reforms. The Supreme Court ruled that it was unconstitutionally *selected*, by the Congress's granting itself the appointment power, classically an executive function.

The court left the Congress 30 days in which to remedy that failing. It should do so with all deliberate speed.

Enemies of the whole concept of the act's reform, which is an effort of fundamental soundness to limit severely the influence of wealthy private interests on the democratic process, already are planning to try to block the reconstitution of the FEC. If they succed, it would cripple the entire effort, leaving the law ostensibly enforceable, but unenforced.

To allow such a spoiling effort to succeed would be to capitulate to the pernicious forces which would prefer to leave American politics, and major elements of American government, at the mercy of those with the greatest amount of money to throw on the table.

The requirement that all contributions and other financial aid to candidates be publicly disclosed was left standing firm by the Supreme Court's ruling. No single provision, or combination of provisions, is as important as disclosure. The patience even of voters hardened by cynicism is limited.

Largely for that reason, although we supported all of the act's provisions and believed them sound, we are not dismayed by the prospective effect of the court's striking down the ceiling on spending by a presidential candidate who declines federal matching funds. Nor does it strike us as fatal that the court prevented limitation on what a candidate can spend on his own campaign from his own wealth.

Certainly, the idea of a candidate "buying" the White House, or a seat in the Congress or in a city council, for that matter, is repugnant. But it seems unlikely that private wealth alone could be that potent at the national level.

In rejecting as an unconstitutional abridgment of free expression the law's limits on what a private citizen may spend in supporting a candidate (but not in contributing to the candidate's own fund), the Supreme Court demonstrated a heartening sensitivity to the First Amendment. In doing so, however, it re-opened the possibility of massive munificence by special-interest pleaders.

The guard against excesses of that sort lurks in the disclosure requirement—and its enforcement by a strong Federal Election Commission.

That is one more reason, among many, that the Congress should move swiftly to redefine the FEC in constitutionally acceptable terms within the 30 days specified by the Supreme Court.

[From the Baltimore Sun, Feb. 3, 1976]

CAMPAIGN REFORM: CONGRESS' TURN

The Supreme Court's ruling upholding most but not all of the wide-ranging campaign reform amendments of 1974 has justified those who believed this terribly complex issue can be dealt with in a rational way. But that may not be true for long unless Congress now shows it can put aside jealousy and act with speed on what the court has decreed.

The court upheld the principle that contributions to candidates for public office may be limited. But the court was not willing to approve that part of the law that forbid individuals from spending their own money in behalf of candidates, themselves included. In other words, John Doe can contribute not more than $1,000 to candidate Smith's campaign in any one election, but Doe can spend all he chooses of his own money on ads, brochurses and other mind-formers to convince citizens to vote for Smith. (If Doe himself is a candidate he can spend every cent he has on his own campaign). This must truly be an *individual* exercise of the First Amendment's freedom of speech, not a covert campaign contribution. It could be quite a loophole. One thing that gives us hope that it won't be is that the law's very strict reporting of expenditures section was upheld by the court. Fat cats may fear to tread, knowing their spending will be made public. Congressmen should watch the developments in this year's campaign closely. If the court's bow to the First Amendment proves to have allowed special interests to operate as usual, some tightening up of the law would be in order.

But that can wait. What cannot wait is Congressional action to salvage the Federal Election Commission. The Commission was created by the 1974 amendments in order to make sure illegal campaign practices were promptly dealt with by a non-political agency. Previously policing of corrupt practices was left to employees of elected officials, who had a very obvious conflict of interest in carrying out the law, and who in fact did not carry it out. The new FEC has members appointed by Congress as well as by the President, an arrangement the court says violates the Constitutional requirement that law enforcement be left to executive appointees. Congress ought immediately to rewrite the law to make the FEC an executive agency, and President Ford should immediately nominate all current members of the commission, including those previously selected by Congress. Otherwise there will be sheer chaos at the crucial beginning of the campaign process, if not throughout it. It is distressing to hear Speaker Carl Albert and other senior Democrats on the Hill saying "no" to this. They seem to be unwilling to let a President have a power in the political arena that they can't share. Any individual who is that small minded doesn't deserve a leadership role or a committee chairmanship.

Meanwhile, some members of Congress say that since the Supreme Court upheld that other controversial section of the 1974 act—federal subsidies for presidential candidates—a new law should be quickly written to give congressional candidates subsidies. We oppose that. Direct campaign subsidies of this sort are a new departure. They may help purify politics but they may not. It would be better to see how the presidential subsidies work out this year before making a decision on extending them to candidates for other federal offices.

ITALY

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to the very precarious and disturbing situation in Italy where the weakness of the democratic parties threatens to result in an increase in Communist strength. As we all know, Italy has played a vital role in the development of Western civilization and the spread of the Christian religion and ethic.

I am sure that my colleagues remember, as I do, the courage of Horatio at the bridge defending Rome from invasion; Cicero for his personal virtue and development of republican values; St. Thomas Aquinas for his monumental elaboration of Christian thought; Dante, who embodied medieval civilization and yet was the precursor of humanism; Leonardo da Vinci, whose intellect and artistry ennobled him as the Renaissance Man; Garibaldi, who fought for universal freedom as well as nationalism in his own country; Croce the towering 20th century liberal and idealist philosopher; DeGasperi who led Italy back to democracy after a generation of fascism; and John XXIII, the ecumenicalist who combined Christian faith with a unique sensitivity to the problems of modern society.

It would be sad indeed if this tradition and the values represented by these men should be swept away and replaced by a new and autocratic tradition which denies basic human and religious values. Such a development would be sad, not only for the people of Italy but also for America and the entire Western World. We in America have strong ties of kinship, culture, and commerce with Italy. Moreover, we have been partners in the North Atlantic Alliance since 1949 and have engaged in scores of cooperative efforts for our joint defense and for the preservation of shared democratic and humanistic values.

As one who knows and loves Italy and her people on both sides of the Atlantic, I wish to express my solidarity with those citizens of Italy who are striving to insure that the greatness which is Italy is not allowed to dissipate; who are seeking to preserve Italy's Western orientation; and who are striving to maintain and strengthen Italy's traditional ties with the United States and other democracies. Unless they succeed, the world as we know it will be sorely jeopardized.

I wish to recall some words of the famous apostle of Italian unity, Mazzini, who over a century ago said:

Worship freedom. To what use is a fatherland if the individual should not find in it

and its collective strength the guarantee of his own free life.

UNITED STATES-SOVIET RELATIONS

Mr. KENNEDY. Mr. President, of all the issues confronting our Nation's foreign policy, relations with the Soviet Union remain paramount. Despite progress made in recent years, the strategic arms race continues; there has been little progress in negotiating mutual and balanced force reductions in Europe; the conflict in the Middle East continues to fester; there has been no reduction—and even an increase—in Soviet military expenditures; there has been no slackening of domestic repression of the Soviet Union; and we are now concerned about the Soviet role in Angola.

Yet something has been achieved: there is now a mutual recognition that there must be no nuclear war, or a confrontation between our two countries that could raise the threat of such a war. There must be progressive efforts to bring the nuclear arms race under control, and to evolve relations between the two superpowers that will enable us to end the threat of conflict between us, and to secure other benefits in our Nation's interest.

These policies have characterized the last several administrations; and they must continue to guide America in the future.

Mr. President, no Member of the Senate is better qualified to speak about United States-Soviet relations than the distinguished Senator from Minnesota (Mr. HUMPHREY). And few statements on this subject can compare with the address he gave on January 27 before a conference sponsored by the Center for Strategic and International Studies of Georgetown University. It is sober, sensible, and practical—and sets the right tone for continuing U.S. debate on this issue. I am particularly struck by one of Senator HUMPHREY's concluding thoughts:

> If inflammatory rhetoric or exaggerated promises become the coinage of a Presidential campaign in discussing Soviet-American relations, we only aid and abet those Soviets who want a return to the Cold War for their own purposes.

Mr. President, I ask unanimous consent for Senator HUMPHREY's address to be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

DÉTENTE AND EAST-WEST RELATIONS

Any discussion of détente brings to mind the English adage: "The King is dead. Long live the King."

Détente, with all of its symbolism and great expectations, was a phenomenon of the late 1960's and early '70's. It now is passing into history. But the ice has been broken in U.S.-Soviet relations. The two super powers now are focusing on specific issues in their relations. Devoid of theatrics and dramatics, the Soviet-American dialogue must be based on an on-going political process as well as on solid accomplishments.

It is the issues at the heart of the East-West relationship which I want to address today. By focusing on concrete problems, we avoid windy generalities about East-West relations which obscure rather than clarify reality. In focusing on these problems, we need to keep two central facts in mind.

First, businesslike U.S.-Soviet efforts to resolve problems of common concern must continue. I say "must continue" because the process will reduce risks of war.

It will contribute to sensible reductions in the vast and costly arsenals which both nations possess.

It may help to promote stability at a time of growing international violence and anarchy.

And it hopefully will cause both superpowers to recognize their obligations and responsibilities to the rest of humanity.

But it also is important to realize that these efforts will not soon radically change the international situation. This becomes more clear if we note that the benefits which were to flow quickly from improved Soviet-American relations have not materialized.

Détente has not brought an end to Soviet support of liberation movements in the Third World or the established Communist parties in industrialized nations.

It has not meant a bonanza for the American business community.

It has not caused a liberalization to any degree of Soviet suppression of internal dissidents.

It has not produced a reduction of Soviet defense expenditures.

And it has not meant that we cease to regard each other as strong competitors and political adversaries.

Failure to realize these expectations is at the heart of much of the current frustration and disenchantment with Soviet-American relations in the United States and in Europe. But, quite frankly, the expected benefits from détent were oversold. These basic conditions have not changed and will not soon change.

These things taken together—the need for continuing U.S.-Soviet cooperation in problems of common concern and the unlikelihood that these efforts soon will produce radical change in the Soviet system—should provide the basis for a more mature relationship with the Soviets.

It should be a relationship that will embrace both competition and cooperation as instruments for peaceful change; a relationship shed of any illusion that a conservative Communist nation is going to abandon completely its ideology, goals and tactics because its main adversary expects it to do so.

To say this, however, is not to say that a constructive Soviet-American relationship means that we must be morally indifferent to the denial of human rights within the Soviet Union. Such an attitude was sadly evident when the President refused to see Mr. Solzhenitsyn.

I recognize the substantial limitations of fundamentally altering Soviet internal policies quickly by means of our relationship. But this is no excuse for turning our backs on those who express outrage at Soviet policies of suppression and denial of Human Rights.

To this end, I believe it imperative that we insist on scrupulous fulfillment of the Helsinki agreement through careful monitoring of the manner in which the Soviets treat its dissidents and how the question of freedom of movement is administered.

Normalized relations with the Soviets should not mean that we acquiesce through our silence to Soviet internal policies and practices.

It is one thing to say that we cannot soon alter these policies and practices. It is another to say that Soviet-American relations should be an end in themselves to preserve the status quo. If we must abandon the long-term goal of peaceful change within and without the Communist system as the price of the U.S.-Soviet relationship, it can never endure.

The inflated rhetoric of summit diplomacy should, therefore, now cease. The time has come for American politicians to speak far more realistically of what can and cannot be gained in East-West relations.

Let us now move from the general to the particular. Let's talk about the specific areas of the U.S.-Soviet dealings.

There are three priority areas which are at the core of a more realistic Soviet-American relationship.

The first is to continue the SALT process and obtain in the near future a meaningful and acceptable agreement.

I want to say quite explicitly that my remarks today are not meant to prejudge the tentative proposals which Secretary Kissinger discussed in Moscow.

I have only read news reports of the Secretary's discussions with the Soviet leadership. I have not received a Department of State briefing concerning the specifics. The reduction of the Vladivostok ceilings is an encouraging sign of progress.

I am less certain about the proposals on the cruise missile issue because of the lack of information in the press accounts.

What I am about to say is my own personal view of the way we should handle some of the very difficult issues facing us in the negotiations.

I stress the word "meaningful" when discussing SALT because we are now past the point where we must sign a document with the Soviets to demonstrate our fidelity to the concept of more normalized relations. The qualitative content of the agreement—not the agreement itself—is the real measure of progress in the field of arms limitations.

What is the pivotal element in a meaningful SALT II agreement?

Unless testing and deployment of strategic or intercontinental range cruise missiles can be avoided, it will be difficult to secure a substantial arms control agreement.

The strategic cruise missile is an arms control nightmare. Its verification problems would be immense because of its characteristics and the fact that there would likely be great numbers deployed. The only way to avoid this problem is to prevent its testing. A ban on testing of strategic range missiles might be verifiable.

If further studies indicate that this is the case, concluding agreement on such a ban should be a high priority of negotiations. And while the negotiations are underway, we should not prejudice their outcome by proceeding with the development and testing of strategic range cruise missiles ourselves.

I am convinced that America is strong enough by any measure—militarily, economically, politically, socially—to forego the addition of a costly new system of air and sea-launched strategic cruise missiles to its nuclear arsenal.

Let us not fool ourselves. America's lead in cruise missile technology is only temporary.

If the ceilings on strategic arms established a Vladivostok should be raised to include the strategic cruise missile, a new SALT agreement will be of limited value, since its provisions with respect to cruise missile deployment could not be adequately verified. And I predict such an agreement could have a very difficult time in the Senate.

If we take the arms control process seriously and believe that it is in our national interest, we must strive to avoid the testing and deployment of those weapons systems that cannot be measured with certainty. If this is not done, future negotiation to obtain reductions will be far more difficult to achieve.

I don't believe Secretary Kissinger or President Ford can afford to jeopardize the SALT process by allowing the testing and

deployment of strategic range cruise missiles to occur.

SALT is at the top of our arms control agenda. However, there are several other critical items which merit attention:

The task of reducing tension and confrontation in Europe must continue with renewed vigor at the MBFR negotiation.

The cooperation we have elicited from the Soviets in the field of nonproliferation should continue and be expanded in view of the dangers from the spread of nuclear weapons.

The threshold for the Test Ban Treaty recently negotiated should be renegotiated at a lower, meaningful level. The ultimate goal here should be a comprehensive nuclear test ban.

Finally, we should initiate discussions with the Soviets on conventional arms limitations building on our expertise and cooperation in the nuclear field.

The second area for U.S.-Soviet negotiation is economic. The key issue here is food.

Though the Soviets' grain purchases are the single most important variable in the world wheat market, their unwillingness to accept and cooperate in the establishment of an adequate food and fiber information system which reveals supply and future needs is disruptive and injurious to our bilateral economic relationship. This has been eased somewhat by the agreement that provides for long term U.S. exports on a systematic basis.

There already is some concern that the recent U.S.-Soviet grain agreement leads the Soviets to believe they can ignore their many responsibilities as a significant element in the international food system. International norms in many fields are there for the Soviets to see. Western trading partners must be more insistent in their demands that these norms be obeyed.

Let me be more specific.

Consultations about an international system of grain reserves are taking place in the wake of the Rome World Food Conference. Success in this endeavor will be impeded if the Soviets do not cooperate. If they refuse to join in building up reserves, and must therefore go into the world market every time their production falls below domestic need and demand, the world grain market will be subject to endemic instability.

If we can get agreement of like-minded countries to create a system for building up these reserves, it should be made clear to the Soviet Union that non-participating countries will enjoy lower priority than others with respect to exports and reserves of participating countries in time of global food shortage.

If the Soviet Union expects to reap the advantages of an interdependent international economic system, it will have to accept the responsibilities that go with those benefits.

It is important that American policymakers should not underestimate the critical importance of food in the Soviet-American relationship. Shed of any illusions that grain exports will overnight produce political miracles, I have every reason to believe that Soviet behavior will be moderated by their continued dependence on America for food commodities.

A third area that I wish to discuss is the formation of a more enduring political relationship where cooperation moderates competition.

There are no easy methods or secret formulas to achieve this goal. Tough and business like negotiations are the best route to progress in East-West relations. This means, for example, trying to persuade the Soviet Union to join with the United States in exercising a moderating, rather than an inflammatory, influence in the Middle East.

This kind of successful negotiation involving a specific threat to peace is more important to improved relations than general declaration or atmospherics.

These three specific areas—arms control, economic policy and political negotiations—will be the focus of East-West relations in the period ahead. Success in each of them is important.

We need a limitation on armaments.

We need a system of international grain reserves.

We need progress toward peace in the Middle East.

It will be difficult enough to make progress in each of these areas individually. If we limit them and make progress in one dependent on progress on all, the task may be impossible. And if we make one-sided concessions in one of these areas in an effort to persuade the Soviets to change their stance in another, we will only expose our naivete.

We should signal clearly to the Soviet leaders that they can achieve solid benefits by cooperation in each of these areas. A strategic arms race, an unstable world food market, tension and conflict in the Middle East and elsewhere—none of these are in their interest.

They can work with us to avoid these dangers. But we must also make clear to them that progress can only be achieved if they, no less than we, are prepared to make concessions. Agreements must be based on a solid mutuality of interests.

In about a month the 25th Party Congress will occur. During this meeting important decisions will be made concerning the future direction of Soviet foreign policy. Looking further ahead, it is clear that the Soviets are on the threshold of a generational turnover among the Party leadership and hierarchy.

By actions and statements which make clear to the Soviets the principles that we believe should govern the East-West relationship, we may have a unique opportunity to influence the development of a Soviet foreign policy of restraint and responsibility and the emergence of a less repressive domestic society. This can be achieved not by being soft or compromising in any way our national interests.

Firmness is in order. But we must couple this attitude with encouragement of the forces of moderation in Soviet society against the ideologues, nationalists and the military.

To achieve this, American political leaders should focus on the three areas that I have described—seeking concrete progress, on the basis of the principles that I have outlined, that will serve the interests of both countries.

All this will be hard to do in an election year unless both political parties approach this issue in a realistic and responsible manner.

I want to see the Soviet-American relationship discussed and debated in the coming Presidential election.

But I want the candidates to use restraint.

If they do not, and if demagoguery is substituted for sensible discussion, great harm could be done to the cause of influencing the evolution of a less aggressive Soviet foreign policy.

If inflammatory rhetoric or exaggerated promises become the coinage of a Presidential campaign in discussing Soviet-American relations, we only aid and abet those Soviets who want a return to the Cold War for their own purposes.

I urge candidates in both parties to take the high road of reasoned statesmanship, speaking honestly to the East-West issues that must now be tackled. In this way progress in our relations with the Soviet Union can continue even while we go about the process of choosing America's new leadership.

If we seek world peace, there are no alternatives to a constructive Soviet-American relationship. If we wish to have America turn its attention and energies to urgent domestic problems and pressing world responsibilities, the process of normalizing relations with the Soviet Union must continue.

ENVIRONMENTAL MODIFICATION

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to a very timely and important article on environmental modification by Lowell Ponte, which appeared in the Los Angeles Times of January 29. Mr. Ponte is an editor of Skeptic magazine, and his new book, "The Cooling," which will be published in May, concerns the Earth's changing climate and those who would modify it. I had the honor of writing a foreword to that book.

In his Los Angeles Times article, Mr. Ponte discusses the outstanding issues which have yet to be resolved in the Geneva disarmament negotiations in order to develop a treaty prohibiting the military or any other hostile uses of environmental modification techniques. He also reviews the background leading up to those treaty negotiations including the Senate's passage in 1973 by an overwhelming 82 to 10 vote of a resolution which I introduced calling for such negotiations.

As Mr. Ponte correctly points out, many ambiguities and weaknesses exist in the current draft treaty. It was with a view toward clarifying and improving the treaty that the Foreign Relations Subcommittee on Oceans and International Environment, of which I am chairman, held hearings on January 21, 1976. During the course of those hearings, the subcommittee was particularly interested in knowing whether the draft treaty might be strengthened by deleting the language limiting the prohibition against environmental warfare to those instances in which the effects are "widespread, long-lasting, or severe."

As a result of the hearings, I have urged the administration to re-examine these criteria as well as other areas of ambiguity in the treaty with a view toward making the treaty a more effective means of arms control.

Mr. President, I ask unanimous consent that Mr. Ponte's article be printed in the RECORD.

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

WEATHER WARFARE FORECAST: PARTLY CLOUDY U.N. TREATY WOULD PERMIT "PEACEFUL" ENVIRONMENTAL RESEARCH BY MILITARY

(By Lowell Ponte)

In 1957, then-Sen. Lyndon B. Johnson (D-Tex.) was enchanted—as were a number of lawmakers—by the fantasies of Department of Defense researchers who would use weather as a weapon of war. "From space," he said, "one could control the earth's weather, cause drought and floods, change the tides and raise levels of the sea, make temperate climates frigid."

A decade later, as President, he made some of those fantasies spring to life by authorizing massive rain making, defoliation and other kinds of environmental warfare in Southeast Asia.

As congressional inquirers have subsequently learned, the Pentagon secretly spent at least $3.6 million a year between 1967 and

1972, seeding clouds over North and South Vietnam, Laos and Cambodia. The expressed purpose of such seedings, which in one instance increased rainfall by 30 percent, was to muddy vital supply trails, thereby hampering enemy troop and supply movements. Pentagon spokesmen called the seedings a failure, but defended the project as humane: "Raindrops don't kill people, bombs do."

The Department of Defense has denied that its cloud seeding over North Vietnam in 1971 caused that country's heaviest rains and worst flooding since 1945, when more than a million Vietnamese had perished from flood and subsequent famine. But the Pentagon does make this admission: Just prior to the 1971 floods, it carried out a concerted policy of bombing flood-control dikes in North Vietnam.

Still, U.S. leaders have long professed that war aimed at civilian populations is wrong. With this in mind, as well as the unknown hazards of massive tampering with natural processes, Senator Claiborne Pell (D.R.I.) introduced a 1973 resolution calling for an international treaty to prohibit environmental warfare "or the carrying out of any research or experimentation directed thereto." On July 11, 1973, the Senate approved Pell's measure, 82 to 10.

Partially in response to the resolution, the United States joined Russia in proposing a treaty to ban "military or any other hostile use of environmental modification techniques." Submitted in August to the 31-nation U.N. Conference of the Committee on Disarmament in Geneva, the draft agreement is expected to win Senator ratification by this fall.

Pell's subcommittee on oceans and the international environment began hearings on the proposed treaty last week, though it is a far cry from what he originally wanted.

His chief objection is that the treaty would not ban military research or experimentation with environmental modification—"ENMOD," as it is called by a growing Pentagon bureaucracy dedicated to its study. Quite the contrary, the treaty clearly allows any "peaceful" research—even when conducted by a military organization.

The trouble comes when you try to define "peaceful."

The Pentagon, for example, contends that its Climate Dynamics program is essentially peaceful, because it is defensive in nature. Researchers in this program use elaborate computer models to study means of melting polar icecaps, generating hurricanes or otherwise utilizing "key environmental instabilities" to release vast amounts of potentially destructive energy. (These researchers have already discovered subtle ways that this country could, secretly from space, disrupt weather in the Soviet Union, thereby wrecking harvests and keeping that country dependent on U.S. grain imports.)

Pentagon officials say the program is necessary to detect any secret Soviet environmental tampering aimed at wrecking weather in North America. Indeed, because the proposed treaty makes no mention of forming an international agency to inspect or regulate climate modification programs, the Defense Department is likely to request even more money for the Climate Dynamics program—so the United States will be better able to detect treaty violations.

As the document now stands, enforcement provisions are in fact rather meager. Leaders of nations who believe their environment is under attack may present evidence to the U.N. Security Council. However, the council would be put in a severe bind should such a case come before it, because any evidence intended to show "weather warfare" would be highly debatable.

Climatology is an infant science, full of unknowns. Our planet's climate is already in a period of severe instability (whether from human or natural causes is uncertain). As a result, many countries will suffer terrible weather, drought and crop failures, and many will try weather and climate modification as remedies.

In 1975, the National Academy of Sciences even raised the possibility that a new Ice Age may be upon us within a century—a threat that certainly could prompt the United States and the Soviet Union to try global climate modification, not as an instrument of war but as a new form of "cold war." So what is clearly needed, in addition to this treaty, is some form of international agreement on inspection, assessment and reparation guarantees for countries injured by environmental modification. Another weakness of the proposed treaty is that it prohibits only those environmental modification techniques by the military that have "widespread, long-lasting or severe effects harmful to human welfare." Would this have kept the United States from modifying weather in Vietnam? Perhaps not, for, as one Pentagon analyst said, "People in Southeast Asia are used to heavy rains." But how prolonged would rains have to be in a monsoon-belt nation to be called "long-lasting and severe?"

Indeed, what is a "hostile" act, as banned by the treaty? The Rusians are now busy reversing rivers that flow into the Arctic Ocean and creating inland seas. Experts say this action will alter world climate, but the treaty as written excludes "peaceful" environment modification from coverage.

Some lawmakers fear the treaty would even encourage potentially dangerous military research into environmental modification by helping it gain legitimacy and funds. Pell—along with Representatives Gilbert Gude (R-Md.) and Donald M. Fraser (D-Minn.)—would eliminate this risk by putting all U.S. government research into weather and climate modification, including that of the military and the Central Intelligence Agency, under control of a civilian authority answerable to Congress

Next month, the Geneva disarmament conference will resume discussions on the treaty. It is expected to consider adding a prohibition on research into weather warfare—which would meet Pell's chief objection. Without such a restriction, the proposed treaty would have only limited value.

NATIONAL SCIENCE POLICY

Mr. JAVITS. Mr. President, S. 32, the National Policy, Organization, and Priorities for Science, Engineering, and Technology Act of 1976, approved by the Senate Wednesday was reported by the Labor and Public Welfare Committee, the Committee on Commerce, and the Committee on Aeronautical and Space Sciences. A committee of conference will soon be appointed to work out the differences between our measure and H.R. 10230, the House-passed measure. With this in mind, I think it would be most helpful to review the major differences between the Senate bill and H.R. 10230.

Both measures set forth a national science policy. Both measures establish in the Executive Office of the President an office of science policy. Both measures call for a full review of the overall Federal effort in science and technology.

The Senate measure establishes in its title IV a Federal coordinating group for science, engineering, and technology. This group is envisioned as quite similar to the Federal Council for Science and Technology presently established pursuant to Executive Order 10807. The House measure has no similar provision.

Title V of S. 32 establishes an Intergovernmental Science, Engineering, and Technology Advisory Panel charged with the responsibility of "identifying and defining civilian problems at the State, regional, and local levels to whose solution or amelioration the application of science, engineering, and technology may contribute." Title V further establishes a grant program to be administered by the Director of the National Science foundation in consultation with the Intergovernmental Panel, to assist the States in establishing or strengthening State offices of science, engineering, and technology within the executive and legislative branches of their governments. The House measure has no comparable provision.

The committee on conference must examine title V in light of two factors which, in my view, are central to the appropriateness of the provision. First, is the issue whether the title V program duplicates or overlaps the intergovernmental science program presently administered by the National Science Foundation and funded for fiscal year 1976 at $3,568,400. I note that the President has requested $3,600,000 for this intergovernmental science program for fiscal year 1977. Second, the administration indicated its disapproval of the title V grant program because it places the Director of the National Science Foundation in the position of approving the organization of State science offices. I am not persuaded that these arguments are compelling as to either item but rather favor both.

Mr. President, the central purpose of this legislation is to provide the President with the best possible mechanism for receiving competent and appropriate advice on science and technology matters. It is my judgment that S. 32 will accomplish this purpose. As a result, for the first time in several years, the President of the United States will have available to him appropriate advice and expertise in the area of science and technology to assist him in making the often complex and far-reaching decisions demanded by that office.

One may legitimately ask how the status of science advice in the office of the President became so reduced as to require legislation such as this in the first place? In order to assist my colleagues and others interested in these issues, I refer at this point in the RECORD to a speech given by William T. Golden of New York City, in April 1975. This paper provides an excellent review of the rise and decline of science and technology advice for the President. It will also be of use in beginning the discourse on another important question for the near future—that of the nature and qualifications of the man to be chosen by the President as his Science Adviser.

Mr. Golden's views are, I feel, all the more noteworthy because his suggestions have come so close to the provisions embodied in H.R. 10230 and S. 32. His suggestions with respect to the qualifications necessary for the Science Adviser are thoughtful and constructive. The ultimate choice of the man to fill this position rests, of course, with the Presi-

dent. Mr. Golden's candidate is a man whose name will certainly come up in the future as the President reviews the position. It is my hope that Mr. Golden's speech, his suggestions, and his ideas, will assist others to continue a constructive and meaningful discourse over these issues.

I ask unanimous consent to include excerpts in the RECORD.

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

WHAT CAN YOU SCIENTISTS AND ENGINEERS DO FOR ME: OR, WHY SHOULD THE PRESIDENT WANT A SCIENTIFIC ADVISER?

(Lecture by William T. Golden)

The subject of science advice for the President, long an interest of mine, is once again a timely one; and it is gratifying to see, by your presence, evidence of your concern.

Let me reveal at once, first, that I believe it to be virtually self-evident that the President needs science advice and, second, that it is not nearly as obvious that he needs a Science Adviser. This will be discussed.

PRESENT SITUATION

We have seen that the Presidential science advisory apparatus was created by President Truman early in 1951 under the strong stimulus of the Korean War; that it was reinvigorated by President Eisenhower in 1957 responsive to another stimulus, the launching of Sputnik by the Russians; and that it was dissolved by President Nixon in 1973, in some measure as a consequence of the divisiveness in American society produced by the Vietnam war.

Since 1973 the Director of the National Science Foundation, Guy Stever, has also had limited responsibility for providing non-military science advice to the President. Military science and technology are completely separated. Fragmentary fission products of the PSAC and Office of Science and Technology organizations have, fortunately, been attracted to other units of the Executive Office of the President, particularly the National Security Council, and the National Science Foundation. So all is not lost. However, the influence of scientific and technological counsel on policy formation in the upper levels of government has been downgraded, diminished, and dispersed.

Unlike the situation at the Korean War and Sputnik periods, there is no strong stimulus at this time to spur the President to create a new mechanism for providing science and technology information to him and to high levels of the government. However, the mounting domestic and international problems facing the nation have served to keep the issue very much alive.

There has been growing debate and pressure from the intellectual world generally, including the political and other social scientists as well as the physical and biological scientists, to re-establish a more effective and prominent focus for science and technology in the government structure, particularly in the Executive Branch. Congress has established its own Office of Technology Assessment under the directorship of the capable and experienced Emilio Q. Daddario, who was Mr. Science in Congress during his years as a Representative from Connecticut. But, this agency is not designed to and cannot fulfill the leadership function of the Executive Branch.

Congress is aware of this, as has been evidenced by the hearings of the Teague Committee on Science and Astronautics in the House of Representatives in 1973 and 1974 (in which many distinguished individuals testified at length) and by the activity of Senator Kennedy of Massachusetts. The latter, with associates, recently introduced a bill, S. 32, which would establish a Council of Advisers on Science and Technology in the Executive Office of the President.

The Teague Committee, with its recent change of name to Committee on Science and Technology, has just introduced a complex bill of its own, H.R. 4461, which also provides for a Council of Advisers on Science and Technology and in addition would create a Department of Research and Technology Operations headed by a Secretary of cabinet rank. However, with engaging modesty the Committee proclaims that the bill has been proposed only as a basis for discussion and refinement.

A number of article sand proposals from throughtful and qualified sources have also appeared within the last year or two. I will mention the principal ones. The specialists among you are familiar with them. For the benefit of others who may wish to pursue this subject further, I have given Bill Bevan and John McKinney a brief selected reference list, which you may find useful. These papers, many of which were published in *Science*, include the recent White Paper of the American Association for the Advancement of Science, written by William D. Carey (our new Executive Officer, who succeeded Bill Bevan) with assistance from Richard A. Schribner; one by George Kistiakowsky, of Harvard, entitled "Science and Technology in Presidential Policymaking"; one by Eugene Skolnikoff, of M.I.T., and Harvey Brooks, of Harvard, entitled "Science Advice in the White House? Continuation of a Debate"; and two papers previously mentioned: the National Academy of Sciences' report of June 1974, prepared by a distinguished committee under the chairmanship of Dr. Killian, and the historical review by Detlev Bronk. Mention should also be made of the article by David Beckler in the Summer 1974 issue of *Daedalus*, entitled "The Precarious Life of Science in the White House." Derived from some twenty years of experience as Executive Officer of PSAC, his essay constitutes an essential history of the second phase of Presidential science advice, as Dr. Bronk's did of the first. And his keen analysis and sensitive insights to the realities of the top levels of government in Washington provide wise counsel to those thinking of the phase to come.

Each of these papers, except Dr. Bronk's and Dr. Beckler's, proposes a mechanism for providing an input for science and technology fact and opinion to the Presidential level. And each proposes, in one form or another, the creation of a Council on Science and Technology of three or more members, supported by staff. Further, the February 1975 issue of the Federation of American Scientists' Public Interest Report, under the heading "Unanimity in Favor of a Council on Science and Technology," cites many distinguished scientists as having supported this concept in testimony before the Teague Committee and elsewhere.

President Ford has shown some interest. A few months ago he assigned to the newly confirmed Vice President Rockefeller the task of evaluating the need and studying mechanisms for providing inputs from the voices of science and technology to the highest levels of government. It is known that Vice President Rockefeller and his staff have been proceeding thoughtfully and thoroughly.

It is well to be mindful of the differences between the present situation and those prevailing in 1951 and 1957. In the 1950's and most of the 1960's there was strong emphasis in Washington on defense aspects of science and technology. But over the past decade or so, the value judgments and aspirations of our society increasingly have stressed our peaceful needs: the standard of living; factors of the environment; pollution consciousness; responsibilities to generations yet unborn; concerns about the growth of population and the message of Malthus; food supply and food quality; energy, about which Phil Abelson spoke here recently with authority and about which all of us seem to speak daily with concern; the advancement of medicine and the provision of health care for all the people; the human needs of the developing countries, and political tensions arising from their development.

But whether we like it or not, military and defense issues remain crucial to our society and command more than half of the $21-billion research and development budget of our federal government. And arms control and disarmament progress can only be achieved with the combined thinking of the military, the physical and biological scientists, the social scientists, and the practicing politicians.

Rx

So much for background. What shall we do?

It is evident that sicence and technology are an integral part of modern life; that no government, least of all our own, can improve its people's living standards, promote domestic tranquillity, and defend its borders without encouraging the growth of science and technology. But government must do more than that. Science and technology play an important role in the operation of virtually every department of government, whether it be the Department of Defense or the Department of Agriculture, the Department of Commerce or the Energy Research and Development Administration, ERDA.

Science must be considered at these operating levels, but it must also be considered in the development of national and international policies at the highest level. This is obviously true for military policy; obviously true for disarmament policy; and equally, although perhaps not quite so obviously, true for energy policy with its international involvements, for urban affairs, and for agriculture.

And there is always the vexatious but vital year-to-year competition for funds among the several departments of government. Who shall be the arbiter of the science and technology component?

And, even more important, who shall provide intellectual guidance for long-range policy for domestic and foreign affairs, in which policies for science, technology, and related education can play so vital a role?

It may be useful, at this point, to recall the functions of the Science Advisory organization that served five Presidents from 1951 to 1973. As outlined in President Truman's letter of invitation to Dr. Buckley, these functions included being available:

"To provide independent advice on scientific matters especially as regards the objectives and interrelations of the several Federal agencies engaged in research of defense significance, including relevant foreign relations and intelligence matters."

"For transmitting the views of the scientific community of the country on research and development matters of national defense significance."

This brings us to the title of this talk and to the question: What would I do if I were President Ford? How would I utilize scientists and engineers to help me do my job better?

First, if I were President Ford, I would start by not wanting an additional person reporting to me directly. There are too many already. So I wouldn't be seeking some great scientist who would feel he should, or even had the right to, come to see me frequently to report on (and perhaps plead for) science and government. Before hearing the views of my staff and of objective outsiders, and

before considering the complex of issues involved, I would have wanted science advice but not a Science Adviser.

I would be interested in technology, because that would produce short-term results and as President, in fact, as any politician (and I use the term descriptively, not pejoratively), my focus would be on the short term: say from now to the next election. Of course, I'd also be patriotic, with a public spirit and a conscience, and I'd be aware that the long term is important too (even way out yonder beyond my next term); so I'd know that science and the next generation should not be ignored.

I would want, first, lively activity in and support of science and technology in the individual Departments of the Executive Branch. That would be the responsibility of each member of my cabinet. Then, I'd want consideration to be given to matters of technology and science (in that order) at staff levels in the Executive Office of the President. This would mean in the Office of Management and Budget, in the National Security Council, in the National Science Foundation, and in the Domestic Council; and of course in the immediate White House staff. That is, I'd want all of these close subordinates to be mindful of technology and science matters as well as of fiscal, political, economic, and other elements in their consideration of all issues coming up for ultimate Presidential decision. I would want science worked into the fabric of policy debates. I would think of technology and science as a part of my staff's work, not as a thing apart.

I would come to recognize that this integration of technology and science with national policies and programs might best be achieved by establishing a specific staff group in the Executive Office organization. This could be a revived Office of Science and Technology. Such a re-creation would, however, probably be resisted by the existing Executive Office agencies, such as the Office of Management and Budget and the National Security Council, on grounds that they are themselves capable of serving this function, particularly now that they have adopted, if not absorbed, parts of the former PSAC and OST organizations.

Next, I would be mindful that the Director of the National Science Foundation is and should be the protagonist for basic science. I would also be aware that the NSF is itself a major applicant for funds and therefore in competition with the cabinet departments. Hence, one person cannot successfully continue to serve both as Director of the National Sicence Foundation and as an impartial science adviser to the President.

Finally, therefore, in recognition of the differences of opinion regarding the adequacy of representation of the voices of technology and of science, in a manner independent of departmental rivalries, at the highest levels of the Executive Branch, I would change from my starting position and would decide to attract a senior and respected scientist or technologist to my staff. He or she would have to recognize that his responsibility runs to the President, that he should be responsive and courageous but not instrusive, and that he should select and supervise a small Office of Science and Technology staff, to give him broader coverage and credibility in fields beyond his own technical expertise.

Note that it is one exceptional individual I would seek, not a Council of three or more. With all due respect for the mass of advice to the contrary, and mindful that Councils are in vogue currently and are indeed effective for some functions, I would prefer an individual for this job. Here are some of my reasons: the single role will attract a more distinguished person than will membership in a group of three or more; one exceptional man is better than several almost-as-capable; with several, competition and temptations for mischief are implicit; the undivided responsibility of one man will carry greater prestige in dealing with other members of the White House Office and the Executive Branch generally, will facilitate access to the National Security Council and the highest levels of the military, and will promote superior performance and communication.

With this background, I now come to the prescription which I promised in the beginning. With appropriate humility, I make a modest proposal, by which I mean a proposal for a modest beginning of restoring a continuing intimate staff input to the President from the disciplines and communities of science and technology.

I would establish at this time a Presidential Office of Science and Technology (POST) to consist of a Director appointed by the President, with a staff, minuscule by Federal standards, of perhaps ten professionals selected by the Director. It would be well to include a medical doctor and one or more social scientists among the disciplines represented.

The Director would come with an established but not necessarily pre-eminent position in science or technology. Beyond his immediate discipline, he or she should be a person of broad culture, with ability to look through a telescope as well as a microscope. He would have to be practical and understand industry. It would be essential that he come with experience in and an understanding of the realities of federal government processes. He should recognize that the Pentagon is here to stay, and that head-on battles with the established bureaucracy are likely to end with a head-off administrator. He must be courageous but not foolhardy. Indeed, were he not courageous, he could not effectively serve his President. The prestige he brings with him will be enhanced by his Presidential appointment, and his usefulness and survival will depend on his wisdom.

It will be equally essential that members of his staff, qualified in other scientific disciplines, understand the workings of the federal bureaucracy and that their personal qualities be such that they will be able to work effectively with, even when they oppose, the staffs of the other Executive Office agencies.

While these qualities of personality and experience are not commonplace, neither are they excessively rare. Many scientists and engineers have by now had experience in government agencies. With the years, their numbers should increase, among other reasons because of the science fellowship programs in the federal government which, under the leadership of the AAAS and with the active participation of several professional societies, have been showing increasing vigor, particularly in the Legislative Branch. Certain of the young men and women who have served as such Congressional Science Fellows in recent years would be outstandingly well qualified for POST staff roles.

Brains without knowledge of tribal customs in the bureaucracy will surely fail; a Nobel Prize-winner who enters the Executive Office without awareness of the minefields will of a certainty strike one ere long and with a bang—or a whimper.

So I'd start with a low-profile Director and a small staff. I would thus follow the precept of Occam's Razor and the Principle of Parsimony, because the very act of re-creation will be tangible and encouraging evidence of progress; because individuals of superior ability can be attracted to a small staff since each member will have a greater responsibility; and because a small group will be able better to establish its beachhead promptly than will a large apparatus. It can prove its worth and will incur less resentment and opposition. If it does well and needs to be larger, it can be expanded.

The Presidential Office of Science ad Technology would seek (and give) cooperative assistance from time to time from established government agencies such as the National Science Foundation and would create ad hoc Commissions or Task Forces, as needed, to work on specific problems and issues. This fluid structure would take the place of the former PSAC with its relatively tenured organization. The prestige of Presidential status and the importance of the issues would attract the most able scientists and engineers, from academia and from industry and on loan from other government agencies. The fact that each project would have a beginning and an end would enhance its attractiveness. When a report is completed, the Task Force or Commission would be dissolved. The reward to its members would be a sense of accomplishment, and letters of thanks from the Director and from the President.

The Director might or might not be given the title of Science Adviser to the President (SAP!). As previously indicated, there are some arguments against. If he starts without the title, it could be added later.

However, after weighing all factors, I have come strongly to favor starting with the title of Science Adviser, or Science Counselor, to the President. His stature inside and outside the government would be enhanced by this symbol of Presidential intimacy, and he could do his job more easily and better. It would facilitate recruiting him; and he could more readily attract the staff of his choice.

As in all such matters, the selection of the person to head the agency is perhaps more important than the organizational arrangement. Nevertheless, both are important. The Director must have the requisite qualities and must also wear a uniform with sufficient stripes.

Such an organization could be established promptly by Executive Order and would not require statutory action by the Congress. However, Congressional endorsement would be advantageous on general grounds and specifically to provide operating appropriations. In any event it is important that Congress have appropriate access to the Director on occasion, as indeed in its current strength it now does to top-level Executive Branch officials generally. This is a matter of mutual respect, judgment, and forbearance.

The President himself would not have to see, indeed should not see, his Science Counselor, the Director of the Presidential Office of Science and Technology, very often. But he would be sensitive to his work and would see him from time to time if appropriate issues arose. The Director should be made a member of the Domestic Council. He might also become a member of the National Security Council, though this seems less likely, at least initially. It is, of course, essential that he have the requisite clearances, and he surely should sit with both Councils when appropriate issues are under consideration.

One would hope that a congenial rapport would develop between the President and his Science Counselor, the Director of POST; indeed this will be essential for optimal benefit. This suggests as one possibility, for example, that the President might ask Guy Stever, with whom he has become acquainted to some extent, who knows his way around Washington, and who is respected by the scientific and engineering communities, to undertake the role of Science Adviser or Science Counselor to the President and Director of the Presidential Office of Science and Technology; and to relinquish the Directorship of the National Science Foundation. The latter position is with a going organization and can more readily be filled successfully. The Presidential advisory role would be more challenging, more exciting, and more hazardous.

There you are. That's what I would do if I were President Ford.

Now, as each of you has as much right as I have to impersonate President Ford, maybe more so since some of you may know him, each of you can write a no less legitimate prescription. I hope you will do so. And in due course we'll all see what happens!

AMERICAN BANKING

Mr. JAVITS. Mr. President, the various revelations about the increased numbers of U.S. banks now receiving more than normal supervisory attention have naturally given rise to a good deal of concern for the strength of our banking system. While it is essential to examine these problems in detail and take whatever steps may be necessary to rectify faults in the banking system, it is necessary to view these problems in their proper perspective. Sometimes it is helpful to examine problems from a trans-Atlantic perspective, and no one performs this function with more consistent perception than the Economist of London.

The latest edition contains an excellent article on American banking. The article points out three mistakes that should be avoided by the critics of the banking system. First, the disclosure that up to 360 banks are being watched more closely by the regulators should be reassuring, not the reverse. As the article points out, the United States is coming out of the worst recession since the Depression, and bank problems in such circumstances are not unexpected. Second, it would be a mistake to infer that the condition of the banks is deteriorating. On the contrary, it is better than it was in the autumn of 1974. Third, too much concern for artificial rules about capital ratios might force banks into unnecessarily restrictive lending policies, with undesirable effects on the potential for economic recovery.

Mr. President, I ask unanimous consent that the article from the Economist be printed in the RECORD.

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

BASHING AT THE AMERICANS BANKS

For better or worse, and it could be mainly for the better, the unamazing revelation that banks with too many doubtful loans have been put on problem lists by American regulators is going to cause changes in the American banking system. The Congress will see to that.

It is silly to expect politicians to be apolitical. The New York financial establishment and the Washington regulatory establishment ought not to lambast Congressmen for political opportunism. Real estate that should never have been built is wasting away; and tankers nobody wants are rusting in lay-up yards (see next article). The financially numerate ought to concentrate on seeing that the would-be reformers do not get hold of the wrong end of the stick.

The first mistake of the critics is to be made nervous by the disclosure that up to 360 banks are being more carefully watched by the regulators than the others. There are 14,800 banks in the United States, and the country is emerging from its second deepest slump this century. It is reassuring—not the reverse—that the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC) and others with a duty to shepherd banks have a beady eye on banks.

The second mistake is to infer that the financial condition of banks is deteriorating. It is better than it was in the autumn of 1974, after Franklin National and US National of San Diego had failed in the United States, I.D. Herstatt in Germany. A flight of money into the safest banks and the safest monetary instruments caused a split in domestic and international money market rates. Morgan Guaranty could get relatively cheaply far more funds than it needed, while the First National Bank of Boot Hill had to pay usurious rates. To head off the possibility of a liquidity crisis, the Fed expanded the money supply.

Since then worriers have shifted their gaze from where the banks have sought their money to where they have lent it. They discern watery loans to real estate investment trusts (see page 87), European tanker owners and shipyards, Brazil (over $22 billion of foreign debt) and other poor countries without oil, and to some companies (including airlines) which may yet crash. But the third mistake of the worriers is to look too much at artificial rules about capital ratios and the like, while forgetting what the real criteria for "sound control of a banking system" should be.

The idea is that banks which lend recklessly in a speculative boom should suffer a bit in the subsequent recession, but not so much that they all become too cautious in their lending at just the wrong moment of that recession. By that criterion control of the American banking system in 1974–76 has been able and astute—especially compared with the recession of 1930–33 when bank control (ie, the orders from bank examiners that banks with unsatisfactory balance sheets must not lend more) was largely responsible for the cut by one-third in American money supply which caused the great depression.

In this recession of the 1970s the bankers have not been forced into that sort of silliness, but they are not being given too comfortable a life. Provision for loan losses among the 10 largest American banks more than doubled in 1975 to almost $1.5 billion. Banks concede they are under-capitalised—or over-committed. For too long the bank holding companies have used the same capital to support a widening range of activities and thus increase shareholders' earnings. They will have to queue up for new equity and near-equity capital, but will find difficulty in raising it until price/earnings ratios on bank shares improve. These p/es are low precisely because everyone knows the banks are short of capital.

For a while capital repair will depend on more retained earnings, or on private placements with insurance companies and pension funds. A start has been made. Marine Midland has defied the post-1930s taboo against a dividend cut by a big bank. Loss reserves are being built up. Citibank, the bank that has most influence in setting the prime lending rate, is not being challenged on price: it is successively changing its prime rate formula—most recently last week—to widen the interest spread (ie, profit-margin) between commercial paper and prime rate.

Congress may now be eager to tidy up the apparently messy bank regulatory system. A superstructure of federal regulation has developed on top of state regulation: the Comptroller of the Currency supervises nationally-chartered banks; the Fed supervises state-chartered member banks, all bank holding companies, and so-called Edge Act corporations (international banking subsidiaries of US banks); and the FDIC (which insures nearly all banks) supervises state-chartered banks that are not members of the Federal Reserve system. But, eg, the Fed, which regulates bank holding companies, does not usually regulate the bank involved. There are other anomalies. Sensible concentration on clearing these up, as well as hearings on how the bank loan officers made whoopee during the late 1960s and early 1970s, could make the banking system simpler and stronger. But not, please, too rigidly rule-book-bound by a committee of nannies.

BUSINESS HALL OF FAME

Mr. JAVITS. Mr. President, over 50 years ago, Junior Achievement, the Nation's oldest youth economic education program, was founded to teach high school students the principles of the private enterprise system by helping them establish and run their own miniature businesses. This year over 192,000 achievers are active in 7,500 Junior Achievement Companies across the country. These "miniature companies" are scaled down, but detailed operations which closely simulate the functions of a modern corporation. By performing such corporate duties as electing officers, selling stock, keeping books, and publishing an annual report, the student is provided an opportunity to create, experience, and participate in a miniature private enterprise system. To this end, I commend Junior Achievement for encouraging and cultivating the business leaders of tomorrow.

While Junior Achievement looks to the future, they have not forgotten the labors of the business leaders of yesterday and today. Last year, Junior Achievement asked the board of editors of Fortune magazine to undertake a selection of business leaders—some from the past and some from recent years. The 1975 nominees included outstanding men such as J. C. Penney, Henry Ford, and J. P. Morgan, pioneers in their respective fields, who provided direction and inspiration which encouraged the development of the free enterprise system. The 1976 inductees, presented in the current issue of Fortune, were honored at the second annual National Business Hall of Fame Awards banquet in Dallas, Tex., on January 30, 1976.

George Moore, formerly chairman of the First National City Bank of New York and one of those nominated to the Business Hall of Fame, offered some inspirational remarks on the future of the private enterprise system.

I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

NOTES FOR JUNIOR ACHIEVEMENT DINNER, DALLAS, JANUARY 30, 1976

(By George S. Moore)

I am grateful to receive this greatest honor of my life, from such a worthy organization as Junior Achievement—because I am a fair example of the truth of the goals of Junior Achievement—of your belief in the opportunities that our free enterprise society offers to every young man and woman.

I am especially grateful to my colleagues in Citicorp, and the editors of FORTUNE for their generosity in attributing to me an extravagant share of the credit for Citicorp's success in my generation; it was a team job, like everything else, except perhaps weight lifting, and most of Citicorp's home runs were scored after my retirement.

In my brief remarks, let me urge you young

people not to lose faith in our country, or its promise, despite all the flagellation we seem to enjoy inflicting on ourselves, and the criticism elsewhere reflected in the remarks of a European critic who recently said that our country is going through the life cycle of growth and great promise, and then decline, without ever reaching its peak.

Don't believe a word of this. The American dream is more true today than it ever was, and it is a better dream. We can enjoy it with a better conscience because the rewards of the American way of life now reach almost everyone in our country.

When I graduated from college 50 years ago, no one spoke of social justice, of equal rights, or of the right of underdeveloped countries and to be free and to enjoy the good life. In 1927 the good life, the free life, went to the few and the strong, and the name of the game was get going, get wealth and power, or lose.

I assure you that my generation, our country 20th century, has nothing to be ashamed of. In fact, the great Spanish sculptor, Enrique Monjo, who did a mural for the lobby of Citicorp on Park Avenue entitled "America Twentieth Century" characterized this mural on Spanish television as being the most important work of his life. He said this is true because the 20th century belongs to America. He predicted that in centuries to come, history would so acknowledge. He reminded his Spanish listeners that the USA had entered late and won two world wars against totalitarianism which Europe was losing, and had then paid for most of the cost of reconstruction with the Marshall plan. He said that America had stopped and discredited communism as a social and economic system. He said that America has also provided the financial and commercial, and technological capability and impetus for the vast improvement in the economic well being of the masses of today's world in this century.

To the extent that many countries have not yet achieved this well being, much of the blame goes to leaders who have not yet learned how to use these capabilities wisely to meet these goals.

Junior Achievement recognizes the contribution of private initiative and enterprise, and of the much maligned multinationals, to the betterment of our world in this century. It recognizes that business has been in the forefront leading the remarkable economic and social progress we have had. Business has brought capital, and know-how, and enterprise to the far corners of the world, and provided jobs and markets. It has helped the developing world to use its resources, material and human, and has provided the leadership to develop them.

The need for this leadership and help, which only the multinationals can give is greater today than ever before. It is not popular or easy for nationalistic governments to admit this or to act wisely enough to attract and keep this needed capital and know-how. The breakdown in morality, in dealing with foreign investors, is probably the greatest deterrent today to needed recovery in investment and growth around the world. Ironically, the countries who need this help most are often those who treat investors worse and encourage them least.

The media of today have convinced many Americans that many leaders in government and business and finance are corrupt, and that our free competitive system is not functioning properly.

We know this is not so. And I can assure you that the moral and ethical standards of business are higher in the USA today than ever before in our history, and higher than anywhere else in the world. There are rotten apples in any basket, but this generalization is true.

Junior Achievement has done America a great service in believing in the American dream and in the contribution of American business to this dream. Without business it would be an impossible dream.

Thank you again for honoring me.

NEED FOR FUNDING FOR HYPERTENSION PROGRAMS

Mr. JAVITS. Mr. President, I authored the provision in law (Public Law 94–63) which provides funding authority for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension.

While I urged adequate appropriations to launch a national commitment to attack hypertension, no funds were provided in the House passed Labor/HEW appropriation bill (H.R. 8069). To the great credit of Senator MAGNUSON, chairman of the Labor/HEW Appropriations Subcommittee, the Senate passed bill did provide funds to implement this vital program. And, under his leadership the House/Senate conference appropriated $3,750,000 for hypertension programs under Public Law 94–63.

While the President vetoed the Labor/HEW appropriation bill, the vote to override the veto—which I supported—was successful.

Now the President has transmitted a message proposing the recission of $103,159,000 in the fiscal year 1976 budget authority for health services programs—including a recission of $3,750,000 for hypertension programs.

I believe that in view of the extensive evidence submitted during the past year to encourage the development of prevention and treatment programs for persons suffering from hypertension, these funds are vital if we are to launch a successful comprehensive effort to treat all who are in need of medical attention for hypertension. The Assistant Secretary for Health, Dr. Theodore Cooper, has estimated that through such an effort "200,000 lives a year could be saved."

A recent article in the Medical Tribune entitled "Study Shows Hypertension No Longer a 'Silent Epidemic'" points out that Dr. Robert Levy, Director of NIH's National Heart and Lung Institute has found that—

More than 9 million of the nation's estimated 23 million adult hypertensives—while aware of having the disorder—are receiving no treatment whatsoever or not enough.

I commend the article to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

STUDY SHOWS HYPERTENSION NO LONGER A "SILENT EPIDEMIC"

BETHESDA, MD.—Hypertension no longer deserves the designation of a "silent epidemic," according to data suggesting that both patients and physicians have become more aware of the disorder and its dangers since the advent of the National High Blood Pressure Education Program in 1972.

The data—based on the National Disease and Therapeutic Index—show that the number of patients making their first visit to a doctor for the specific purpose of getting a blood pressure reading has increased 38% since the government-sponsored program began and that total patient visits for hypertension or hypertensive heart disease have jumped more than 40% in the same period of time.

SIX MILLION UNAWARE

This, Dr. Robert Levy told a news conference at the National Heart and Lung Institute, indicates greater awareness of hypertension as a reason for seeing a doctor than all other causes combined.

Dr. Levy, Director of the NHLI, also reported the results of a 14-community study—thought to be representative of the nation as a whole—made in 1973–74. If indeed the survey is representative, he said, only 29% of the 23 million adult Americans thought to have hypertension are now unaware of it, compared with the 49% found by surveys in the early 1960s and in 1971.

Dr. Levy was quick to point out, however, that an estimated 6 million citizens still are hypertensive without knowing it and that the problem appears to be more prevalent among males than among females, particularly in the black community. By contrast, he said, 80% of women, regardless of race, apparently have their blood pressure regularly checked.

Turning from detection to therapy, Dr. Levy reported that the number of patients receiving sufficient treatment to keep their blood pressure within normal limits has almost doubled since 1971. But, he said, more than 9 million of the nation's estimated 23 million adult hypertensives—while aware of having the disorder—are receiving either no treatment whatsoever or not enough.

In these categories, he said, are both those who choose to ignore the problem because the risks of renal, cardiovascular or cerebrovascular complications seem remote and those who discontinue their medication once they begin to feel better in the mistaken belief that the danger has passed. Still others—having experienced side effects from the drugs—want no further part of a regimen that makes them feel worse than they did before, he explained.

In this connection, Dr. Levy and members of the High Blood Pressure Coordinating Group who were present endorsed the concept of "therapeutic alliances between patients and their physicians to help patients help themselves." Of particular importance, they said, are:

Adequate explanations for dietary instructions such as the need to restrict salt intake and lose weight;

Prompt attention to side-effects such as gout whose expression is often prompted by thiazide diuretics;

A willingness to try substituting other drugs in the hypertension armamentarium when those first prescribed—for whatever reason—prove less than ideal;

Ongoing efforts to impress on patients that hypertension is a chronic disorder requiring life-long therapy and that, for each 10 points of increase of diastolic pressure over normal limits there is a concomitant increase of risk.

Equal emphasis on the fact that adequate control of hypertension can add as much as 18 years to life expectancy.

More than 150 lay and professional organizations—such as the American Medical Association, the National Medical Association, the American Hospital Association, the American Osteopathic Association, the American College of Cardiology and the American Heart Association—participate in this outreach and educational program which is coordinated by the NHLI.

The program's future plans include educational efforts directed at high school students and a detailed cost-benefit analysis of hypertension control to refine the planning process in the years ahead.

THE NATION'S BANKS

Mr. JAVITS. Mr. President, there has been a good deal of publicity recently about the problems of our Nation's banks and the ability of our Government supervisory agencies to deal with them. The publicity touches on some very sensitive issues. Reading through letters from my constituents, I am struck by the alarm with which they view any news which casts aspersions on our Nation's banking system. The issues which they regard as important are basically two: The adequacy of our bank regulatory agencies; and, the extent to which the public should know about the kinds of loans which a bank has outstanding.

As to the adequacy of our bank regulatory agencies I am heartened to see that the appropriate committees in both the House and Senate are actively looking into the problem. I welcome the initiative which seems to be taking place in the Congress to take a fresh look at our whole bank regulatory structure.

With regard to the second issue, specifically, I refer to the issue of so-called classified loans, which has become a point of contention since the existence of such loans may reflect on the financial condition of the bank. According to some, the public has a right to know about the financial condition of such banks and in particular of the amounts of types of classified loans.

This issue is very clearly explained in a recent article in the New York Times by Walter B. Wriston, the chairman of one of our Nation's largest banks. Mr. Wriston gives a banker's opinion, but he introduces arguments into the debate over the responsibility of banks and bank regulatory agencies which I believe should be heard. For example, he notes quite correctly that not all classified loans represent a significant impairment of the bank's own finances; a headache, for example, is not the same as a case of leukemia. He also makes the vary valid point that if banks simply made loans on the basis of highest credit risk, the circle of credit extended by banks would contract until it included only AAA securities and would drop down our economy.

I commend this article by Mr. Wriston to my colleagues and ask unanimous consent that it be inserted in the RECORD at this point.

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

ON CLASSIFIED LOANS

(By Walter B. Wriston)

Like all other industries, banking is a business. It moves money from where it is available to where it is needed and provides whatever services are required to get it there. The banking business also has a larger responsibility and that is to assure the functioning of our economy when other markets falter.

In the discharge of this national obligation, banks can and do take calculated risks. They provide credit to individuals temporarily fallen upon hard times and to businesses pinched between inflation and recession.

Like all human institutions, the banking system is always subject to improvement. Throughout the first recession in 40 years, however, the system has performed its function and emerged strong and viable.

The current journalistic voyeurism regarding "classified loans" deserves comment. This attack does very little to improve the general state of our country and, more important, does nothing to encourage the banking system to continue to supply the credit needed by business and governments to keep people at work.

The current buzzword, "classified loan," has been floated about as if it were some kind of Typhoid Mary. Classifying loans as to their relative health has been part of the management and regulatory process of the banking system for many years. It is nothing more or less than a diagnostic tool used to help determine future action. An individual gets a cold and takes an aspirin. The second step can be the prescription of antibiotics. The third step is hospitalization. And the final remedy may be intensive care or radical surgery where the outcome could go either way. Just as there are all gradations of illness there are also all shades of management and regulatory opinion about individual loans.

What front-page sensationalism forgets is that one man's classified loan is another man's hope for the future.

The fact is that Citibank's experience since 1812, as well as the experience of banks generally, prove conclusively that the overwhelming percentage of those hopes are realized as long as companies and individuals are permitted to work out their problems consistent with the American tradition of the right to privacy.

Over the years there have been dozens of industries supplying millions of jobs that have been nursed back to health by the banking system.

It was not very long ago that the pundits of the press were administering the last rites to the utility industry. The problems of that industry were compounded by the petroleum crisis that forced up costs, the slowness of regulators to permit the pass-through of these costs to the consumer, and the skepticism of the capital markets in receiving new utility offerings.

In this situation, the banks stepped up to their responsibilities. Our management process at Citibank revealed that the percent of loans classified to the utility business soared as did the amounts outstanding, but it also revealed we have not lost one dollar from meeting our obligations to this important sector of our economy. The lights kept burning across this land and people kept their jobs.

After the management and regulating process has delineated the aspirin loans and the temporary hospitalization loans, we get down to the classification of loans that are and should be treated as uncollectable and eliminated from the bank's balance sheet by a charge against earnings.

There are no secrets here. These loan write-offs are reported in great detail by all banks. As a matter of prudence, these write-offs are taken immediately, but Citibank's experience is that about $40 is eventually recovered for every $100 written off.

In short, the process of loan classification is a specialized diagnostic tool used by the banks and regulators alike. The raw data of loan classification shed no more light than a summary of Merck's Manual of Diagnosis and Therapy.

One of the side effects of this sensationalism is to promote innuendos that somewhere there is a vast body of secret information that is withheld from the Congress and the public, the revelation of which would serve some public purpose. Yet there is probably more information available about banking than anybody knows what to do with. The banking system reports in one way or another to the Federal Reserve Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the state bank examiners, the Securities and Exchange Commission, the Federal Trade Commission, the Federal Communications Commission, the Equal Employment Opportunity Commission and to numerous other state and Federal agencies.

The obligation of the banking system is to continue to supply the credit and service that are needed in good times and in bad to produce the jobs our country needs. If a bank had no classified loans, it would not be doing its job, because the circle of credit would contract until it included only the Triple A names of the world. The medium and small businesses or any industry, large or small, temporarily beset would grind to a halt. New businesses would never get off the ground. People who are denied credit because their loan might be classified and that classification might appear on the front page would be understandably irate and their unemployed workers even more so.

Representative Wright Patman, interviewed in the spring 1971 issue of The Bankers Magazine, said: "I criticized the banks one year when they had no losses at all. I said they were not doing their duty. If they are carrying out the private enterprise system, they'd have some losses. They can't be perfect on everything." Mr. Patman has said it all. Banking, like any industry, takes risks in performing its function. As long as those risks are kept within its risk-taking capability, banking is validating its charter in helping make the economy operate. By every measure the system can be proud of its record.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the unfinished business, S. 2662, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2662) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

The ACTING PRESIDENT pro tempore. The pending question is the amendment of the Senator from California (Mr. CRANSTON).

The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, it is our hope that during the day some of the amendments that Senators have in mind could be called up, and that we could dispose of as many of them as possible. I recognize the situation which prevails in the Senate, the concern that some of my colleagues have over what they would call any rapid action on this bill. Let me say with equal candor that this bill has been aired, ventilated, refurbished, rehabilitated, and rewritten about four times.

I do not think there has been a piece of legislation that has come to this body that has had more consultation given to it, more attention paid to it by witnesses, by committee members, by professional staff, or by the Department of Defense and the Department of State, than this particular piece of legislation. It is incredible to me that there has to

be delay in this matter, particularly when it is no surprise piece of legislation. It has been written about in the press, copies of the bill have been available; as I have said, I think there have been three drafts of the bill, simply because different Senators have come to us and asked for consideration of proposals and amendments, because the administration wanted to have modifications. I am pleased to observe that while there seems to be opposition to the bill here in the Senate, I do not think it is substantial. I think we have the votes for passage of this bill, but it is questionable whether or not we have the time between now and this evening to complete action.

Here is a bill that has basic administration support, after 2 months of work and negotiation. Here is a bill that was reported out of the committee with but one dissenting vote, and I believe that even that one dissenting vote recognizes that this is legislation that is probably considerably better than anything we have had in the past.

But, Mr. President, having been in this body now a longtime—this is my 22d year—I can count, and I know also the ability to engage in extended debate, and the parliamentary maneuvers which are possible, the rollcalls which can be asked for, the quorum calls which can be sought——

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

Mr. HUMPHREY. And the motions that can be made. I now yield to my delightful friend from Texas, who is a master in everything I have talked about, a superb strategist and a tactician second to none, as well as a very dedicated and concerned U.S. Senator. At no time have I ever questioned his motives; I have only admired his ability.

Mr. TOWER. Mr. President, I would simply say that the Senator from Texas is deeply wounded if the Senator from Minnesota would suggest that he would resort to any of the dilatory tactics that were mentioned.

Mr. HUMPHREY. Mr. President, I did not call them dilatory. I said they were fairly within the province of any Senator. They are provided for by the Rules of the U.S. Senate, and I would say that second to the Bible, nothing commands my deeper respect than do the rules of this body.

Mr. TOWER. I sometimes suspect that some Senators pay more attention to the rules of this body than they do to the Bible, which is an unfortunate circumstance.

Mr. HUMPHREY. And I would say that in some cases both are ignored, which is the most unfortunate.

Mr. TOWER. Let me say to the Senator from Minnesota that there are some concerns I think the numbers the Senators from Minnesota speaks of that are available to pass the bill would probably be even greater if we could have a little time and Senators would have an opportunity to vent their concerns and at least talk about them, if not get favorable action on amendments they propose, so that legislative history can be made.

There is no question in my mind but that this bill will pass, and by a substantial margin; but there are some of us who would like to have a crack at it through the amending process. If we fail, we will fail, and take our licking in good grace. But it would occur to me that conventional wisdom would dictate that we put it over until after the recess and get an agreed time on it which is sustainable, and everyone will go home happy.

Mr. HUMPHREY. I understand that last evening the staff of the Armed Service Committee, in cooperation with the staff of the Committee on Foreign Relations, did work out some amendments which appear to be reasonable and acceptable.

Mr. TOWER. The staff did work into the night. I have not had a chance to consult with some of the staff members involved, but they did work into the night and they have been working this morning. The extent to which they have arrived at conclusions or come up with amendments I cannot say at the moment, but we should know that within the next few minutes or an hour or so, and we can see what can possibly be disposed of now.

I am certainly willing to dispose of amendments everyone agrees to by voice vote. There may be some that will be controversial. I am certain there will be some that will be controversial, and those should probably be disposed of after the recess.

I might point out that we have a high rate of absenteeism today, for one reason or another.

Mr. HUMPHREY. It is the weather.

Mr. TOWER. Yes; they cannot get here, because of slick streets, and I think in their interests it would be wise to put it over on their account.

Mr. HUMPHREY. Mr. President, I respectfully suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. 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.

PRIVILEGE OF THE FLOOR

Mr. PASTORE. Mr. President, I ask unanimous consent that during the debate on S. 22, the copyright bill, Mr. Joseph Fogarty and Mr. James Graf, staff members of the Communications Subcommittee of the Committee on Commerce, be granted the privilege of the floor.

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

Mr. PASTORE. I thank the Chair. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. 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.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2662) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. HUMPHREY. Mr. President, I wish to introduce into the RECORD certain material that will be helpful in clarifying certain features of the bill before us, S. 2662.

In the interest of clarifying the committee's intent in regard to section 514 of S. 2662 having to do with stockpiles, I ask unanimous consent that a statement that I have prepared be printed in the RECORD.

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

STATEMENT BY MR. HUMPHREY

Subsection (c) of the amended section 514 of the Foreign Assistance Act of 1961, dealing with stockpiles of defense articles for foreign countries, provides that no such stockpiles may be located outside the boundaries of a United States military base or a military base used primarily by the United States—except for stockpiles located in NATO countries. This prospective prohibition is not intended by the Committee to require the disestablishment of any stockpiles now in existence which are located outside of United States military bases. This interpretation is predicated upon the assurance received from the Department of Defense that the only such existing off-base stockpiles are located in Korea. Future Administration proposals to add to these off-base stockpiles in Korea, or to establish new on-base stockpiles or additions to on-base stockpiles in any non-NATO country, would be reviewed by the Congress in the security assistance authorizing legislation for each fiscal year in determining the annual ceiling, if any, for stockpiles located in foreign countries.

Mr. HUMPHREY. I also ask unanimous consent that a compilation of statistics relating to foreign military sales, "25 companies and their subsidiaries listed according to net value of military prime contracts for fiscal year 1975," be printed in the RECORD.

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

FOREIGN MILITARY SALES, 25 COMPANIES AND THEIR SUBSIDIARIES LISTED ACCORDING TO NET VALUE OF MILITARY PRIME CONTRACT AWARDS FISCAL YEAR 1975

Rank	Companies	Amount (thousands)	Percent of FMS Total
	Foreign military sales total	$3,657,095	100.00
	Total, 25 companies and their subsidiaries	3,128,244	85.54
1.	McDonnell Douglas Corp	418,966	11.46
2.	Grumman Corp	3,112	
	Grumman Aerospace Corp	294,772	
	Total	297,884	8.15
3.	Northrop Corp	288,869	
	Northrop Worldwide Aircraft Services, Inc	4,285	
	Warnecke Electron Tubes, Inc	212	
	Total	293,366	8.02
4.	Textron, Inc	248,561	6.80
5.	General Electric Co	208,609	5.70

Rank Companies	Amount (thousands)	Percent of FMS Total
6. United Technologies Corp	191,407	
Pratt & Whitney Aircraft of West Virginia, Inc	354	
Total	191,761	5.24
7. Raytheon Co	163,936	
Raytheon Educational Systems Co	7,831	
Raytheon Service Co	22	
Total	171,789	4.70
8. Lockhead Aircraft Corp	111,236	
Lockheed Electronics Co., Inc.	1,079	
Lockheed Missiles & Space Co., Inc	59,387	
Total	171,702	4.70
9. Hughes Aircraft Co	156,453	4.28
10. Boeing Co	129,134	3.53
11. American Motors Corp: AM General Corp	105,648	
Total	105,648	2.89
12. LTV Corp: LTV Aerospace Corp	89,812	
Total	89,812	2.46
13. General Motors Corp	88,767	2.43
14. Vinnell Corp	78,964	2.16
15. General Dynamics Corp	73,072	
Stromberg Carlson Corp	64	
Total	73,136	2.00
6. FMC Corp	69,039	1.89
17. Ford Motor Co	561	
Aeronutronic Ford Corp	58,731	
Total	59,292	1.62
18. Rockwell International Corp	50,163	1.37
19. Hercules, Inc	41,238	1.13
20. Martin Marietta Corp	19,765	
Martin Marietta Aluminum Sales, Inc	16,339	
Total	36,104	.99
21. Harsco Corp	33,139	.91
22. Clabir Corp.: Flinchbaugh Products, Inc	32,363	
Total	32,363	.88
23. Ex-Cell-O Corp.: Cadillac Gage Co	31,455	
Total	31,455	.86
24. Litton Industries, Inc	2,777	
Litton Systems, Inc	24,048	
Total	26,825	.73
25. Norris Industries, Inc	24,074	.66

Mr. HUMPHREY. Mr. President, since filing the committee report, we have noted a few inaccuracies and oversights in the section-by-section analysis of section 111 of the committee bill, the human rights provisions. This analysis, of course, is provided in the report on the bill.

In order to provide a better description of the provisions in section 111, Mr. President, I ask unanimous consent that there be printed in the RECORD a revised section-by-section analysis of section 111, which replaces description as it appears on pages 29 through 31 of the committee report, with changes made indicated by italic type.

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

REVISED SECTION-BY-SECTION ANALYSIS

SECTION 111. HUMAN RIGHTS

This section revises Section 502B of the Foreign Assistance Act. The Committee feels strongly that human rights considerations should be a key factor in determining both the recipients and levels of security assistance. While the Committee recognizes that the United States has other national interests that are served by such assistance, it believes that where *the* proposed recipient is a gross violator of human rights, the burden of proof is on those who wish to provide the assistance, not those who want to terminate it.

Subsection (a)(1) states that it is the policy of the United States that security assistance not be provided to any country the government of which engages in a consistent pattern of gross violations of human rights (*such as those enumerated in subsection (a)(3)*), except in accordance with provisions *set forth* in this section. Subsection (a)(2) specifies that a principal goal of U.S. foreign policy shall be to promote the increased observance of internationally recognized human rights. In furtherance of this policy subsection (a) (3) directs the President to formulate and conduct international security assistance programs so as to accomplish that objective. This subsection also directs that such programs be conducted in a manner which does not identify the U.S. Government with gross violations of human rights, including those enumerated in this subsection.

The new subsection (b) requires that the Director of the Office of Human Rights in the Department of State (a new position created by *amendments made in* subsection (b)(1) of section *111 of the bill*) transmit a full report on the human rights practices of each proposed recipient of security assistance as part of the Congressional presentation materials each year. The Director shall take into account findings of international and regional organizations, and the extent of cooperation given such organizations in their investigations, in preparing the report.

The first such report shall be submitted in conjunction with the fiscal year 1977 security assistance request or, in the event such requests are submitted prior to the enactment of this legislation, promptly following its enactment.

Subsection (c)(1) requires that the *Director of the Office of Human Rights*, upon request of the Senate or House of Representatives, or of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House, transmit a statement within thirty days after receipt of such request setting forth:

A detailed description of the human rights practices of the recipient

The steps taken by the United States (1) to discourage practices inimical to human rights and (2) to call attention to and to disassociate any assistance provided from such practices.

Whether, notwithstanding such practices, *the Secretary of State is of the opinion that exceptional circumstances require the continuation of assistance and a description of those circumstances and the extent of such continued assistance.*

Paragraph (2) provides that a resolution to request a *statement* under *paragraph* (1) shall be considered in accordance with the expedited procedures outlined in Section 301 (b) of the bill.

Paragraph (3) states that if a *statement* requested pursuant to *paragraph* (1) is not transmitted within thirty days of this request, no security assistance shall be delivered to that country *except as Congress provides otherwise specifically as to that country or unless and until the statement requested has been submitted.*

Paragraph (4) provides that Congress would have thirty days of continuous session, as defined in Section 301(b)(1) of the bill, after receipt of a requested *statement* to terminate or restrict the provision of assistance to such country by concurrent resolution. Restrictions short of termination may be directed against particular kinds of assistance and may also limit the amount of financial support provided by the United States to such country. Any such resolution shall be considered in accordance with the provisions of Section 301 *of the bill.*

Subsection (b)(1) of section 111 of the bill amends *section 624 of the Foreign Assistance Act to establish* in the State Department an Office of Human Rights, the Director to be appointed by the President and subject to Senate confirmation.

Subsection (b)(2) outlines the responsibilities of the Director—continuous review of all foreign assistance programs for the purpose of:

Gathering detailed information on the observance of human rights by each recipient of security assistance; preparing the annual presentation to Congress required by Subsection (b) and *statements* requested under Subsection (c).

Determining whether such assistance is being furnished in compliance with this section and Section 116 of the Foreign Assistance Act.

Making recommendations to the President, the Secretary of State, and the Administrator for the correction of any deficiencies in compliance.

The committee anticipates that in exercising its role with respect to the administration of section 116 of the Foreign Assistance Act of 1961 the Director will concentrate his attention on the gathering of information and the identification of repressive practices. Program design responsibility remains the province of the Administrator who is charged under section 116 with insuring that aid reaches needy people and reporting to the Congress in the manner described in section 116(b).

Subsection (b)(3) provides that prior to the establishment of the Office of Human Rights, any report or statement required by this section shall be submitted by the Secretary of State.

Mr. HUMPHREY. 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. MANSFIELD. 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.

UNANIMOUS-CONSENT AGREEMENT—S. 2662

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request.

I ask unanimous consent that there be a time limitation of 1 hour on all amendments to the pending bill, one-half hour on amendments to amendments, motions, and appeals, 6 hours on the bill, and that the vote on final passage occur not later than 5 p.m. Wednesday afternoon, February 18, under the usual rules.

Mr. HUMPHREY. With no nongermane amendments, do I understand?

The ACTING PRESIDENT pro tempore. That is the usual rule.

Mr. HUMPHREY. Mr. President, will the distinguished leader yield?

Mr. MANSFIELD. Yes.

Mr. HUMPHREY. That is that we come in on Tuesday at 11 a.m.

Mr. MANSFIELD. To start in on the bill.

Mr. HUMPHREY. On the bill.

Mr. MANSFIELD. On Tuesday.

Mr HUMPHREY. At 11 a.m.

Mr. MANSFIELD. May I point out to the Senate that though Washington's

Birthday will be observed, by the distinguished Senator from Indiana giving the Farewell Address, in accord with the usual custom of the Senate, immediately upon the completion of that address we will then turn to what is now the pending business.

Mr. HUMPHREY. Mr. President, let me clarify this because I am manager of the bill. The Joint Economic Committee has field hearings in Boston on Monday, and we scheduled them on the basis of Washington's Birthday, feeling we could be away.

Might I suggest, if I may most respectfully, that we start the discussion of this bill on Tuesday. We could do it even earlier than 11 a.m., as far as I am concerned, and proceed with the discussion of the bill, let us say, I say to the majority leader, at 10 a.m. on Tuesday, which could give us more time.

Mr. MANSFIELD. Fine.

Mr. HUMPHREY. And the time that the leader has outlined would be evenly divided, that is, an hour on each amendment, evenly divided, and a half hour on all motions and amendments thereto evenly divided.

Mr. MANSFIELD. Yes; between the sponsors of the amendment and the manager of the bill.

Mr. HUMPHREY. And the 6 hours on the bill that I could have will be available to parcel out if we need it for additional——

Mr. MANSFIELD. That will be under the control of the manager of the bill and the minority leader or whomever he may designate.

Mr. HUMPHREY. With that, I am fully in agreement, and I believe the Senator from Texas has indicated his agreement.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, in the usual form nongermane amendments will not be acceptable, but germane amendment may be offered at any time; is that correct?

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

Mr. STENNIS. Mr. President, will the Senator yield me 1 minute?

Mr. MANSFIELD. I yield.

Mr. STENNIS. I especially commend the Senator from Minnesota, the Senator from Texas, and, of course, our distinguished majority leader for having worked out an agreement on this very matter.

Our Committee on Armed Services was involved, and the Senator from Minnesota was very kind and timely to come down there yesterday afternoon and give us the benefit of his thoughts on this matter. It was a fine demonstration where men are trying to work together and get an agreement and move a matter along. I especially agree.

Mr. HUMPHREY. I wish to say in behalf of the chairman of the Committee on Armed Services, so the record may be clear, I have had consultations with the chairman all along the way, and he has been very cooperative. I wish the Senate to know that. He has come to me in reference to this bill, and I have gone to him, so we could talk about it, and he assigned members of the committee to work with us. We now have been working with the staff of the Committee on Armed Services.

I have not the slightest doubt we will be able to process a good piece of legislation and get it behind us and make a distinct contribution to the law as relating to arms sales.

Mr. TOWER. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. TOWER. I understand it is the intention of the Senator from Montana to set aside the pending business until Tuesday morning, February 17, at 10 a.m.

Mr. MANSFIELD. That is correct.

Mr. President, I make that a part of the unanimous-consent request.

The PRESIDING OFFICER (Mr. BURDICK). Is there objection?

Mr. MANSFIELD. I ask unanimous consent.

Mr. HUMPHREY. Did we get that unanimous consent?

Mr. MANSFIELD. This other was agreed to.

Mr. HUMPHREY. Has the consent agreement been agreed to?

The PRESIDING OFFICER. Yes; without objection, it is agreed to.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Tuesday, February 17, 1976, at the hour of 10 a.m., the Senate resume consideration of S. 2662 (Order No. 579), a bill to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes, with debate on any amendment in the first degree to be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and with debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate to be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 6 hours, to be equally divided and controlled, respectively, by the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Pennsylvania (Mr. SCOTT), or his designee: *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, appeal, or point of order.

Ordered further, That the vote on final passage of the bill occur no later than 5 p.m. on Wednesday, February 18, 1976.

ORDER TO LAY ASIDE S. 2662 UNTIL 10 A.M., FEBRUARY 17, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, to be taken up next at the hour of 10 a.m. on Tuesday, February 17.

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

THE COPYRIGHT LAW REVISION OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 460, S. 22, which will be the pending business for the rest of the day, though I do not think much in the way of activity vis-a-vis votes can be expected, but it will also be the pending business when we return on Monday, February 16.

Mr. STENNIS. Mr. President, will the Senator yield to me for an inquiry?

Mr. MANSFIELD. I yield.

Mr. STENNIS. Has the Senator from Montana taken up the executive calendar this morning?

Mr. MANSFIELD. It has not been printed yet.

Mr. STENNIS. The Senator expects to do so?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 22) for the general revision of the Copyright Law, title 17, of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights", is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are his immediate offspring, whether legitimate or not, and any children legally adopted by him.

A "collective work" is a work, such as a periodical issue, anthology, or encylopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner," with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, work consisting of editorial versions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work."

A "device," "machine," or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The term "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, or film, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "Phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, plans, diagrams, and models.

A "pseudonymous work" is a work on the copies or phonorecords of which, the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public peformance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered;

(2) to transmit or otherwise communicate a performance or display of the works to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States," when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article."

The author's "widow" or "widower" is the author's surviving spouse under the law of his domicile at the time of his death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of his official duties.

A "work made for hire" is:

(1) a work prepared by an employee within the scope of his employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, as a photographic or other portrait of one or more persons, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes. An "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works;

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, plan, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) UNPUBLISHED WORKS.—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) PUBLISHED WORKS.—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention of 1952; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, he may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 117, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures and other audiovisuals works, to perform the copyrighted work publicly;

(5) in the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or distribute such copy or phonorecord, under the conditions specified by this section, if:

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) The collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) The reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy of phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if:

(1) The copy becomes the property of the user, and the library or archives has had no notice that the copy would be used for any purpose other than private study, scholarship, or research; and

(2) The library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds fair use as provided by section 107;

(3) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections;

(4) shall be construed to limit the reproduction and distribution of a limited number of copies and excerpts by a library or archives of an audiovisual news program subject to clauses (1), (2), and (3) of subsection (a).

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee:

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d).

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c).

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by him, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if:

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for:

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if:

(A) there is no direct or indirect admission charge, or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of his objections to the performance under the following conditions:

(i) The notice shall be in writing and signed by the copyright owner or his duly authorized agent; and

(ii) The notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for his objections; and

(iii) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless:

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work in the course of an annual agricultural or horticultural fair or exhibition conducted by a governmental body or a nonprofit agricultural or horticultural organization;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work and the performance is not transmitted beyond the place where the establishment is allocated;

(8) performance of a literary work in the course of a broadcast service specifically designed for broadcast on noncommercial educational radio and television stations to a print or aural handicapped audience.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if:

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmission; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Except as provided in subsection (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by section 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public, Provided, however, That such secondary transmission is not actionable as an act of infringement if the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission.

(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Subject to the provisions of clause (2) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) in the following cases:

(A) Where the signals comprising the primary transmission are exclusively aural and the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the community of the cable system is in whole or in part within the local service area of the primary transmitter; or

(C) Where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission and embodying a performance or display of a work is actionable as an act of of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, in the following cases:

(A) Where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations or authorizations of the Federal Communications Commission; or

(B) Where the cable system, at least one month before the date of the secondary transmission, has not recorded the notice specified by subsection (d).

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall at least one month before the date of the second transmission or within 30 days after the enactment of this Act, whichever date is later, record in Copyright Office, a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it together with the name and location of the primary transmitter, or primary transmitters, and thereafter, from time to time, such further information as the Register of Copyrights shall prescribe by regulation to carry out the purposes of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, during the months of January, April, July, and October, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) A statement of account, covering the

three months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmission were further transmitted by the cable system, the total number of subscribers to the cable system, and the gross amounts paid to the cable system irrespective of source and separate statements of the gross revenues paid to the cable system for advertising, leased channels, and cable-casting for which a per-program or per-channel charge is made and by subscribers for the basic service of providing secondary transmissions of primary broadcast transmitters; and

(B) A total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) ½ percent of any gross receipts up to $40,000;

(ii) 1 percent of any gross receipts totalling more than $40,000 but not more than $80,000;

(iii) 1½ percent of any gross receipts totalling more than $80,000, but not more than $120,000;

(iv) 2 percent of any gross receipts totalling more than $120,000, but not more than $160,000; and

(v) 2½ percent of any gross receipts totalling more than $160,000.

(3) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions made during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, Title 15 U.S.C. section 12, and any amendments of such laws), for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the statement of account or the distribution of royalty fees. If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If he finds the existence of a controversy he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(C) During the pendency of any proceeding under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) DEFINITIONS.—

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in a television market in Hawaii of a primary transmission shall be deemed to be a secondary transmission if such further transmission is necessary to enable the cable system to carry the full complement of signals allowed it under the rules and regulations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory or Possession that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2)(B), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter" comprises the area in which a television broadcast station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules and regulations of the Federal Communications Commission.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord for each transmitting organization specified in clause (2) of this subsection of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of clauses (1) and (2) of this subsection, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(1) This title does not afford, to the owner of a copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 of the common law of statutes of a State, in effect on December 31, 1976, as held applicable and construed by a court in an action brought under this title.

(2) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of title II of this Act.

(c) Protection under this title of a work in which copyright subsists shall terminate with respect to its utilization in useful articles whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of title II of this Act. Unless and until the copyright proprietor has obtained such registration, the copyright pictorial, graphic, or sculptural work shall continue in all respect to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of title II of this Act, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2) and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive rights of the owner of copyright in a sound recording to reproduce it under section 106(1) is limited to the right to duplicate the sound recording in the form of phonorecords that directly or indirectly recapture the actual sounds fixed in the recording. This right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) AVAILABILITY AND SCOPE OF COMPULSORY LICENSE.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the duplication of a sound recording made by another, unless he has first obtained the consent of the owner of that sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) NATURE OF INTENTION TO OBTAIN COMPULSORY LICENSE; DESIGNATION OF OWNER OF PERFORMANCE RIGHT.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of his intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served on him, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyright shall prescribe by regulation.

(2) If the copyright owner so requests in writing not later than ten days after service or filing of the notice required by clause (1), the person exercising the compulsory license shall designate, on a label or container accompanying each phonorecord of the work distributed by him, and in the form and manner that the Register of Copyrights shall prescribe by regulation, the name of the copyright owner or his agent to whom royalties for public performance of the work are to be paid.

(3) Failure to serve or file the notice required by clause (1), or to designate the name of the owner or agent as required by clause (2), forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

(c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords manufactured and distributed after he is so identified but he is not entitled to recover for any phonorecords previously manufactured and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord manufactured and distributed in accordance with the license. With respect to each work embodied in the phonorecord, the royalty shall be either two and one half cents, or one half cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be accompanied by a detailed statement of account, which shall be certified by a Certified Public Accountant and comply in form, content, and manner of certification with requirements that the Register of Copyrights shall prescribe by regulation.

(4) If the copyright owner does not receive the monthly payment and statement of account when due, he may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders the making and distribution of all phonorecords, for which the royalty had not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) LIMITATION OF EXCLUSIVE RIGHT.—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless:

(A) he is the operator of the phonorecord player; or

(B) he refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate is required by subclause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) RECORDATION OF COIN-OPERATED PHONORECORD PLAYER, AFFIXATION OF CERTIFICATE, AND ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available in that particular phonorecord player, he shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player. he shall deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.00.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by him under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by section 502 through 506.

(c) DISTRIBUTION OF ROYALTIES.—

(1) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 809 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (a) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws (as designated in section 1 of the Act of October 15, 1914, 38 Stat. 730, Title 15 U.S.C. section 12, and any amendments of any such laws), for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(2) After the first day of October of each year, the Register of Copyrights shall determine whether there exists a controversy con-

cerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If he determines that no such controversy exists, he shall, after deducting his reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If he finds that such a controversy exists, he shall certify to that fact and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fee by the tribunal.

(3) The fees to be distributed shall be divided as follows:

(A) To every copyright owner not affiliated with a performing rights society the pro rata share of the fees to be distributed to which such copyright owner proves his entitlement; and

(B) To the performing rights societies the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove their entitlement.

(C) During the pendency of any proceeding under this section, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(4) The Register of Copyrights shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he has been denied the access permitted under the regulations prescribed by the Register of Copyrights may bring on an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that:

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of a coin;

(B) is located in an establishment making no direct or indirect charge of admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance in a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116, the title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1976, as held applicable and construed by a court in an action brought under this title.

§ 118. Limitations on exclusive rights: Public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a public broadcasting entity to broadcast any nondramatic literary or musical work, pictorial, graphic, or sculptural work under the provisions of this section.

(b) Public broadcasting of nondramatic literary and musical works, pictorial, graphic, and sculptural works by a public broadcasting entity shall be subject to compulsory licensing up compliance with the requirements of this section. The public broadcasting entity shall—

(1) record in the Copyright Office, at intervals and in accordance with requirements prescribed by the Register of Copyrights, a notice stating its identity, address and intention to obtain a license under this section; and

(2) deposit with the Register of Copyrights, at intervals and in accordance with requirements prescribed by the Register, a statement of account and the total royalty fees for the period covered by the statement based on the royalty rates provided for in subsection (c).

(c) Reasonable royalty fees for public television and radio broadcasts by public broadcasting entities shall be established by the Copyright Royalty Tribunal. Such royalty fees may be calculated on a per-use, per-program, prorated or annual basis as the Copyright Royalty Tribunal finds appropriate with respect to the type of the copyrighted work and the nature of broadcast use, and may be changed or supplemented from time to time by the Copyright Royalty Tribunal. A particular or general license agreement between one or more public broadcasting entities and one or more copyright owners prior or subsequent to determination of applicable rates determined by the Copyright Royalty Tribunal may be substituted for a compulsory license provided in this section.

(d) The royalty fees deposited with the Register of Copyrights under this section shall be distributed in accordance with the following procedures:

(1) During the month of July of each year, every person claiming to be entitled to compulsory license fees for public broadcasting during the preceding twelve-month period shall file a claim with the Register of Copyrights in accordance with the requirements that the Register shall prescribe by regulation. Notwithstanding any provision of the antitrust laws (as defined in section 1 of the Act of October 15, 1914, 38 Stat. 730; 15 U.S.C. 12, and any amendments of such laws), for purposes of this paragraph and claimants may agree among themselves as to the proportionate division of compulsory license fees among them, may lump their claims together, and may designate a common agent to receive payments on their behalf.

(2) On the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy regarding the statement of account or distribution of royalty fees. If the Register determines that no such controversy exists, the Register shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Register finds the existence of a controversy, the Register shall certify to such effect and proceed to constitute a panel of the Copyright Royalty Tribunal in accordance with section 803. In such cases, the reasonable administrative costs of the Register under this section shall be deducted prior to distribution of the royalty fees by the Tribunal.

(3) During the pendency of any proceedings under this subsection, the Register of Copyrights or the Copyright Royalty Tribunal shall withhold from distribution, an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) The compulsory license provided in this section shall not apply to unpublished nondramatic literary or musical works or to dramatization rights for nondramatic literary or musical works.

(f) As used in this section, the term—

(1) "public broadcasting" means production, acquisition, duplication, interconnection, distribution, and transmission of educational television or radio programs (as defined in section 397 of the Federal Communications Act of 1934 (47 U.S.C. 397)) by or for noncommercial educational broadcast stations (as defined in section 397 of the Federal Communications Act of 1934 (47 U.S.C. 397)), except as may be otherwise exempted under sections 110(2), 111(a)(2), and (4), 112(b), and 114(a); and (2) "public broadcasting entity" means any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution or organization engaged in public broadcasting.

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

§ 201. Ownership of copyright.

(a) INITIAL OWNERSHIP.—Copyright in work protected under this title vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work.

(b) WORKS MADE FOR HIRE.—In the case of a work made for hire, the employer or other persons for whom the work was prepared is

considered the author for the purposes of this title, and, unless the parties have expressely agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) CONTRIBUTIONS TO COLLECTIVE WORKS.—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) TRANSFER OF OWNERSHIP.—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of interstate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) INVOLUNTARY TRANSFER.—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, have not previously been transferred voluntarily by him, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author

(a) CONDITIONS FOR TERMINATION.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1977, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if he is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, his termination interest may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of his interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or his successor in title.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be affected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) EFFECT OF TERMINATION.—Upon the effective date of termination, all rights under this title that were covered by the terminated grant revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a) but, with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or his duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if:

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

(a) CONDITIONS FOR RECORDATION.—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) CERTIFICATE OF RECORDATION.—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) RECORDATION AS CONSTRUCTIVE NOTICE.—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if:

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.—No person claiming by virtue of a transfer to the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement

action under this title until the instrument of transfer under which he claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) PRIORITY BETWEEN CONFLICTING TRANSFERS.—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c) within one month after its execution in the United States or within two months after its execution abroad, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXCLUSIVE LICENSE.—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or his duly authorized agent, and if:

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.
301. Pre-emption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1977.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1977.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Pre-emption with respect to other laws

(a) On and after January 1, 1977, a legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to:

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1977; or

(3) activities violating legal or equitable rights that are not equivalent to any of the executive rights within the general scope of copyright as specified by section 106, including rights against misappropriation not equivalent to any of such exclusive rights, breaches of contract, breaches of trust, trespass, conversion, invasion of privacy, defamation, and deception trade practices such as passing off and false representation; or

(4) sound recordings fixed prior to February 15, 1972.

(c) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

§ 302. Duration of copyright: Works created on or after January 1, 1977

(a) IN GENERAL.—Copyright in a work created on or after January 1, 1977, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after his death.

(b) JOINT WORKS.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after his death.

(c) ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE FOR HIRE.—In the case of an anonymous work, a pseudonymous work or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsection (a) or (d) of section 407, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsections (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of his interest, the source of his information, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) RECORDS RELATING TO DEATH OF AUTHORS.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of his interest, and the source of his information, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent he considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) PRESUMPTION AS TO AUTHOR'S DEATH.—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1977

Copyright in a work created before January 1, 1977, but not theretofore in the public domain or copyrighted, subsists from January 1, 1977, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2001; and, if the work is published on or before December 31, 2001, the term of copyright shall not expire before December 31, 2026.

§ 304. Duration of copyright: Subsisting copyrights

(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1977.—Any copyright, the first term of which is subsisting on January 1, 1977, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RENEWAL BEFORE JANUARY 1, 1977.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1975, and December 31, 1976, inclusive, or for which renewal registration is made between December 31, 1975, and December 31, 1976, inclusive, is extended to endure for a term of 75 years from the date copyright was originally secured.

(c) TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1977, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or of any right under it, executed before January 1, 1977, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following condition:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow (or her widower) and children or grandchildren as follows:

(A) The widow (or widower) owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow (or widower) owns one-half of the author's interest;

(B) The author's surviving children, and the surviving children of any dead child of

the author, own the author's entire termination interest unless there is a widow (or widower), in which case the ownership of one half of the author's interest is divided among them;

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of his children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1977, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or his successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by him or his duly authorized agent or, if he is dead, by the number and proportion of the owners of his termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if he is dead, to the persons owning his termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

'(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where an author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him, his legal representatives, legatees, or heirs at law represent him for purposes of this subclass.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or his successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies.

(a) General Requirement.—Whenever work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of Notice.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), the word "Copyright," or the abbreviation "Copr.";

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles;

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of Notice.—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General Requirement.—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of Notice.—The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol P (the letter P in a circle);

(2) the year of first publication of the sound recording;

(3) the name of the owner of copyrights in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

(c) Position of Notice.—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies of phonorecords consisting preponderately of one or more works of the United States Government, the notice of copyright provided by section 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by section 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

§ 405. Notice of copyright: Omission of notice

(a) Effect of Omission on Copyright.—The omission of the copyright notice described by sections 401 through 403 from

copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if:

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) EFFECT OF OMISSION ON INNOCENT INFRINGERS.—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if he proves that he was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition for permitting the infringer to continue his undertaking, that he pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) REMOVAL OF NOTICE.—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

§ 406. Notice of copyright: Error in name or date

(a) ERROR IN NAME.—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if he proves that he was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun:

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from purported transfers or licenses made by him under the copyright.

(b) ERROR IN DATE.—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) OMISSION OF NAME OR DATE.—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication:

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

This deposit is not a condition of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable:

(1) to a fine of not more than $250 for each work; and

(2) to pay to the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost to the Library of Congress of acquiring them.

§ 408. Copyright registration in general

(a) REGISTRATION PERMISSION.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) DEPOSIT FOR COPYRIGHT REGISTRATION.—Except as provided by subsection (c), the material deposited for registration shall include:

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published abroad, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require.

(c) ADMINISTRATIVE CLASSIFICATION AND OPTIONAL DEPOSIT.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to his general authority under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions:

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304 (a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) all of the works were first published not more than twenty-eight or less than twenty-seven years before the date of receipt of the renewal application and fee; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) CORRECTIONS AND AMPLIFICATIONS.—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) PUBLISHED EDITION OF PREVIOUSLY REGISTERED WORK.—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

§ 409. Application for registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include:

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or atuhors and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the authors or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, he shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, he shall refuse registration and shall notify the applicant in writing of the reasons for his action.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) the effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his option, become a party to the action with respect to the issue of registrability of the copyright claim by entering his appearance within sixty days after such service, but his failure to do so shall not deprive the issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506. If, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for:

(1) any infringement of copyrignt in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after its first publication.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.

§ 501. Infringment of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 117, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205 (d) and 411, to institute an action for any infringement of that particular right committed while he is the owner of it. The court may require him to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in his office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits

(a) IN GENERAL.—Except as otherwise provided by this title, an infringer of copyright is liable for either:

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) ACTUAL DAMAGES AND PROFITS.—The copyright owner is entitled to recover the actual damages suffered by him as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) STATUTORY DAMAGES.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in this action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not

less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that he was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. In a case where an instructor, librarian or archivist in a nonprofit educational institution, library, or archives, who infringed by reproducing a copyrighted work in copies or phonorecords, sustains the burden of proving that he believed and had reasonable grounds for believing that the reproduction was a fair use under section 107, the court in its discretion may remit statutory damages in whole or in part.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

§ 506. Criminal offenses

(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $2,500 or imprisoned not more than one year, or both, for the first such offense, and shall be fined not more than $10,000 or imprisoned not more than three years, or both, for any subsequent offense, provided however, that any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2) and (3) in section 106 or the copyright in a motion picture offered by subsections (1), (3), and (4) in section 106 shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years, or both, for any subsequent offense.

(b) FORFEITURE AND DESTRUCTION.—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, or the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used or intended to be used in the manufacture, use, or sale of such infringing copies of phonorecords.

(c) FRAUDULENT COPYRIGHT NOTICE.—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that he knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that he knows to be false, shall be fined not more than $2,500.

(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

§ 507. Limitations on actions

(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) CIVIL ACTIONS.—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of United States shall send written notification to the Register of Copyrights setting forth, as far as shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending him a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, assembling, using, transporting, distributing, or selling such copies or phonorecords may be seized and forfeited to the United States.

(b) All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

Chapter 6.—MANUFACTURING REQUIREMENT AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply:

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if he is a national of the United States, has been domiciled outside of the United States for a continuous period of at least one year immediately preceding that date; in the case of work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the Bureau of Customs is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by him at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is ought:

(A) by any person with respect to no more than one copy of any one work at any one time;

(B) by any person arriving from abroad, with respect to copies forming part of his personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind;

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if:

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal

proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if he proves:

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired abroad is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to:

(1) importation of copies or phonorecords under the authority or for the use of the government of the United States or of any State or political subdivision of a State but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from abroad with respect to copies or phonorecords forming part of his personal baggage; or

(3) importantion by or from an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes.

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the Bureau of Customs has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Bureau of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602:

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that he furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which he claims an interest is valid and that the importation would violate the prohibition in section 602; he may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.

§ 701. The Copyright Office: General responsibilities and organization.

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office in the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under his general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1977, to authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made his responsibility under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday or other non-business day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled to select any deposits for its collections.

(c) Deposits are selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be destroyed or otherwise disposed of during its term of copyright.

(d) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyright shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(11) if the request is granted.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The

Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. He also has authority to publish compilations of information, bibliographies, and other material he considers to be of value to the public.

(c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, United States Code, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and for each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an important statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyright determines, on the basis of such evidence as he may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

§ 710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardize forms.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.

801. Copyright Royalty Tribunal: Establishment and purpose.
802. Petitions for the adjustment of royalty rates.
803. Membership of the Tribunal.
804. Procedures of the Tribunal.
805. Compensation of members of the Tribunal: Expenses of the Tribunal.
806. Reports to the Congress.
807. Effective date of royalty adjustment.
808. Effective date of royalty distribution.
809. Judicial review.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created in the Library of Congress a Copyright Royalty Tribunal.

(b) Subject to the provisions of this chapter, the purpose of the Tribunal shall be: (1) to make determinations concerning the adjustment of the copyright royalty rates as provided in sections 111, 115, 116 and 118 so as to assure that such rates are reasonable and in the event that the Tribunal shall determine that the statutory rate, or a rate previously established by the Tribunal, or the basis in respect to such rates, does not provide a reasonable royalty fee for the basic service of providing secondary transmissions of the primary broadcast transmitter or is otherwise unreasonable, the Tribunal may change the royalty rate or the basis on which the royalty fee shall be assessed or both so as to assure reasonable royalty fee; and (2) to determine in certain circumstances the distribution of the royalty fees deposited with the Register of Copyrights under sections 111, 116 and 118.

§ 802. Petitions for the adjustment of royalty rates

(a) On January 1, 1980, the Register of Copyrights shall cause to be published in the Federal Register notice of the commencement of proceedings with respect to the royalty rates as provided in sections 111, 115, 116 and 118.

(b) During the calendar year 1990, and in each subsequent tenth calendar year, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, he shall cause notice of his decision to be published in the Federal Register.

§ 803. Membership of the Tribunal

(a) In accordance with Section 802, or upon certifying the existence of a controversy concerning the distribution of royalty fees deposited pursuant to sections 111, 116, and 118, the Register shall request the American Arbitration Association or any similar successor organization to furnish a list of three members of said Association. The Register shall communicate the names together with such information as may be appropriate to all parties of interest. And such party within twenty days from the date said communication is sent may submit to the Register written objections to any or all of the proposed names. If no such objections are received, or if the Register determines that said objections are not well founded, he shall certify the appointment of the three designated individuals to constitute a panel of the Tribunal for the consideration of the specified rate or royalty distribution. Such panel shall function as the Tribunal established in section 801. If the Register determines that the objections to the designation of one or more of the proposed individuals are well founded, the Register shall request the American Arbitration Association or any similar successor organization to propose the necessary number of substitute individuals. Upon receiving such additional names the Register shall constitute the panel. The Register shall designate one member of the panel as Chairman.

(b) If any member of a panel becomes unable to perform his duties, the Register, after consultation with the parties, may provide for the selection of a successor in the manner prescribed in subsection (a).

§ 804. Procedures of the Tribunal

(a) The Tribunal shall fix a time and place for its proceedings and shall cause notice to be given to the parties.

(b) Any organization or person entitled to participate in the proceedings may appear directly or be represented by counsel.

(c) Except as otherwise provided by law, the Tribunal shall determine its own procedure. For the purpose of carrying out the provisions of this chapter, the Tribunal may hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents.

(d) Every final decision of the Tribunal shall be in writing and shall state the reasons therefor.

(e) The Tribunal shall render a final decision in each proceeding within one year from the certification of the panel. Upon a showing of good cause, the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary may waive this requirement in a particular proceeding.

§ 805. Compensation of members of the Tribunal: Expenses of the Tribunal

(a) In proceedings for the distribution of royalty fees, the compensation of members of the Tribunal and other expenses of the Tribunal shall be deducted prior to the distribution of the funds.

(b) In proceedings for the determination of royalty rates, there is hereby authorized to be appropriated such sums as may be necessary.

(c) The Library of Congress is authorized to furnish facilities and incidental service to the Tribunal.

(d) The Tribunal is authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

§ 806. Reports to the Congress

The Tribunal immediately upon making a final determination in any proceeding with respect to royalty rates, shall transmit its decision, together with the reasons therefor, to the Secretary of the Senate and the Clerk of the House of Representatives for reference to the Judiciary Committees of the Senate and the House of Representatives.

§ 807. Effective date of royalty adjustment

(a) Prior to the expiration of the first period of ninety calendar days of continuous session of the Congress, following the transmittal of the report specified in section 806, either House of the Congress may adopt a resolution stating in substance that the House does not favor the recommended royalty determination, and such determination, therefore, shall not become effective.

(b) For the purposes of subsection (a) of this section

(1) Continuity of session shall be considered as broken only by an adjournment of the Congress sine die, and

(2) In the computation of the ninety-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) In the absence of the passage of such a resolution by either House during said ninety-day period, the final determination of royalty rates by the Tribunal shall take effect on the first day following ninety calendar days after the expiration of the period specified by subsection (a).

(d) The Register of Copyrights shall give notice of such effective date by publication in the Federal Register not less than sixty days before said date.

§ 808. Effective date of royalty distribution

A final determination of the Tribunal concerning the distribution of royalty fees deposited with the Register of Copyrights pursuant to sections 111 and 116 shall become effective thirty days following such determination unless prior to that time an application has been filed pursuant to section 809 to vacate, modify or correct the determination, and notice of such application has been served upon the Register of Copyrights. The Register upon the expiration of thirty days shall distribute such royalty fees not subject to any application filed pursuant to section 809.

§ 809. Judicial review

In any of the following cases the United States District Court for the District of Columbia may make an order vacating, modifying or correcting a final determination of the Tribunal concerning the distribution of royalty fees—

(a) Where the determination was procured by corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in any member of the panel.

(c) Where any member of the panel was guilty of any misconduct by which the rights of any party have been prejudiced.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 102. This title becomes effective on January 1, 1977, except as otherwise provided by section 304(b) of title 17 as amended by this title.

SEC. 103. This title does not provide copyright protection for any work that goes into the public domain before January 1, 1977. The exclusive rights, as provided by section 106 of title 17 as amended by this title, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

SEC. 104. All proclamations issued by the President under sections 1(e) or 9(b) of title 17 as it existed on December 31, 1976, or under previous copyright statutes of the United States shall continue in force until terminated, suspended, or revised by the President.

SEC. 105. (a)(1) Section 505 of title 44, United States Code, Supplement IV, is amended to read as follows:

"§ 505. Sale of duplicate plates

"The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotype plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed."

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, United States Code, is amended to read as follows:

"505. Sale of duplicate plates."

(b) Section 2113 of title 44, United States Code, is amended to read as follows:

"§ 2113. Limitation on liability

"When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes."

(c) In section 1498(b) of title 28 of the United States Code, the phrase "section 101(b) of title 17" is amended to read "section 504(c) of title 17".

(d) Section 543(a)(4) of the Internal Revenue Code of 1954, as amended, is amended by striking out "(other than by reason of section 2 or 6 thereof)".

(e) Section 3202(a) of title 39 of the United Sates Code is amended by striking out clause (5). Section 3206(c) of title 39 of the United States Code is amended by striking out clause (c). Section 3206(d) is renumbered (c).

(f) Subsection (a) of section 290(e) of title 15 of the United States Code, is amended by deleting the phrase "section 8" and inserting in lieu thereof, the phrase "section 105".

SEC. 106. In any case where, before January 1, 1977, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1976, he may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by this title. However, such parts made on or after January 1, 1977, constitute phonorecords and are otherwise subject to the provisions of said section 115.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1976, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by this title.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by this title apply to all copies or phonorecords publicly distributed on or after January 1, 1977. However, in the case of a work published before January 1, 1977, compliance with the notice provisions of title 17 either as it existed on December 31, 1976, or as amended by this title, is adequate with respect to copies publicly distributed after December 31, 1976.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1977, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1977, shall be made in accordance with title 17 as it existed on December 31, 1976.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1976, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by this title.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

"§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

"(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sales in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than $25,000 or imprisoned for not more than three years, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned not more than seven years or both, for any subsequent offense.

"(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

"(c) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).".

SEC. 112. All causes of action that arose under title 17 before January 1, 1977, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. If any provision of title 17, as amended by this title, is declared unconstitutional, the validity of the remainder of the title is not affected.

TITLE II—PROTECTION OF ORNAMENTAL DESIGNS OF USEFUL ARTICLES

DESIGNS PROTECTED

SEC. 201. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this title upon complying with and subject to the provisions hereof.

(b) For the purposes of this title—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinct in appearance.

(4) A design is "original" if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 202. Protection under this title shall not be available for a design that is—

(a) not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b), above only in insignificant details or in elements which are variants commonly used in the relevant trades; or

(d) dictated solely by a utilitarian function of the article that embodies it;

(e) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel, including undergarments and outerwear.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 203. Protection for a design under this title shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 202 (b) through (d), if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided*, That such protection shall be available to a design employing subject matter protected under title I of this Act, or title 35 of the United States Code or this title, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 204. The protection provided for a design under this title shall commence upon the date of publication of the registration pursuant to section 212(a).

TERM OF PROTECTION

SEC. 205. (a) Subject to the provisions of this title, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 204, but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) Upon expiration or termination of protection in a particular design as provided in this title all rights under this title in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 206. (a) Whenever any design for which protection is sought under this title is made public as provided in section 209(b), the proprietor shall, subject to the provisions of section 207, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) the words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle thus Ⓓ;

(2) the year of the date on which the design was registered; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is registered.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this title shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 207. The omission of the notice prescribed in section 206 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided*, That such omission shall prevent any recovery under section 222 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such-undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 208. (a) It shall be infringement of a design protected under this title for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale for use in trade any such infringing article: Provided, however, That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall be not infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or recordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided, however*, That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 202.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 209. (a) Protection under this title shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public.

(b) A design is made public when, the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

(c) Application for registration or renewal may be made by the proprietor of the design.

(d) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; and (4) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this title.

(e) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; and (3) the applicant is the person entitled to protection and to registration under this title. If the design has been made public with the design notice prescribed in section 206, the statement shall also describe the exact form and position of the design notice.

(f) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this title.

(g) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided*, That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the

name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(h) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of a useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(i) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required.

(j) More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

SEC. 210. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecesor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGMENTS

SEC. 211. (a) Oaths and acknowledgments required by this title may be made before any person in the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

(b) The Administrator may by rule prescribe that any document to be filed in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Administrator may prescribe, such declaration to be in lieu of the oath otherwise required.

(c) Whenever a written declaration as permitted in subsection (b) is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or document or a registration resulting therefrom.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

SEC. 212. (a) Upon the filing of an application for registration in proper form as provided in section 209, and upon payment of the fee provided in section 215, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this title, and if so, he shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this title, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this title may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this title, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this title, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) Remedy against a final adverse determination under subparagraphs (b) and (c) above may be had by means of a civil action against the Administrator pursuant to the provision of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than 60 days, as the Administrator appoints.

(e) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 220, and no ground for cancellation under subsection (c) of this section or under section 223.

CERTIFICATION OF REGISTRATION

SEC. 213. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

SEC. 214. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawing or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

SEC. 215. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) For each additional related article included in one application, $10.

(3) For recording assignment, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies or records, $1.

(6) On filing each application for cancellation of a registration, $15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

SEC. 216. The Administrator may establish regulations not inconsistent with law for the administration of this title.

COPIES OF RECORDS

SEC. 217. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

SEC. 218. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

SEC. 219. (a) The property right in a design subject to protection under this title shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an intrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgement as provided in section 211 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within there months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

SEC. 220. (a) The proprietor of a design shall have remedy for infringement by civil action instituted after issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal of the Administrator to register the design, by a civil action brought as for infringement if commenced within the time specified in section 212(d), and shall have remedy for infringement by the same action if the court adjudges the design subject to protection

under this title: *Provided, That* (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the designs, and (2) he causes a copy of the complaint in action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this title.

INJUNCTION

SEC. 221. The several courts having jurisdiction of actions under this title may grant injunctions in accordance with the principles of equity to prevent infringement, including in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

SEC. 222. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 220(b).

(d) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

SEC. 223. In any action involving a design for which protection is sought under this title, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

SEC. 224. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this title, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

SEC. 225. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this title, a design notice as specified in section 206 or any other words or symbols importing that the design is protected under this title, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

SEC. 226. Whoever knowingly makes a false representation materially affecting the rights obtainable under this title for the purpose of obtaining registration of a design under this title shall be fined not less than $500 and not more than $1,000, and any rights or privileges he may have in the design under this title shall be forfeited.

RELATION TO COPYRIGHT LAW

SEC. 227. (a) Nothing in this title shall affect any right or remedy now or hereafter held by any person under title I of this Act subject to the provisions of section 113(c) of title I.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title I of this Act is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this title.

RELATION TO PATENT LAW

SEC. 228. (a) Nothing in this title shall affect any right or remedy available to or held by any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this title.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

SEC. 229. Nothing in this title shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this title, or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

SEC. 230. The Administrator and Office of the Administrator referred to in this title shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

SEC. 231. If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of the title or the application to other persons or circumstances shall not be affected thereby.

AMENDMENT OF OTHER STATUTES

SEC. 232. (a) Subdivision a(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights".

(b) Title 28 of the United States Code is amended—

(1) by inserting "designs," after "patents," in the first sentence of section 1338(a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in section 1338(b);

(4) by inserting "and registered designs" after "copyrights" in section 1400; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, July 1, 1978.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or services of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used."

TIME OF TAKING EFFECT

SEC. 233. This title shall take effect one year after enactment of this Act.

NO RETROACTIVE EFFECT

SEC. 234. Protection under this title shall not be available for any design that has been made public as provided in section 209(b) prior to the effective date of this title.

SHORT TITLE

SEC. 235. This title may be cited as "The Design Protection Act of 1975".

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. 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. McCLELLAN. Mr. President, on September 9, 1974, the Senate by a vote of 70 to 1, passed the legislation for the general revision of the copyright law. It was then anticipated that the House of Representatives would not have time to consider the bill in the remaining weeks of the 93d Congress, and that it would be necessary for the Senate to again consider the copyright legislation in the 94th Congress.

The Committee on the Judiciary has reported by unanimous vote substantially the same bill passed by the Senate in 1974. That is the pending bill. Floor debate focused then on two issues—the creation of a performance right in sound recordings, and the carriage of sporting events by cable television systems. By rollcall votes the Senate decided not to include language on those issues in the bill. No provisions on these subjects are found in the pending bill.

This legislation has been under extensive consideration by the Subcommittee on Copyrights for a number of years. During this period the subcommittee held 19 days of hearings and received testimony from approximately 200 witnesses. Unfortunately, the progress of this legislation was necessarily delayed because of events beyond the control of the subcommittee.

The adoption of copyright legislation is one of the powers of the Congress spe-

cifically enumerated in article I of the Constitution. Our first copyright law was enacted in the very first session of the Congress in 1790. Since then it has been generally revised on only three occasions, the last being in 1909.

Although this legislation provides for a complete revision of title 17 of the U.S. Code, only a few sections of S. 22 are still controversial.

While it is understandable that our debate should center on those sections, it should not obscure the many beneficial provisions of this legislation, which are not in dispute.

The Constitution makes clear that the purpose of protecting the rights of an author is to promote the public interest. But, as stated in the committee report on the Act of 1909—

> The granting of such exclusive rights, under the proper terms and conditions, confers a benefit upon the public that outweighs the evils of the temporary monopoly.

Some of the most important provisions of this legislation are found in chapter 3 relating to the duration of copyright. The existing statute provides for an initial term of 28 years with the option of a renewal for a second term of the same duration. S. 22 establishes a general copyright term for the life of the author and 50 years after his death. The adoption of this term will bring U.S. law into conformity with the generally recognized international standard. As life expectancy has increased, the existing 56-year term does not insure that an author and his dependents will receive reasonable monetary recognition throughout their life. More and more authors are seeing their works fall into the public domain during their lifetimes. However, even with the revised copyright term, the treatment of authors under this legislation is less favorable than in the copyright legislation of most major nations of the western world.

With respect to the use of copyrighted materials for nonprofit purposes, the bill in the judgment of the committee provides a carefully structure balance between the legitimate rights of the creators, and the reasonable needs of users. Particular attention has been given to the concerns of classroom teachers and public libraries. A detailed discussion of these subjects is contained in those portions of the committee report devoted to an explanation of sections 107 and 108 of S. 22. The committee is satisfied that the provisions of this legislation will not interfere with the reasonable needs of education and libraries. I can assure the Senate that the committee carefully considered the scope of all the educational and library exemptions. I hope that the Senate will not disturb the delicate balance achieved on these issues by the committee.

Members of the Senate have received considerable correspondence recommending or opposing changes in section 108 relating to photocopying by public libraries. This section of the bill supplements the doctrine of fair use contained in section 107, and nothing in section 108 is intended in any way to prevent such photocopying as may be permissible under the criteria of section 107. Section 108 contains a series of limitations on the exclusive rights of authors for the benefit of the patrons of public libraries. To protect the rights of authors from gradual erosion by wholesale photocopying, subsection (g) provides that the reproduction rights do not apply to the "concerted" or "systematic" reproductions of certain materials.

In order that the legislative intent of this section may be clear, it may be useful to describe the relationship between the several limitations on exclusive rights and the language of subsection (g). Particular interest has been manifested in the relationship between subsections (d) and (g). During the final subcommittee hearings, the representatives of the library associations proposed the inclusion in section 108 of a specific provision stating that it was not an infringement of copyright for a library to furnish a patron with a single copy of one article from a periodical, or a small part of an entire work. This proposal was considered at great length in the subcommittee markup of this legislation. The subcommittee examined whether particular library photocopying practices could reasonably be considered as the making of a single copy. It was concluded that certain practices did not come within the scope of what is now subsection (d). Illustrative of these practices are the examples of "systematic copying" set forth in the committee report discussion of section 108.

It is thus erroneous to contend that the reference to "systematic" reproduction in subsection (g) takes away reproduction rights intended to be authorized by subsection (d). The inclusion of subsection (g) is appropriate so that the statutory provision provides a reasonable balancing of the rights of authors, and the needs of libraries and their patrons.

Neither a statute nor legislative history can specify exactly which photocopying practices constitute the making of "single copies" as distinguished from "systematic reproduction." The committee has therefore recommended that the representatives of authors, book and peridical publishers and other owners of copyrighted material meet with the library community to formulate photocopying guidelines to assist library patrons and employees. As to library photocopying practices not exempted by this legislation, the committee has recommended that workable clearance and licensing procedures be developed.

The National Commission on Libraries and Information Science has adopted a resolution urging the Congress at the present time to provide only an interim resolution of the photocopying issue, and to require a review of the statutory provisions and related matters in 1980. I not only fully support the objectives of the National Commission on Libraries, but on my initiative, the Congress already has acted to provide the mechanism for the ongoing review desired by the National Commission. When it became apparent that action on the revision project could not be concluded in the 93d Congress, I introduced legislation which became Public Law 93–573 to establish a National Commission on New Technological Uses of Copyrighted Works. The Commission has been given the assignment of studying copyright law and procedures in light of developing technology and to make appropriate recommendations to the Congress. I specifically included in my bill authorization for the Commission to conduct whatever further study of the library photocopying questions that may be necessary. Thus, the Congress already has provided in the National Commission on New Technological Uses of Copyrighted Works the mechanism for further study of this issue.

Other than for minor clarifying amendments, section 111 of the bill relating to secondary transmissions by cable television systems is identical to the bill passed by the Senate in the 93d Congress. The provisions of section 111 were reviewed in the last Congress by the Committee on Commerce. At the completion of that review, the chairman of the Communications Subcommittee of the Commerce Committee advised the Senate on September 6, 1974, that the Commerce Committee does not have any further reason to deal with that matter and the Judiciary Committee could assume exclusive jurisdiction.

Section 111 undertakes to resolve the coyright liability of cable television systems in a manner consistent with the regulatory scheme adopted by the Federal Communications Commission. This legislation does not determine what signals may be carried by cable television. It grants such systems a copyright compulsory license to carry such signals as are authorized by the Commission. As a condition of the compulsory license, all cable systems would be required to pay a reasonable copyright royalty, the initial schedule of which is established by this legislation.

Section 115 continues the existing compulsory license for the making and distribution of phonorecords. Current law provides a statutory royalty rate, known as the mechanical royalty, of 2 cents for each record manufactured. The bill passed by the Senate in 1974, and the bill reported by the subcommittee in 1975, increased the statutory mechanical royalty to 3 cents. During the consideration of S. 22 in the committee, an amendment was proposed to fix the statutory rate at 2½ cents. I believe that a statutory rate of 3 cents per work is appropriate at the present time, but the committee by majority vote determined on the 2½ cent rate.

Section 118 of S. 22 is entirely new. It is the result of an important amendment proposed by Senator MATHIAS to create a copyright compulsory license for the use by public broadcasting of certain categories of copyrighted works. The subcommittee considered at great length the Mathias amendment and encouraged the interested parties to reach private agreements so as to avoid the difficult policy and procedural issues necessarily presented by a statutory provision. Substantial progress was made on a number of issues and the subcommittee concluded that the issues still in dispute could be resolved if the parties seek reasonable accommodations.

The committee report summarizes the

arguments advanced in support and in opposition to the Mathias amendment. I voted against the adoption of this amendment in the committee, but it was approved by a majority vote of the committee. The Register of Copyrights testified in the House of Representatives that the Copyright Office recommends that the Congress reject the entire revision bill if section 118 is retained in its present form. The Register of Copyrights has objected to the loss of control by authors over the use of their work in a major communications medium, and the dangers of State control and loss of freedom of expression implicit in the proposed system.

One of the most significant provisions of this legislation is chapter 8, which I originally proposed, and which was also contained in the bill passed by the Senate in 1974. Chapter 8 establishes the Copyright Royalty Tribunal to provide a mechanism for the periodic review of the statutory royalty rates, and for the resolution of disputes concerning the distribution of royalty fees. Significant changes in this chapter have been made concerning the cable television and jukebox royalty review procedures.

The bill as passed by the Senate in 1974 directed almost immediate review of the royalty rates, and subsequent reviews at 5 year intervals. The committee has amended S. 22 to provide that the initial review of the rates commence 3 years after the effective date, and that the subsequent reviews be at 10 year intervals.

When the copyright bill in the 93d Congress was referred to the Commerce Committee for review of the provisions related to their jurisdiction, the committee adopted, without any study or hearing, an amendment to freeze the royalty rate paid by jukebox operators. Under the rules of the Senate, the copyright status of the jukebox industry comes exclusively within the jurisdiction of the Committee on the Judiciary. Because of the complicated parliamentary situation prevailing in the Senate when the revision bill was considered in 1974, it would have been difficult to obtain a clear expression of the Senate will on this subject. I thus refrained from requesting a rollcall vote on the Commerce Committee jukebox amendment.

Although the Committee on the Judiciary believes there is no justification for the jukebox amendment adopted in the Commerce Committee, our committee has taken this development into account and I believe the provision now in chapter 8 provides a fair compromise. While the jukebox royalty rate will not be exempted from the review procedures of chapter 8, the date of the initial review and any possible adjustment has been delayed for several years so that the Tribunal can give careful consideration to the impact of the copyright payments on the viability of the jukebox industry.

Mr. President, I shall conclude by quoting two paragraphs from my remarks opening the debate on the copyright revision bill in the 93d Congress. I believe these comments are as valid today as when I originally made them:

As one who has struggled with this bill for many years, I can assure my colleagues that it is impossible to satisfy everyone. Whatever we do will disappoint some interest. It would, perhaps, have been more popular for me to have adopted different positions on some issues in this legislation, or to abandon good faith commitments when circumstances changed.

The Judiciary Committee has tried to resolve each issue by applying the standard of what best promotes the constitutional mandate to encourage and reward authorship. Some may disagree with the conclusions we have reached. All that I ask of them is that they also resolve these issues on the basis of what is right for the country, and not just for the various interests.

Mr. President, the printed copy of Senate Report 94–473 on S. 22 omits one page of the text which I filed in the Senate on November 20, 1975. In order that the complete report of the committee be available, I ask unanimous consent that the omitted page of the printed report be printed at this point in the RECORD.

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

The provision also provides that if there is an admission charge the copyright owner may prevent a public performance of his work under this provision by serving a notice stating his objections at least seven days in advance.

Mere reception in public

Unlike the first four clauses of section 110, clause (5) is not to any extent a counterpart of the "for profit" limitation of the present statute. It applies to performances and displays of all types of works, and its purpose is to exempt from copyright liability anyone who merely turns on, in a public place, an ordinary radio or television receiving apparatus of a kind commonly sold to members of the public for private use.

The basic rationale of this clause is that the secondary use of the transmission by turning on an ordinary receiver in public is so remote and minimal that no further liability should be imposed. In the vast majority of these cases no royalties are collected today, and the exemption should be made explicit in the statute.

While this legislation has been under consideration in the Congress, the Federal courts have considered several issues relevant to this exemption in the context of the Copyright Act of 1909. This clause has nothing to do with cable television systems and is not intended to generally exempt performances or displays in commercial establishments for the benefit of customers or employees. Thus, this exemption would not apply where broadcasts are transmitted by means of loudspeakers or similar devices in such establishments as bus terminals, supermarkets, factories and commercial offices, department and clothing stores, hotels, restaurants and quick-service food shops of the type involved in *Twentieth Century Music Corp.* v. *Aiken*. The exemption would also be denied in any case where the audience is charged directly to see or hear the transmission.

Agricultural fairs

Clause (6) provides that the performance of a nondramatic musical work or of a sound recording in the course of an annual agricultural or horticultural fair or exhibition conducted by a Government body or a nonprofit organization is not an infringement of copyright. This exemption extends to all activities on the premises of such fairs or exhibitions.

Retail sale of phonorecords

Clause (7) provides that the performance of a nondramatic musical work or of a sound recording by a retail establishment open to the public at large without any direct or indirect admission charge where the sole purpose of the performance is to promote the retail sale of the work is not an infringement of copyright. This exemption applies only if the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring.

Handicapped audience

Clause (8) was not included in the bill passed by the Senate in 1974. It has been added to facilitate the special services provided by various noncommercial radio and television stations to a print or aural handicapped audience. It provides that it is not an infringement of copyright to perform a literary work in the course of broadcasts "specifically designed" for a print or aural handicapped audience.

Mr. TUNNEY. 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. TUNNEY. Mr. President, I first compliment the distinguished Senator from Arkansas (Mr. MCCLELLAN), chairman of the subcommittee, for the work that he has done in bringing this bill to the Chamber. It is clear to all of us that the copyright amendments are about as complicated a proposal as we have had before the Senate in many years. The trouble is that there are many different interests which are affected directly financially and economically by any change in the existing law, and Senator MCCLELLAN has for years been holding hearings and doing the necessary spadework to make it possible to bring the bill to the Chamber.

The Senate passed a copyright revision bill a year ago, but unfortunately, we were not able to get the House of Representatives to move on it.

So, here we are back again with this work product which represents literally thousands of hours of effort on the part of Senator MCCLELLAN, his staff, other members of the subcommittee, and witnesses who came to testify.

I happen to believe that the product, by and large, represents an equitable balancing of interests, between the various parties affected. Representing as I do the State of California, I have found that there are a number of parties directly affected by the bill, and these parties find themselves frequently on opposite sides of the fence. As a result, it would take the wisdom of Solomon to try and balance the equities, when we have two conflicting viewpoints, such as exists between the motion picture industry and the cable television industry, the broadcasters and the record companies, the musical composers and publishers and the record companies, and the various parties affected by the public broadcasting section. There is no easy solution to any of these problems. I am convinced there is no absolute right or absolute wrong way in which to draft the legislation in its particulars so as to satisfy all parties. I simply do not think that it can be done.

But I think that Senator MCCLELLAN has done a superb job of bringing together the parties who held opposite viewpoints on the multitude of separate

issues that are involved in this legislation and tried to arrive at some equitable formula for resolving their economic differences. We thrashed out this legislation in the Judiciary Committee. A number of amendments were offered. Some of them carried; some of them were defeated. I know that there are going to be many amendments that are going to be offered in the Chamber when we start voting a week from now.

I simply say that I think the final product that was brought out by Senator McCLELLAN represents the best that we could have hoped for.

I am going to have an amendment myself which some would perhaps suggest is controversial. I do not think that it should be that controversial. However, I expect some serious opposition to it when I bring it up.

One of the things that this bill does is to create a Royalty Tribunal to make royalty adjustments in the area of compulsory licenses. The legislation builds into the law certain royalty rates that the users of copyrighted work must pay for the use of that material when compulsory licenses are applicable. From the time the law first passed in 1909 to today, we have had built into the law a specific royalty that should be paid for certain types of copyright material. The amount of that royalty has not been changed in 67 years. The creation of the Royalty Tribunal will insure that the copyright owners will have a fair and impartial body to address the merits of the economic arguments at set intervals.

It was clear to us, as we were attempting to resolve the differences among the various parties to the numerous disputes that arose as to what was fair in royalty payments, that Congress was ill-equipped to resolve this private economic problem. There ought to be some better way of developing expertise to arrive at fair compensation for use of copyrighted material, rather than having Congress once every 50 or 60 years try in its Solomonic wisdom to reach a judgment on actual dollars and cents payments.

So what we did in the committee was to create a Royalty Tribunal.

There was a great deal of discussion in the committee as to whether the interval of tribunal review should be 5 years or 10 years, or perhaps even a shorter period of time.

The way the bill was reported, it would require the Royalty Tribunal to make its adjustments every 10 years. The cycle would be every decade. My amendment would require that there be a review every 7 years.

It seems to me that with the changing economic circumstances that exist in this country, the way we can have a rapid movement in revenues from one year to the next, it is not fair to have a 10-year delay between reviews of the royalties by the Tribunal.

So I am going to offer an amendment that is very simple. It would cut back the period from 10 years to 7 years that the Tribunal would be making these adjustments.

Initially, when a vote was taken in the Committee on the Judiciary—if my memory is correct—a majority of the committee was in favor of 5 years. Then, at the last moment—actually, after some of us thought that the bill had been reported out of the committee—another vote was taken; and by one vote, as I recall, the 5-year figure was scrapped and a 10-year figure was substituted.

So, inasmuch as there was that closeness in the vote between those who felt it should be 5 years and those who felt it should be 10 years, I am offering, as a compromise, a 7-year proposal. I suppose that, like most compromises, it does not satisfy everyone absolutely. But it is my hope that by offering this compromise, the parties who feel that a 10-year review is going to be unacceptable will not be hurt as badly as the bill provides with the 10-year review.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

STATE TAXATION OF DEPOSITORIES ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2672.

The PRESIDING OFFICER (Mr. BURDICK) laid before the Senate the amendment of the House of Representatives to the bill (S. 2672) to extend the State Taxation of Depositories Act.

(The amendment of the House is printed in the RECORD of December 16, 1975, beginning at page 40803.)

Mr. GARN. Mr. President, I support this amendment as an effort to prompt passage of S. 2672 in both the Senate and the House and move the bill to the President's desk for signature.

S. 2672 contains a number of important provisions which should be promptly written into law.

The first section will extend the effective date of the State Taxation of Depositories Act to September 12, 1976. This act sought to defer the imposition of all types of "doing business" taxes in States other than the States in which depositories have their principal offices until such time as uniform and equitable methods could be developed for determining jurisdiction to tax and for dividing the tax base. The Advisory Commission on Intergovernmental Relations completed its report on the subject on September 12, 1975. Since the moratorium in the act expired on January 1, 1976, Congress has not had time to implement the recommendations of the Commission. This amendment will extend the moratorium to September 12, 1976, which is a necessary step to avoid confusion and chaos in this complicated situation.

The second provision of S. 2672 was offered by Senator BROOKE on the floor of the Senate to extend NOW accounts to Connecticut, Rhode Island, Maine, and Vermont.

Another section of the bill would amend section 167 of the Truth in Lending Act to remove an unintended liability from those credit-card issuers whose participating merchants opt for some form of two-tier pricing. Under the laws of a number of States, discounts imposed at the point of sale may be counted as part of the finance charges for the purposes of the State's usury laws.

Other House amendments to S. 2672 in effect prohibit a merchant from offering a surcharge to a cash customer in lieu of the use of a credit card, but allow a discount in any amount. The amendment now before us would restore the current 5-percent limitation on the amount of a discount which can be offered and would limit the effectiveness of the surcharge provision to 3 years to enable Congress to take a later look at the problem. Since the surcharge issue is surrounded in controversy and the hearings before the Senate Subcommittee on Consumer Affairs were quite limited, I feel that it is most appropriate to give Congress the opportunity to review the matter at a later date.

A most needed House amendment to S. 2672 which I fully support revises section 130(f) of the Truth in Lending Act to authorize the Federal Reserve Board to delegate to an official or employee of the Federal Reserve System the power to issue binding interpretations of the Truth in Lending Act. Under the current section 130(f) a creditor is exempted from liability under truth in lending when he acts in good faith in conformity with any rule, regulations, or interpretation by the Federal Reserve Board. This amendment will encourage the Board to aid those acting in good faith to comply with the law. It is particularly needed in the case of small businesses that do not have expensive legal talent to aid them in conforming with this complex law.

Mr. President, although I am not in accord with every provision of this legislation, I do feel that on balance it is necessary and its prompt passage is in the public interest. I wish to commend both the chairman of the full Banking Committee and the chairman of the Consumer Affairs Subcommittee for their diligent efforts in working out the differences that existed between the House and the Senate on this legislation.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

(Later in the day the following proceedings occurred:)

Mr. PROXMIRE. Mr. President, I move that the action of the Senate in concurring to the House amendment to S. 2672 be reconsidered.

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

Mr. PROXMIRE. I move that the Senate concur in the House amendment, with the following amendments, which I send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 2 of the House engrossed amendment, strike out lines 22 through 24 and insert in lieu thereof the following:

"(2) The amendment made by paragraph (1) shall cease to be effective upon the expiration of 3 years after the date of enactment of this Act."

At the end of the House engrossed amendment, add the following:

"SEC. 4. The first section of the Act takes effect on January 1, 1976."

Mr. PROXMIRE. Mr. President, there are two provisions of S. 2672 which are critical and need passage by the Congress at this time. The first of these is an extension of the moratorium on interstate taxation of depository institutions until September 12, 1976, so that the Congress may have time to consider legislation recommended by the Advisory Commission on Intergovernmental Relations pursuant to Public Law 93-100. To have the moratorium expire before Congress considers the basic legislation would be disruptive.

The other provision relates to allowing all Federal financial institutions in the six New England States to offer NOW accounts. Federal institutions may offer NOW accounts at present only in Massachusetts and New Hampshire. However, other New England States are permitting State institutions to offer NOW accounts. Federal financial institutions will be competitively disadvantaged without passage of this bill.

The House and Senate are in full agreement on the content and urgency of these provisions.

The original Senate-passed version of this bill also included a provision amending the Fair Credit Billing Act, to exempt from State usury laws any merchant discounts offered to consumers who pay by cash rather than by credit card. This exemption provision was noncontroversial on both sides of the Congress, and is continued in the House amended bill.

But the House version contained several new items. It would eliminate the 5-percent limit on permissible cash discounts, and would specifically prohibit the imposition of surcharges on credit card customers. In addition the House amendment would authorize the Federal Reserve Board to delegate to its staff the authority to issue interpretations or approvals that would have binding effect in subsequent litigation over violations of the Truth in Lending Act. That is, compliance with such an interpretation would constitute an absolute defense to a creditor until that interpretation was reversed by higher authority.

There is clearly some difference of opinion between the House and some Members of the Senate on the merits of these provisions. The responsive amendments I have just offered are intended to reduce the differences between the two Houses sufficiently to get this important bill passed.

The amendments I offer would reinstate the 5-percent limit on permissible discounts, to assure that creditors are not tempted to lure customers with large, artificial "discounts" based on inflated cash prices. These amendments would also put a 3-year limit on the ban against surcharges, so that the Congress would be forced to review this matter again within that time. That review obviously could consider not only the question whether both discounts and surcharges should be permitted but also whether the 5-percent limit should be retained or whether other adjustments are needed in the rules on two-tier pricing.

The Senate in turn would be accepting the House provision concerning the delegation to Federal Reserve Board staff of the authority to issue binding interpretations of the law and regulations.

Mr. President, there are important provisions in this bill which should not be delayed. I have every reason to believe that the House will be agreeable to the amendments I am offering in a spirit of compromise, and I urge the Senate to accept them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

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

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Frank A. Shrontz, of Virginia, to be an Assistant Secretary.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

UNIFORM SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The assistant legislative clerk proceeded to read sundry nominations in the Uniform Services University of the Health Sciences.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. AIR FORCE

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The assistant legislative clerk read the nomination of Earl F. Rectanus to be a vice admiral.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE, ARMY, NAVY, AND MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

There being no objection, the Senate resumed the consideration of legislative business.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BILL KOCH WINS OLYMPIC SILVER MEDAL

Mr. LEAHY. Mr. President, as an avid cross-country skier, I want to bring to the attention of my colleagues the achievement of a fellow Vermonter. Bill Koch's cross-country skiing ability resembles mine in about the way a jet plane resembles a Piper Cub. Nonetheless, it is with a great deal of pride that I salute his achievements.

It is something that makes all Vermonters proud, and I know that it is seen with pride by Members of the Senate and all Americans.

His winning of a silver medal, the first time an American has in the 12th Olympics—in fact, the first American to win such a medal—in Nordic cross-country skiing is a matter that should be noted, I believe, on the floor of the Senate.

Mr. President, I ask unanimous consent that an article from this morning's Washington Post sports section—in fact, the lead article in that newspaper—be printed in full in the RECORD at this point.

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

KOCH STUNS NORDIC SKIERS, KLAMMER

(By Leonard Shapiro)

INNSBRUCK, Austria, February 5.—Bill Koch is supposed to be America's best cross-country skier. But what does that mean when there are barely a hundred of his countrymen who compete regularly in his grueling specialty?

To Koch, it meant very little at all. "I'm not satisfied with being No. 1 in the U.S.," he told an interviewer recently. "I want to finish consistently in the top 10 internationally."

Today, Koch is satisfied. On a rolling cross-country course in the nearby town of Seefeld, he skied the race of his life in the Olympic 30-kilometer cross-country competition. He won himself a silver medal for finishing second behind a Soviet soldier, Sergei Savaliev.

No American in the long history of Olympic Nordic skiing had ever accomplished that feat. No American, in fact, had ever finished among the top 10.

But then, Koch, a 20-year-old resident of Guilford, Vt., is not like many Americans. For one, he doesn't mind a little pain. Or even a lot of it. And cross-country skiing at 30 kilometers—18 miles, give or take a few meters—can hurt a lot.

"Ninety-five per cent of this sport is mental," he said today. "The main thing you have to do is keep your concentration. When you're going hard, the physical pain can really mess you up.

"Every muscle in your body hurts. You can easily start to feel sorry for yourself."

That did not happen to Koch today at Seefeld. He wound up leaving the starting gate seventh in a 67-man field, and when he received that number, "I couldn't believe it. It's always been my lucky number. I had a feeling this was going to be my day."

In Olympic cross country, competitors go off at 30-second intervals. Each man is timed individually and even though there is frequent passing of other skiers along the route, no one knows for certain who the winner is until the whole field has come home.

"We had checkpoints set up at 5.5, 11.1, 15.3 and 20 kilometers," said Marty Hall, Koch's coach. "We could see that he was doing well, although he was flipping up and down a bit at the start. We yelled at him a few times to get him stabilized.

"At 20 kilometers, he was 10 seconds ahead of the third-place man and, at 23 kilometers, he had increased his margin to 26 seconds. I knew then he should get the silver, even though the last seven kilometers has some rough terrain."

"I didn't save anything for the end," Koch said. "You can't at my age (20) or you're not doing your job. You give it all you have and you either die or you do it."

Koch has been doing it most of his life. He was raised on a 100-acre farm in the backwoods of Vermont and said he learned to ski cross country out of necessity. "That's how I got to school. It was about 10 kilometers away, through the woods. We had a path, and I used it."

His father competed often in local ski-jumping events and Koch tried that sport, as well. "I kept going to the meets and I saw them have this cross-country competition. I just decided to try it.

"In 1973, I started a five-year plan. I felt then that when I reached 22 in 1978, I would be at my peak. I guess right now I'm just a little ahead."

Koch admits that his parents support him financially "and they will as long as I do well," he said. He was accepted to Middlebury College in Vermont in 1973, and will enroll when he is through with ski-racing. But that may not happen very soon the way he talks about it.

"Why do I do it? Well, it could be a form of expression. It's always been a way of life for me. It feels so good to train. I enjoy it. I'm kind of a loner, anyway, and most of the time it really isn't that painful.

"It's a very lonely sport. But it feels good to me to have my mind do the best it can do and my body do the best it can do. That to me is an accomplishment."

Koch's achievement here is expected to give a major lift to cross-country skiing in the U.S. Many Americans are taking up the sport, preferring the lonely and lovely treks through woods and rolling hillside to the endless lift lines at downhill areas.

"I would be very happy about that," he said before heading back to the Olympic Village and more training in preparation for Sunday's 15-kilometer event, his specialty.

"But that's not why I'm here. I race to satisfy myself. That's what I consider most important. I'm very proud of that medal. I still can't believe this has happened. But I think I can do better."

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR EMPLOYEE OF THE OFFICE OF SENATOR JACKSON TO APPEAR AS A WITNESS

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 382) authorizing Gene Tollefson, an employee in the office of Senator Jackson, to appear as a witness in the case of United States v. Edward Joseph Britt and James Paul Britt.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 382

Whereas in the case of *United States of America v. Edward Joseph Britt and James Paul Britt* (No. 75-385 Criminal), pending in the United States District Court for the District of New Mexico, a subpena has been issued by the court and addressed to Gene Tollefson, an employee in the office of Senator Jackson, directing him to appear, to give testimony, and to bring with him certain reports and letters in the office files of Senator Jackson: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by permission of the Senate.

SEC. 2. By the privileges of the Senate, information secured by officers and employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

SEC. 3. When it appears that testimony of an officer or employee of the Senate is needed for use in any court for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. Gene Tollefson, an employee in the office of Senator Jackson, is authorized, in response to a subpena issued by the United States District Court for the District of New Mexico in the case of United States of America v. Edward Joseph Britt and James Paul Britt, to appear as a witness and to testify in such case.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of New Mexico.

RECESS UNTIL 12:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:30 this afternoon.

There being no objection, the Senate, at 11:21 a.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WEICKER).

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported earlier today.

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

The PRESIDING OFFICER (Mr. MORGAN). The nomination will be stated.

INTERNATIONAL ATOMIC ENERGY AGENCY

The legislative clerk read the nomination of Galen L. Stone, of the District of Columbia, to be the Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be notified.

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

LEGISLATIVE SESSION

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SENATE JOINT RESOLUTION 167—TO AMEND THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Mr. WEICKER. Mr. President, I send to the desk a joint resolution to amend the Railroad Revitalization and Regulatory Reform Act of 1976, and I ask unanimous consent for its immediate consideration.

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

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 167) to amend the Railroad Revitalization and Regulatory Reform Act of 1976.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. WEICKER. Mr. President, this joint resolution merely makes three technical amendments to S. 2718, which was signed into law by the President yesterday. These amendments have been agreed to by all concerned. They are needed to assure a smooth certification procedure before the special court on February 17, if necessary.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Indiana (Mr. HARTKE).

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

STATEMENT BY MR. HARTKE

This joint resolution merely makes three technical amendments to S. 2718, which was signed into law by the President yesterday. These amendments have been agreed to by all concerned, and are needed to assure a smooth certification procedure before the Special Court on February 17, if necessary.

The first amendment is a technical amendment to correct the subsection lettering in section 301 of the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976.

The second amendment relates to the date on which the Association has to certify the transfer of properties to the Special Court.

The Railroad Revitalization and Regulatory Reform Act of 1976 amended the Regional Rail Reorganization Act of 1973 to provide that the time for delivery of a certified copy of the final system plan may be extended to a date prescribed in a notice filed by the United States Railway Association no later than February 10, 1976. However, based on the actual date of enactment of the 1976 Act, profitable railroads to whom rail properties might be conveyed pursuant to the final system plan under the 1973 Act may accept or decline to accept the offers after February 10. The decision of these profitable railroads could affect the ability of the Association to provide for an efficient and orderly conveyance of rail properties under the 1973 Act. Accordingly, it is proposed to extend the latest date for the Association to provide such notice from February 10 to February 17.

The third amendment is to correct a technical error made in the Concurrent Resolution which itself contained technical amendments to the Railroad Revitalization and Regulatory Reform Act of 1976.

Item 37 in the Concurrent Resolution inadvertently changed the word "Association" to "Corporation", as it previously had appeared in the phrase "in his capacity as a director of the Association". To carry out the intent of the Conferees requires changeing the world "Corporation" back to "Association".

The joint resolution (S.J. Res. 167) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 612(m) of the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, is amended by striking "(h)" and inserting 'n lieu thereof "(i)" and by striking "(i)" and inserting in lieu thereof "(j)".

SEC. 2. Section 209(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(c)(4) is amended by striking "February 10, 1976" and inserting in lieu thereof "February 17, 1976."

SEC. 3. Section 301(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 (1)) is amended by striking "in his capacity as a director of the Corporation" and inserting in lieu thereof "in his capacity as a director of the Association".

SUBSTITUTION OF SENATOR BUCKLEY FOR SENATOR PEARSON AS A CONFEREE—H.R. 200

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senator from New York (Mr. BUCKLEY) be appointed a conferee in lieu of the Senator from Kansas (Mr. PEARSON) for the conference on H.R. 200.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 2 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:36 p.m. recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BEALL).

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF SENATE JOINT RESOLUTION 167

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate Joint Resolution 167.

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

SANTA MONICA MOUNTAINS AND SEASHORE URBAN RECREATION AREA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration again of Calendar No. 559, S. 1640.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1640) to provide for the establishment of the Santa Monica Mountains and Seashore Urban Recreation Area in the State of California, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, as follows:

On page 1, in line 4, after "natural," insert "archeological,".

On page 2, in line 7, after "management" insert "and preservation".

On page 4, in line 3, after "region" insert "and the Secretary shall appoint four representatives from the public-at-large as nonvoting citizen advisers: *Provided further,* That, if the State of California adopts comprehensive planning legislation for the Santa Monica Mountains, such legislation provides for a Commission to develop a plan for the area, and the Secretary determines the plan will be implemented, the Secretary shall appoint the members of such Commission in lieu of the procedure established by this section."

On page 4, beginning in line 19, after "(1)" strike out "the development of public recreational facilities; (2) preservation of significant natural, cultural, or historical values, including areas which because of their local, regional, or other ecological importance, should be preserved in their natural state".

And insert "preservation of significant natural, cultural, or historic values, including areas which because of their local, regional, or other ecological importance, should be preserved in their natural state; (2) the development of public recreational facilities;".

On page 5, in line 14, after "include", insert "acquisition of fee or less than fee interests in land and/or waters;".

On page 5, in line 19, after the semicolon, strike out "acquisition of fee or less than fee interests in land and/or waters;".

On page 6, beginning with line 7, strike out:

SEC. 8. The Secretary and the heads of other Federal agencies shall cooperate with the Commission in the formulation of the plan upon the request of the Commission and to the extent of available funds.

And insert:

SEC. 8. The Secretary, acting through the National Park Service, shall assist the Commission in (1) identifying specific areas which are suitable for recreational facilities and areas of significant natural, historical, or cultural values, (2) developing appropriate methods by which such areas may be preserved for public benefit, and (3) interpreting the significant natural, historical, or cultural values identified in the plan. In addition, the Secretary and the heads of other Federal agencies shall cooperate with the Commission in the formulation of the plan upon the request of the Commission and to the extent of available funds.

On page 8, in line 7, after "to" insert "implement the plan" and strike out "carry it out".

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 Congress finds, (a) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health values provided by the Santa Monica Mountains and adjacent coastline area, (b) there is a national interest in protecting and preserving those values for the residents of and visitors to the area, (c) the primary responsibility for the provision of recreational, educational, and scientific opportunities, the preservation of scenic and natural areas, and the safeguarding of the health of the public who live, work, and play in or visit the area rests with the State of California and the various local units of government having jurisdiction over the area, (d) in recognition of the multi-State and National significance of some of the recreational values, the Federal Government has an interest in the management and preservation of the resources and should assist the State of California and its local units of government in fulfilling their responsibilities, and (e) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of its authorities.

SEC. 2. The purposes of this Act are (1) to provide for the preservation of the outstanding natural features and open undeveloped land and water resources of the Santa Monica Mountains and nearby seashore areas in California, (2) to assure the protection of the public health by preserving the airshed of the region, and (3) to provide adequate outdoor recreation facilities and opportunities for the people of the Los Angeles metropolitan area.

SEC. 3. There is hereby established the Santa Monica Mountains and Seashore Urban Recreation Area (hereinafter referred to as the "recreation area"). The boundaries of the recreation area shall be those generally depicted as "Study Area Boundary" on the maps comprising appendix B of the report prepared by the Pacific Southwest Region of the Bureau of Outdoor Recreation, Department of Interior, published in 1973, entitled "Santa Monica Mountains Study", which shall be on file and available for public inspection in the offices of the Department of Interior, Washington, District of Columbia. The boundaries of the recreation area may be revised from time to time by the commission established in section 4 of this Act in the same manner as set forth herein for preparation and approval of land use plans except that the total area within the recreation area may not exceed two hundred and five thousand acres.

SEC. 4. PLANNING COMMISSION.—Within one year of the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish a planning commission for the recreation area (hereinafter referred to as the "Commission").

SEC. 5. The Commission shall be composed of not more than twelve members appointed by the Secretary from recommendations submitted to him by the Governor of the State of California and the chief executive officers of such local units of government, including counties and municipalities, which have jurisdiction over the recreation area: *Provided,* That the Secretary shall insure a balance in representation between State and local jurisdictions and appropriate representation from jurisdictions having major responsibilities in the region and the Secretary shall appoint four representatives from the public at large as nonvoting citizen advisers: *Provided further,* That, if the State of California adopts comprehensive planning legislation for the Santa Monica Mountains, such legislation provides for a Commission to develop a plan for the area, and the Secretary determines the plan will be implemented, the Secretary shall appoint the members of such Commission in lieu of the procedure established by this section. The Secretary shall designate a member of the Commission to serve as Chairman.

SEC. 6. The function of the Commission shall be to develop a plan for the development (if any) and use of the land and water resources of the recreation area.

SEC. 7. The plan shall include, but need not be limited to—

(a) an identification of specific areas which are suitable for (1) the development of public recreational facilities; (2) preservation of significant natural, cultural, or historical values, including areas which because of their local, regional, or other ecological importance, should be preserved in their natural state; and (3) public or private uses which are compatible with and which would not significantly impair the scenic, natural, recreatonal, educational, and scientific values present in the area and which would not have a significant adverse effect on the air quality of the Los Angeles-Santa Monica area;

(b) provision for the preservation of and public access to beaches and costal uplands, undeveloped inland stream drainage basins, and existing park roads and scenic corridors;

(c) a specific land use program to be implemented which may include acquisition of fee or less than fee interests in land and/or waters; the use of the constitutional authority of the State to regulate the use of land and water; other noncompensatory land use regulations which may be appropriate; compensatory land use regulations; tax incentives; acquisition of fee or less than fee interests in land and/or waters; or any combination of land use methods which the Commission deems will best accomplish the purposes of this Act; and

(d) the identification of the units of State or local government which will be responsible for implementing the program: *Provided,* That the plan may not propose an expenditure of Federal funds greater than $50,000,000 exclusive of funds available under other Federal programs including, but not limited to, section 701 of the Housing Act of 1954, as amended, the Land and Water Conservation Fund Act, and the Historic Preservation Act of 1966.

SEC. 8. The Secretary, acting through the National Park Service, shall assist the Commission in (1) identifying specific areas which are suitable for recreational facilities and areas of significant natural, historical, or cultural values, (2) developing appropriate methods by which such areas may be preserved for public benefit, and (3) interpreting the significant natural, historical, or cultural values identified in the plan. In addition, the Secretary and the heads of other Federal agencies shall cooperate with the Commission in the formulation of the plan upon the request of the Commission and to the extent of available funds.

SEC. 9. (a) Members of the Commission who are employees of a State or local government shall serve without additional compensation as such. All other members shall receive $100 per diem when actually engaged in the performance of the duties of the Commission.

(b) The Secretary shall reimburse all Commission members for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

(c) Financial and administrative services (including those relating to payment of compensation, budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Department from the funds appropriated to carry out the provisions of this Act.

(d) The Commission shall have the power to appoint and fix the compensation of such additional personnel and such temporary and intermittent services as may be necessary to carry out the duties, without regard to the provisions of the civil service laws and the Classification Act of 1949, and it shall have the power to hold hearings and administer oaths.

(e) The Commission shall act by affirmative vote of a majority thereof. Vacancies shall be filled in the same manner as the original appointment.

SEC. 10. (a) The Commission shall submit its plan to the Secretary who shall, within one hundred and eighty days of the day it is submitted to him, either approve or disapprove the plan.

(b) The Secretary shall approve the plan if he finds that (1) the Commission has afforded adequate opportunity in the metropolitan area for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary legislative authority to implement the plan, and the chief executive officers of the State and local units of government have indicated their intention to utilize such authority in implementation of the plan in accordance with the program established by the Commission; (3) the plan, if implemented, would preserve significant natural or historical values and provide increased outdoor recreation opportunities for persons residing in the urban areas; and (4) implementation of the plan would not have a serious adverse impact on the air quality of the Los Angeles-Santa Monica region. Prior to making his finding on the air quality impact of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(c) If the Secretary disapproves the plan or revision he shall advise the Commission of the reasons therefor together with his recommendations for revision. The plan, following its disapproval, may be resubmitted to the Secretary for his approval in the discretion of the Commission.

(d) Upon approval of the plan, the Secretary shall publish a notice thereof in the Federal Register and shall transmit copies of the plan together with his comments to the

President of the Senate and the Speaker of the House of Representatives.

(e) No revision to an approved plan may be made without the approval of the Secretary. The Secretary shall either approve or disapprove a proposed revision within one hundred and eighty days from the date on which it is submitted to him. Whenever the Secretary approves a revision, he shall publish notice thereof in the Federal Register.

SEC. 11. (a) Upon approval of the plan, the Secretary shall make grants in the total amount of $50,000,000 to the State or local units of government identified in the approved plan for the recreation area as having responsibility for implementing its provisions. Such grants shall be made upon application of such State or local units of government, shall be supplemental to any other Federal financial assistance for any purpose, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act.

SEC. 12. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for grants, pursuant to section 11 of this Act, to the State or local units of government. There shall be covered into such special account, $50,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and/or under the Act of June 4, 1920 (41 Stat. 813) as amended, which would be otherwise credited to miscellaneous receipts of the Treasury. Moneys covered into the account shall be used only for grants made pursuant to section 11 of this Act and shall be available for expenditure only when appropriated therefor.

SEC. 13. APPROPRIATIONS.—They are authorized to be appropriated to defray the expenses of the Commission established pursuant to section 3, including salaries and other expenses incident to the preparation or revision of a land-use program, such sums annually as may be necessary, and for grants to the State and local units of government to implement a land-use program approved pursuant to section 10 of this Act, $50,000,000 from the special account created in section 12 of this Act.

AUTHORITY FOR COMMITTEES TO FILE REPORTS ON FEBRUARY 12, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate pursuant to Senate Concurrent Resolution 92, all committees be authorized to file their reports on Thursday, February 12, 1976, between 10 a.m. and 3 p.m., with the Secretary of the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SANTA MONICA MOUNTAINS AND SEASHORE URBAN RECREATION AREA

The Senate continued with the consideration of the bill (S. 1640) to provide for the establishment of the Santa Monica Mountains and Seashore Urban Recreation Area in the State of California, and for other purposes.

Mr. JOHNSTON. Mr. President, this legislation proposes a new direction in our national commitment to preserve and protect our natural heritage for the benefit of the American people. The traditional approaches have all been basically one-dimensional. Either State or local governments, occasionally with Federal financial support, have acted or the entire burden has been placed on the Federal Government. Only rarely have all levels of government joined in exercising their authorities and expertise to protect an area. This legislation mandates just such a joint effort.

Overreliance on the Federal Government or sole reliance on State and local governments threatens both our national heritage and national and local resources. Increasingly, the Federal Government is being asked to preserve urban open land because local governments are unwilling or unable to act. Local governments, on the other hand, are beset by a multitude of critical urban demands and are hard pressed to devote needed resources to major recreation and conservation projects.

We now need a Federal commitment to assist those State and local units of government which are willing to make the difficult urban planning decisions which must be made if our urban areas are not to strangle on their own growth. The decisions to call a halt to unplanned and haphazard development and to pursue the preservation of open space and recreation areas rather than to develop an increased tax base are hard ones to make. But if we are to avoid the mistakes of the past, we must begin to act at all levels of government to preserve what remains and recover what we have lost.

This is not to say that our conservation and recreation history consist solely of defeats. The victories which have been won in preserving something of our heritage are impressive: The Redwoods, the Everglades, the Grand Canyon and other units of the National Park System are prime examples. But the price has been high.

If there were no inflation, no land price escalation, and no new additions to the National Park System, it would take 10 years at current rates of funding to complete the present backlog of land acquisition for authorized units of the National Park System. For acquisition of natural forest areas, the prospect is even more bleak. Current estimates for land acquisition for forest areas are approximately $1.4 billion. The total Federal recreation land acquisition backlog for the Bureau of Land Management, the Fish and Wildlife Service, the Forest Service, and the National Park Service is in excess of $3 billion. That $3 billion backlog, however, is dwarfed by the $40 billion needs of State and local governments for acquisition of recreation and preservation areas.

The land and water conservation fund was created to provide a source of funding for Federal recreation land acquisition and for a matching grant program of assistance to States. Almost from its inception, the fund's resources have been outdistanced by the demands placed on it. At present, $300 million a year is deposited in the fund. Of that amount, $70 million is allocated to the National Park Service which is not enough to match inflation and land price escalation, much less to cut into the backlog of acquisition needs of the National Park Service.

During the last Congress, and again this Congress, the Senate has passed legislation which I introduced to increase the level of funding to the land and water conservation fund. That legislation was and is critically needed, but it is not the entire answer. The pressures on our national and local park and recreation areas is intense and the day may soon be upon us when we will have to restrict visitation to these places which were preserved for our people.

Overcrowding in Yosemite by people trying to escape our cities threatens to destroy one of the first areas the Federal Government sought to protect. In an era when unemployment spreads through our cities, when the poor and even the middle class find the soaring costs of essential products curtailing their available income, when urban sprawl and development gnaws away at our remaining open space, there is a pressing need for accessible recreation areas for our urban residents.

If we are to provide a decent environment for our children and future generations it is imperative that all levels of government fully exercise their authorities. Too often States have sought the easy approach of Federal action rather than the more difficult approach of making the hard local decisions necessary to preserve areas of our natural environment.

Our urban history, with some notable exceptions, has been a history of lost opportunities. Opportunities to intelligently plan for growth and development while preserving open space and recreation areas have not been pursued, and only when the cities cry out from their own excesses have we acted.

Large metropolitan centers are prodigious users of land and water resources. These population centers draw on woodlands and watersheds from their earlier uses and transform them into building sites, streets, shopping centers, school yards, expressways, and airports. This process of resource transformation often has not followed any planned sequence or orderly procedure. Consequently, the resulting patterns of resource utilization are not always likely to provide efficient satisfaction of the needs for outdoor recreation generated by a metropolitan society.

In a 1930 report to a citizens committee, the outdoor recreation portrait of Los Angeles was already grim:

> The facts are so complicated that condensed statistical comparisons, without personal knowledge of local conditions, can be very misleading. But when the situation in the Los Angeles region is measured carefully and patiently by the crude but common sense method of comparison with experience elsewhere, four conclusions become unmistakably clear:

1. There is a serious shortage of park-system facilities in this region, even for the present population.

2. There has been a serious lack of increase of such facilities in comparison with the rapid increase of population.

3. These shortages seem quite unreasonable considering the agreeable climate, the economic prosperity, and the exceptionally favorable social conditions here.

4. They appear not only unreasonable, but positively reprehensible, because of the very close and direct influence of agreeable living conditions on the continued health of the people and the prosperity of the community.

The problems of precipitous growth in Los Angeles are well known. Four Corners, Navajo, Mojave—the entire Southwest powerplant complex is a result directly or indirectly of the consuming growth of Los Angeles. Because Los Angeles is unable to survive with any more pollution, powerplants are built in New Mexico to provide power to the city.

Air quality is by far the most critical form of pollution in the Los Angeles region. Levels of air pollution are most severe over the northern half of the Los Angeles basin. Fresh air to dilute this zone comes in off the Pacific over the length of the Santa Monica Mountains. Further contamination of this airshed will result in worse smog conditions over the cities at the eastern end of the range. Protection of this area is not just a question of recreation, but is almost a question of survival.

With a resident population of approximately 10 million and annual visitation of approximately 8 million, existing recreational resources for the Los Angeles area are overcrowded and inadequate. The Santa Monica Mountains may well offer the last chance for recreation areas in the region.

Over the years, the forces of nature and man have left their marks on the proposed recreation area. The result is a rich variety of environments, varied land forms, spectacular geological formations, areas of great natural beauty, fossils from earlier epochs, and the artifacts and inhabitations of Indian, Hispanic and early California cultures. As tangible links to the past, these fragile phenomena offer an enrichment of present day living and are well worth preserving.

While the State of California has made great strides in planning at both the State and local level, the impetus for sprawling development remains strong. The county of Los Angeles recently set a precedent by negotiating one of the largest open space easements in the United States for 41,000 acres of Santa Catalina Island. The recent completion of the California coastal plan offers the promise that a plan for the entire Santa Monica area can be expeditiously devised.

Mr. President, with this legislation I propose an increased commitment by the Federal Government to explore new policies and programs to improve the quality of life for the American people. To preserve and improve the environment of our urban areas will require new initiatives in the areas of historic preservation and restoration of our cities, acquisition and protection of open spaces, development of intelligent zoning and land use, and improvement of our transportation systems.

This legislation proposes a commitment by the Federal Government to participate actively with the local and State governments to create a unique natural area. I believe that the combined resources of the Federal, State, and local governments, and the private sector insure a realistic and efficient preservation of the Santa Monica Mountains and seashore area.

This legislation has been carefully planned to fit the situation of the Santa Monica Mountains and seashore area. It has the support of the State of California and I urge its adoption.

Mr. TUNNEY. I appreciate the fine statement of the distinguished Senator from Louisiana and would like to express my gratitude for his outstanding efforts in developing this legislation to protect and preserve this area. There are two elements of this legislation which I feel should be clarified and those relate to the purposes for which the $50 million authorization will be used and to the time framework in which a plan should be developed. I think we are all concerned over the inordinate delays in land acquisition in the National Park System and the yearly increase in the land acquisition backlog. I would like to clarify that the Senator shares my concern that there would not be great delay in the development of a plan for the Santa Monica Mountains and that the authorized funds included in this legislation should be immediately available to proceed with the implementation of the approved plan.

Mr. JOHNSTON. I thank the Senator from California and would like to state that he has eloquently expressed my views on this legislation. The State of California and its local subdivisions have made great strides in preservation and protection, and in the development of appropriate planning documents to guide the future growth of that great State. I have little concern that the State will not respond to the enactment of this legislation. With the progress of the legislation in the California Assembly, introduced by Assemblyman Berman, I believe there is ample evidence of the interest and desire of the people of California to preserve and protect this area. There are several planning studies already completed which will be of inestimable value to the Commission in its formulation of a plan. The bureau of outdoor recreation, Ventura County, and the Coastal Zone Commission have all looked at parts of this area and their findings and contributions and recommendations should be of great assistance. It is my expectation that, barring unforeseen delays, an approved plan should be submitted to the Secretary of the Interior within 2 years from the date of enactment of this act. Hopefully, a plan can be completed sooner, but I would be very surprised if full and complete agreement cannot be achieved within 2 years.

Mr. TUNNEY. I share the Senator's expectations and I agree wholeheartedly with him that the State of California has done an outstanding job in the planning and management of its natural areas. Some concern has been expressed that the funds authorized under this legislation might be diverted toward development of some inconsistent use rather than for acquisition of land or interests in land in accordance with an approved plan. I do not believe this is likely, but I would appreciate the Senator's comments.

Mr. JOHNSTON. There is no limitation on the use of the authorized funds in this legislation aside from the fact that they must be expended in accordance with an approved plan and subject to appropriate terms and conditions by the Secretary of the Interior. Our expectation is that implementation of the commission's plan will require funds far in excess of the $50 million authorized in this legislation. Surely, the commission will need funds from sources other than the Federal Government to completely implement their plan. The funds authorized in this bill are intended to be "seed" money which constitutes a statement of Federal commitment to and an impetus for the preservation of this area.

Mr. TUNNEY. Clearly, all of the $50 million authorized in this bill will be needed for land acquisition and acquisitions of interests in land sufficient to preserve and protect this area. The Senator is familiar with the studies which have already been completed, such as the Bureau of Outdoor Recreation's early study, the Ventura County study, and the recently completed California coastal plan. It is clear from all these studies that enormous commitment of funds will be necessary if this area is to be preserved. Does my distinguished colleague from Louisiana agree that the $50 million authorized in this bill will need to be used for land acquisition and acquisition of interests in land?

Mr. JOHNSTON. Yes, I agree with the Senator from California that, in this instance, all of the money authorized in this bill will need to be used for land acquisition and acquisitions of interests in land.

Mr. TUNNEY. I believe it will be useful in this bill to limit use of the authorized funds to the acquisition of land and interests in land so that we in the Congress will be assured that the Secretary of Interior will not authorize grants for nonacquisition purposes.

Mr. JOHNSTON. On this measure, I believe the suggestion of the Senator from California is appropriate. However, this should not be construed as a precedent should the concept of this bill be applied to other areas.

Mr. President, I will yield to my distinguished colleague from Wyoming who, I believe, has an amendment to offer.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. If the Senator will suspend, the committee amendments have to be acted on first.

Mr. JOHNSTON. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. Does the Senator move adoption of the amendments en bloc?

Mr. JOHNSTON. En bloc.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Louisiana. Let me just take a moment to pay tribute to him for the extremely effective and penetrating work he has done on this legislation. I know he has conducted hearings in the State of California. He has been most diligent as chairman of the Subcommittee on Parks and Recreation on which I have the honor to serve under him.

I think he has made a very fine contribution toward those goals to which, I assume, almost all Americans can wholeheartedly subscribe. I think he has done yeoman service for our country, and it has been my pleasure and privilege to work with him, and I salute him for most effective work.

Mr. JOHNSTON. I thank my colleague.

Mr. HANSEN. I would like to call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment on page 10, after line 9, insert a new section 13 and renumber accordingly.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. Hansen's amendment is as follows.

SEC. 13. Any final judgment, raising a justiciible issue under the fifth or fourteenth amendments to the Constitution of the United States, which has been rendered by the highest appropriate court of the State of California and which is adverse to a property owner whose property is located within the boundaries of the recreation area may be appealed by such property owner to the United States Court of Appeals for the Ninth Circuit, which Circuit Court shall have the same jurisdiction for review as the United States Supreme Court. The United States Supreme Court shall have the same jurisdiction to review a decision of the Court of Appeals under this section as it would have over a final judgment by the highest court of the State of California. Any property owner who prevails in such appeal before the circuit court or the Supreme Court shall be awarded his costs plus reasonable attorney fees incurred in such appeal.

Mr. HANSEN. Essentially my amendment provides access through the normal administrative and judicial channels available to citizens in any State for relief if they feel their rights as an owner of real property may have been diminished by action that could conceivably be taken under this bill; with the further proviso that they may take their case, if it has not been decided to their satisfaction, to be heard by the circuit court, as I recall, in the Ninth Circuit in California.

Mr. JOHNSTON. Yes.

As I recall, the effect of this amendment is to allow a property owner—it would be in California.

Mr. HANSEN. I meant to say in California, right. It applies only to this bill.

Mr. JOHNSTON. It would allow a property owner to appeal or seek certiorari, as the case may be, to the Ninth Circuit once he has exhausted all of his remedies in the State court in California, and in that appellate procedure to be awarded costs and attorney's fees if he prevails and reverses the decision against him in the California courts.

Mr. HANSEN. Yes.

Mr. JOHNSTON. Mr. President, I have discussed this with my distinguished colleague from Wyoming, who has been a great champion of private property rights in the Interior Committee, a sentiment which I share very strongly with my colleague from Wyoming.

Frankly, I was a little hesitant to take this amendment, not because I did not want all of those protections for a property owner which this would give, but rather because I did not want to set a precedent for other parks. I thought we should treat all parks alike, Santa Monica and all the rest.

However, in this case, because this is a new concept, we are plowing new ground in this case, I will accept it because it will give some assurance to the property owners that their rights will not be trod upon, so I will accept the amendment.

Mr. HANSEN. I thank my colleague from Louisiana very much for his consideration and for his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I have two amendments which I send to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator ask that they be considered en bloc?

Mr. TUNNEY. I ask unanimous consent that they be considered en bloc.

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

The clerk will state the amendments.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. TUNNEY) proposes two amendments.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

Mr. TUNNEY's amendments are as follows:

Page 2, line 24 of the reported bill, after "Urban" and before "Recreation" insert "Park and".

Page 8, line 1 of the reported bill after "opportunity" insert ", including public hearings,".

Page 8, beginning on line 11 of the reported bill, delete "(3) the plan, if implemented, would preserve significant natural or historical values and provide increased outdoor recreation opportunities for persons residing in the urban areas;" and insert in lieu thereof, "(3) the plan, if implemented, would preserve significant natural, historical, and archeological values and, consistent with such values, provide increased outdoor recreation and education opportunities for persons residing in the urban areas;".

On page 9, line 15, of the reported bill insert the following: After the word "provisions" strike the period and insert in lieu thereof ": *Provided*, That such grants shall only be made for the acquisition of land and/or interest in land."

Mr. TUNNEY. Mr. President, I would just like to say, first of all, that the Senator from Louisiana is more responsible than anyone else for having this legislation come before this body today.

The Senator brought the committee hearings to California and he showed a tremendous interest in doing it, sat through many hours of hearings. He has worked long, hard hours here in Washington trying to find an acceptable formulation so that we can get a Santa Monica Park in California.

I can understand a Senator taking a very active interest in parks in his own home State, but it is rare that you find a Senator or anyone prepared to spend the many hours that Senator JOHNSTON did coming to California, working on a park in someone else's State, and I am very deeply appreciative of the consideration he has given this bill which Senator CRANSTON and I introduced together.

These two amendments I have are self-explanatory. One of them makes sure that the $50 million will be used for land acquisition. The other amendment—they are technical amendments which have been cleared with the staff of the Interior Committee.

With those words of explanation I again express my appreciation to the distinguished chairman of the subcommittee.

Mr. JOHNSTON. Mr. President, I thank my colleague from California.

Without engaging in what may appear to be too much hyperbole, let me just state as a fact that we would not be here on this bill today had it not been for the distinguished junior Senator from California. This has been his bill, his baby.

While it is a very important project, it is in some sense a marginal project as far as Federal involvement is concerned. But not only the Senator's insistence but his persuasiveness in presenting the case for Santa Monica caused us on the Parks and Recreation Subcommittee to come up with a brand new concept to cover this very park which we believe will serve as a model for future parks.

Mr. President, I would like to explain this concept in the hope that this explanation will help guide the Secretary of the Interior in his dealing with this legislation and, particularly, in regard to his interpretation of this amendment.

Mr. President, we heard testimony on this bill that acquisition costs might run as high as a half billion dollars, and one estimate was as high as $1 billion, acquisition cost of all of the Santa Monica lands. In our judgment there was no Federal interest sufficient to justify the creation of a park that would take that much money. As a range of priority, as a recreation area, it simply is not important enough to take $1 billion in Federal money away from all the multitudinous projects awaiting funds around

this country and spend that kind of money.

We did recognize that there was a Federal interest if for no other reason than because 10 million people live in the Los Angeles Basin that not only need recreation but need clean air as well. This is what is referred to as the air shed for Los Angeles County, that tract of land lying between the seashore and Los Angeles County, already polluted, already subject to some of the heaviest smogs in the country. Unless we did something to preserve and protect this air shed for Los Angeles County we would indeed present a serious hazard to the people of Los Angeles County.

So what we have done in this legislation, Mr. President, is to provide some serious seed money from the Federal Government, some very serious seed money, $50 million.

It is our intention, our thought and our general direction to the Secretary of Interior that he approve a plan which is basically perfected by the local governments, all of those local governments concerned who will have representatives on the commission, and that they come up with a plan which will preserve all of those values which are detailed in the legislation, including recreation values as well as clean air.

It is our thought that it is going to take considerably more than $50 million to do it. Frankly, if it can be done for only $50 million, we have been mistaken and misled by the tone of the testimony which we have heard. I believe it will take more than that.

So with that in mind, and only with that understanding, I will accept this amendment, Mr. President.

When I say accept this amendment, I will accept the amendments en bloc, but particularly that one which says "provided the grants may be used only for acquisition."

It has been a concern of our friends in the Sierra Society that perhaps the $50 million would be used to build recreation areas and not all be used for land acquisition or easement acquisition.

Mr. President, if that were done, with or without this language it would be in diametric opposition to the whole intent of this bill. The intent of this bill is that $50 million is only the seed money, only the important starting money, and that either the State of California or Los Angeles County, or any of the other local governing bodies, will do their share and provide their part in producing this total recreational and historic area as a park to be run by the State.

Quite frankly, Mr. President, I had serious resistance to this amendment at first because I thought the amendment was capable of being read in a sense that perhaps the $50 million was the whole package, as far as the park was concerned, and the question was how we were going to build a park with $50 million, whether on the one hand we were going to simply acquire land or whether on the other hand we were going to acquire land and build a park. Either one of those interpretations would be wrong if it is premised upon the fact that $50 million is the whole package.

Fifty million dollars is decidedly not the whole package, but the rest of the package should be put up by the State or by the local governing authority.

I believe the Secretary of the Interior will so interpret the law as he approves the plan to be perfected by the local governing authorities.

I have one other point before I call for the approval of the amendments.

One of the reasons for this new concept, Mr. President, is our conviction that we must stretch our Federal recreation dollar. We have over $3 billion worth of authorized but unfunded projects waiting to be funded right now. It has been the custom in the past to authorize a project by authorizing the fee acquisition of the total interest in land whenever we had a park involved. Frankly, this has been a waste of Federal dollars in many instances because we do not need the fee for many of the urban parks. What we are after is either an easement of view, an easement of drainage, or a land restriction to prevent some kind of pollution, as in the case of a watershed that would flow into a lake, or some other specific value that we are trying to preserve which, in many instances, can be preserved without acquiring the fee.

In some instances it can be preserved by acquiring an easement, as an easement of drainage. In other instances it can be preserved by a very ordinary and pedestrian kind of zoning regulation.

It is not the intent of this bill to force some new kind of land use planning that goes beyond the limits of the 5th or 14th amendments, but, rather, to require and to urge the State and the local governing bodies that they use their powers and that they use this money as well as other moneys to come up with an innovative, new plan for the whole of the Santa Monica area, in some instances to acquire the fee where recreation would be needed; in other instances to acquire an easement of view, if that is the particular value in a particular area to be preserved; in other instances to have a zoning prohibiting too much density of building, perhaps, which is a usual kind of zoning pattern long accepted in this country. With this combination of land use tools, compensated where appropriate under the 5th and 14th amendments, we will come up with a plan for the Santa Monica Mountains and seashore that will work, that will be within the means of the local governing bodies as well as the United States, and that will produce a truly outstanding park.

So, Mr. President, I will accept these amendments and do so with sincere commendation to my colleague from California, without whose leadership this park would not be built. I say that very sincerely because we could not afford to build it in the traditional way. We simply could not afford to put up $.5 billion or $1 billion to acquire this whole fee. It has been only because of his leadership that we have been able to come up with this new concept, specifically tailored for Santa Monica, and which concept I hope will serve as a model for other parks, particularly other urban parks, throughout the country.

Mr. TUNNEY. Mr. President, I deeply appreciate the remarks that the distinguished junior Senator from Louisiana has made. I do think that it ought to be clear to everyone in the Senate that this new concept is uniquely the product of the imagination and work of the Senator from Louisiana, who is the one who has worked so hard, as chairman of this subcommittee, to develop a plan whereby we can afford to bring new parks into our system despite the fact that we have a terrible financial crunch now, and there are inadequate funds available, with escalating land prices and other demands for the dollar, to purchase acreage that is needed to provide recreation for future generations of Americans.

There is no doubt in my mind that an enormous commitment of funds is going to be needed above and beyond the $50 million to make this park an adequate facility for the people of the area. We have studies, the Bureau of Outdoor Recreation study, the Ventura County study, and the California coastal plan study, all of which demonstrate that there is going to have to be a substantial increase in funds above and beyond the $50 million, and although this amendment directs that the money be applied to land acquisition, it is clear to me that the State and local governments are going to have to put up a substantial amount of additional money above and beyond the $50 million, not only for recreational purposes and for management of the park system, but also for land acquisition.

I might add that the State has put up a lot of money already and a lot of land has been acquired for the park area.

Again I commend the Senator from Louisiana for his efforts in behalf of this measure.

Mr. JOHNSTON. I thank my colleague.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is; Shall it pass?

The bill (S. 1640) was passed, as follows:

S. 1640

An act to provide for the establishment of the Santa Monica Mountains and Seashore Urban Park and Recreation Area in the State of California, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds, (a) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health values provided by the Santa Monica Mountains and adjacent coastline area, (b) there is a national interest in protecting and preserving those values for the residents of

and visitors to the area, (c) the primary responsibility for the provision of recreational, educational, and scientific opportunities, the preservation of scenic and natural areas, and the safeguarding of the health of the public who live, work, and play in or visit the area rests with the State of California and the various local units of government having jurisdiction over the area, (d) in recognition of the multi-State and national significance of some of the recreational values, the Federal Government has an interest in the management and preservation of the resources and should assist the State of California and its local units of government in fulfilling their responsibilities, and (c) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of its authorities.

SEC. 2. The purposes of this Act are (1) to provide for the preservation of the outstanding natural features and open undeveloped land and water sources of the Santa Monica Mountains and nearby seashore areas in California, (2) to assure the protection of the public health by preserving the airshed of the region, and (3) to provide adequate outdoor recreation facilities and opportunities for the people of the Los Angeles metropolitan area.

SEC. 3. There is hereby established the Santa Monica Mountains and Seashore Urban Park and Recreation Area (hereinafter referred to as the "recreation area"). The boundaries of the recreation area shall be those generally depicted as "Study Area Boundary" on the maps comprising appendix B of the report prepared by the Pacific Southwest Region of the Bureau of Outdoor Recreation, Department of Interior, published in 1973, entitled "Santa Monica Mountains Study", which shall be on file and available for public inspection in the offices of the Department of Interior, Washington, District of Columbia. The boundaries of the recreation area may be revised from time to time by the commission established in section 4 of this Act in the same manner as set forth herein for preparation and approval of land use plans except that the total area within the recreation area may not exceed two hundred and five thousand acres.

SEC. 4. PLANNING COMMISSION.—Within one year of the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish a planning commission for the recreation area (hereinafter referred to as the "Commission").

SEC. 5. The Commission shall be composed of not more than twelve members appointed by the Secretary from recommendations submitted to him by the Governor of the State of California and the chief executive officers of such local units of government, including counties and municipalities, which have jurisdiction over the recreation area: *Provided,* That the Secretary shall insure a balance in representation between State and local jurisdictions and appropriate representation from jurisdictions having major responsibilities in the region and the Secretary shall appoint four representatives from the public-at-large as nonvoting citizen advisers: *Provided further,* That, if the State of California adopts comprehensive planning legislation for the Santa Monica Mountains, such legislation provides for a Commission to develop a plan for the area, and the Secretary determines the plan will be implemented, the Secretary shall appoint the members of such Commission in lieu of the procedure established by this section. The Secretary shall designate a member of the Commission to serve as Chairman.

SEC. 6. The function of the Commission shall be to develop a plan for the development (if any) and use of the land and water resources of the recreation area.

SEC. 7. The plan shall include, but need not be limited to—

(a) an identification of specific areas which are suitable for (1) preservation of significant natural, cultural, or historic values, including areas which because of their local, regional, or other ecological importance, shall be preserved in their natural state; (2) the development of public recreational facilities; and (3) public or private uses which are compatible with and which would not significantly impair the scenic, natural, recreational, educational, and scientific values present in the area and which would not have a significant adverse effect on the air quality of the Los Angeles-Santa Monica area;

(b) provision for the preservation of and public access to beaches and coastal uplands, undeveloped inland stream drainage basins, and existing park roads and scenic corridors;

(c) a specific land use program to be implemented which may include acquisition of fee or less than fee interests in land and/or waters; the use of the constitutional authority of the State to regulate the use of land and water; other noncompensatory land use regulations which may be appropriate; compensatory land use regulations; tax incentives; or any combination of land use methods which the Commission deems will best accomplish the purposes of this Act; and

(d) the identification of the units of State or local government which will be responsible for implementing the program: *Provided,* That the plan may not propose an expenditure of Federal funds greater than $50,000,000 exclusive of funds available under other Federal programs including, but not limited to, section 701 of the Housing Act of 1954, as amended, the Land and Water Conservation Fund Act, and the Historic Preservation Act of 1966.

SEC. 8. The Secretary, acting through the National Park Service, shall assist the Commission in (1) identifying specific areas which are suitable for recreational facilities and areas of significant natural, historical, or cultural values, (2) developing appropriate methods by which such areas may be preserved for public benefit, and (3) interpreting the significant natural, historical, or cultural values identified in the plan. In addition, the Secretary and the heads of other Federal agencies shall cooperate with the Commission in the formulation of the plan upon the request of the Commission and to the extent of available funds.

SEC. 9. (a) Members of the Commission who are employees of a State or local government shall serve without additional compensation as such. All other members shall receive $100 per diem when actually engaged in the performance of the duties of the Commission.

(b) The Secretary shall reimburse all Commission members for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

(c) Financial and administrative services (including those relating to payment of compensation, budgeting, accounting, financial reporting, personnel, and procurement) shall be provided by the Department from the funds appropriated to carry out the provisions of this Act.

(d) The Commission shall have the power to appoint and fix the compensation of such additional personnel and such temporary and intermittent services as may be necessary to carry out the duties, without regard to the provisions of the civil service laws and the Classification Act of 1949, and it shall have the power to hold hearings and administer oaths.

(e) The Commission shall act by affirmative vote of a majority thereof. Vacancies shall be filled in the same manner as the original appointment.

SEC. 10. (a) The Commission shall submit its plan to the Secretary who shall, within one hundred and eighty days of the day it is submitted to him, either approve or disapprove the plan.

(b) The Secretary shall approve the plan if he finds that (1) the Commission has afforded adequate opportunity, including public hearings, in the metropolitan area for public comment on the plan, and such comment was received and considered in the plan or revision as presented to him; (2) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary legislative authority to implement the plan and the chief executive officers of the State and local units of government have indicated their intention to utilize such authority in implementation of the plan in accordance with the program established by the Commission; (3) the plan, if implemented, would preserve significant natural, historical, and archeological values and, consistent with such values, provide increased outdoor recreation and education opportunities for persons residing in the urban areas; and (4) implementation of the plan would not have a serious adverse impact on the air quality of the Los Angeles-Santa Monica region. Prior to making his finding on the air quality impact of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(c) If the Secretary disapproves the plan or revision he shall advise the Commission of the reasons therefor together with his recommendations for revision. The plan, following its disapproval, may be resubmitted to the Secretary for his approval in the discretion of the Commission.

(d) Upon approval of the plan, the Secretary shall publish a notice thereof in the Federal Register and shall transmit copies of the plan together with his comments to the President of the Senate and the Speaker of the House of Representatives.

(e) No revision to an approved plan may be made without the approval of the Secretary. The Secretary shall either approve or disapprove a proposed revision within one hundred and eighty days from the date on which it is submitted to him. Whenever the Secretary approves a revision, he shall publish notice thereof in the Federal Register.

SEC. 11. (a) Upon approval of the plan, the Secretary shall make grants in the total amount of $50,000,000 to the State or local units of government identified in the approved plan for the recreation area as having responsibility for implementing its provisions: *Provided,* That such grants shall only be made for the acquisition of land and/or interests in land. Such grants shall be made upon application of such State or local units of government, shall be supplemental to any other Federal financial assistance for any purpose, and shall be subject to such reasonable terms and conditions as the Secretary deems necessary to effectuate the purposes of this Act.

SEC. 12. There is hereby established a special account in the Treasury of the United States for the purpose of holding moneys to be used for grants, pursuant to section 11 of this Act, to the State or local units of government. There shall be covered into such special account, $50,000,000 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462) as amended and/or under the Act of June 4, 1920 (41 Stat. 813) as amended, which would be otherwise credited to miscellaneous receipts of the Treasury. Money covered into the account shall be used only for grants made pursuant to section 11 of this Act and

shall be available for expenditure only when appropriated therefor.

SEC. 13. Any final judgment, raising a justiciable issue under the fifth or fourteenth amendments to the Constitution of the United States, which has been rendered by the highest appropriate court of the State of California and which is adverse to a property owner whose property is located within the boundaries of the recreation area may be appealed by such property owner to the United States Court of Appeals for the Ninth Circuit, which circuit court shall have the same jurisdiction for review as the United States Supreme Court. The United States Supreme Court shall have the same jurisdiction to review a decision of the court of appeals under this section as it would have over a final judgment by the highest court of the State of California. Any property owner who prevails in such appeal before the circuit court or the Supreme Court shall be awarded his costs plus reasonable attorney fees incurred in such appeal.

SEC. 14. APPROPRIATIONS.—There are authorized to be appropriated to defray the expenses of the Commission established pursuant to section 3, including salaries and other expenses incident to the preparation or revision of a land-use program, such sums annually as may be necessary, and for grants to the State and local units of government to implement a land use program approved pursuant to section 10 of this Act, $50,000,000 from the special account created in section 12 of this Act.

The title was amended so as to read: "To provide for the establishment of the Santa Monica Mountains and Seashore Urban Park and Recreation Area in the State of California, and for other purposes."

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. 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. HUGH SCOTT. Mr. President, I ask that the order for the quorum call be rescinded.

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

PRIVILEGE OF THE FLOOR—S. 22

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that during the consideration of the copyright bill, Mr. Ralph Ohman, my assistant on that subcommittee of the Committee on the Judiciary, be extended the privilege of the floor.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported earlier today.

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

The PRESIDING OFFICER. The nomination will be stated.

SMALL BUSINESS ADMINISTRATION

The assistant legislative clerk read the nomination of Mitchell P. Kobelinski to be Administrator of the Small Business Administration.

Mr. PROXMIRE. Mr. President, Mr. Kobelinski has a background as a banker and small businessman which fully qualifies him for this position. Unfortunately, his banking affiliations also create a conflict of interest, because one of the banks in which he still holds substantial stock does a great deal of business with SBA.

In the course of confirmation hearings, the committee learned that this bank, First State Bank of Chicago, has almost 10 percent of its loan portfolio in SBA-guaranteed loans. The committee took the position that Mr. Kobelinski should either divest himself of his bank stock, or failing that he should take steps to have both banks cease making new SBA loans and sell their existing SBA loans during his tenure as administrator.

Initially Mr. Kobelinski would not agree to either of these remedies. Instead, he proposed to insulate himself from dealings with the two banks. That was not satisfactory to the committee. Eventually, the boards of directors of the two banks did agree to pass resolutions committing themselves not to originate any new SBA loans while Mr. Kobelinski is in office. The committee has been informed that even if they sold their existing loans to other banks, the buyer would still have recourse in the event that a loan went into default and in turn Mr. Kobelinski's bank would be likely to request SBA to honor the guarantee and bail out the bank. That, in my view, still creates an intolerable conflict, because Mr. Kobelinski would be on both sides of the bargaining.

It is not a trivial matter because some of these loans amount to several hundred thousand dollars, and the bank's entire assets amount to less than $30 million. If a $300,000 loan defaulted and SBA found that the guarantee could not be honored for some reason, this could have very serious consequences for the bank. Therefore, SBA employees making that determination would be in a very difficult position knowing that the SBA administrator is a part owner of the bank.

In fairness to him, Mr. Kobelinski has gone a long way toward meeting the committee's request. And the banks are making a sacrifice by turning down SBA business. The committee has voted to recommend confirmation, and I expect that the Senate will do likewise. But I intend to vote nay, because I do not wish to endorse any nominee with any degree of conflict of interest.

There is another disturbing factor in this nomination which leads me to accept nothing less than an absolute resolution of any conflict. In the late sixties, Parkway Bank put on its board of directors a Cook County Commissioner. Subsequently, the interest-free deposits of county funds in Parkway increased markedly. The county treasurer during this period was subsequently made a director of Mr. Kobelinski's other bank, First State.

I hasten to add that this matter was investigated by the U.S. attorney, and no criminal wrongdoing was found. But it does suggest less than complete sensitivity to conflict-of-interest issues on the part of this nominee, who will head an agency which has had more than its share of corruption over the years.

Mr. President, in my view, neither the legislative nor the executive branch has been sufficiently attentive to conflict-of-interest problems in recent years.

The Joint Committee on Defense Production has had to prod the Defense Department to take action against public officials going on hunting weekends as guests of defense contractors. One such official was the head of the Civil Service Commission, which enforces ethics standards for other departments.

The Justice Department informs me that prosecutions under the criminal conflict-of-interest statute have been exceedingly rare, so rare in fact, that many agencies have become discouraged and seldom bother referring cases. I have proposed legislation S. 1329, to tighten up the criminal conflict of interest laws but even if enacted that legislation by itself will not guarantee good enforcement.

I have learned from experience that the blind trust device is virtually useless in preventing conflicts. The former President of the Export-Import Bank, Henry Kearns, put some nearly worthless stock which he owned into a blind trust and then actively promoted the sale of that stock for half a million dollars to a company that had loan applications pending before Eximbank.

I think these procedures indicate that the Banking Committee is serious about averting conflicts of interest.

In the case of Mr. Kobelinski, I am pleased that our insistence did result in substantial progress toward resolving the conflict. I do not intend to actively oppose this nomination. But I do feel that as long as this nominee holds stock in two banks which could become involved in negotiations with SBA while he is SBA Administrator, I personally must vote not to confirm.

THE PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

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

There being no objection, the Senate resumed the consideration of legislative business.

Mr. MANSFIELD. Mr. President, I yield the floor to the Senator from Wisconsin (Mr. PROXMIRE).

(Mr. PROXMIRE'S remarks made at this point, and further proceedings in connection with S. 2672, the State Taxation of Depositories Act, was printed earlier in today's RECORD when the bill was first considered by the Senate.)

PROGRAM

Mr. MANSFIELD. Mr. President, I would like at this time to outline the schedule for the next couple of weeks insofar as I am able to do so.

The pending business is S. 22, a bill for the further revision of the copyright law, title 17 of the United States Code, and for other purposes. The preliminary remarks on S. 22 have already been made.

When the Senate returns after disposing of its business today, at noon on Monday, February 16, the first order of business after the leaders have been recognized, if they desire recognition, will be the reading of Washington's Farewell Address by the distinguished Senator from Indiana (Mr. HARTKE).

Following the conclusion of that address, the Senate will return to the consideration of Calendar No. 460, S. 22, the copyright bill, and will be engaged in debate on an amendment of that bill for all of Monday, February 16.

On Tuesday the Senate will return to the consideration of S. 2662, a bill to amend the Foreign Assistance Act of 1961. There is a time limitation agreement on that bill. It is anticipated that discussion, debate, and amendments will be occurring throughout Tuesday and until no later than 5 o'clock on Wednesday, which will be the 18th of February, and at no later than 5 o'clock on that day the vote on pasage of S. 2662 will occur.

If the copyright bill has not been completed on Monday, then the Senate will return to the consideration of S. 22, the copyright bill.

Following the disposition of that bill, though not necessarily in this order, because we have to have some flexibility, it is anticipated that S. 22 will be followed by House Joint Resolution 549, a joint resolution to approve the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, and for other purposes.

Following that, it is very likely that Calendar No. 496, H.R. 8617, an act to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, the so-called Hatch Act bill, will be under consideration.

Following that, or somewhere in that area, the Senate will take up Calendar No. 561, S. 507, a bill to provide for the management, protection, and development of the national resource lands, and for other purposes, and then hopefully H.R. 8650, having to do with the insulating of new homes, S. 2931, having to do with daylight saving time, and S. 2760, a bill to amend the Indochina Migration and Refugee Assistance Act of 1975.

Furthermore, the Senate should be on notice that the minority members of the Committee on Rules and Administration in the last day or so filed their report on the Oklahoma senatorial contested election, and Senate Resolution 356, a resolution relating to the Oklahoma senatorial contested election may well be included in the category which I have listed.

So, I say to the acting Republican leader I hope this gives him a pretty fair idea of the difficult schedule that confronts us in the weeks ahead.

Mr. GRIFFIN. I thank the distinguished majority leader for the information and guidance.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 16, 1976

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate at this time, I move that the Senate stand in adjournment, in accordance with Senate Concurrent Resolution 92, until noon, Monday, February 16, 1976.

The motion was agreed to; and at 3:13 p.m. the Senate adjourned until Monday, February 16, 1976, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate February 6, 1976:

FEDERAL POWER COMMISSION

Barbara Anne Simpson, of North Carolina, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1977, vice William L. Springer, resigned.

FEDERAL HOME LOAN BANK BOARD

J. Ralph Stone, of California, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1978, vice Thomas R. Bomar, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 6, 1976:

DEPARTMENT OF DEFENSE

Frank A. Shrontz, of Virginia, to be an Assistant Secretary of Defense.

INTERNATIONAL ATOMIC ENERGY AGENCY

Galen L. Stone, of the District of Columbia, a Foreign Service officer of class 1, to be the Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

SMALL BUSINESS ADMINISTRATION

Mitchell P. Kobelinski, of Illinois, to be Administrator of the Small Business Administration.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before a duly constituted committee of the Senate.)

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The following-named persons to be members of the Board of Regents of the Uniformed Services University of the Health Sciences for terms expiring May 1, 1981:

Lt. Gen. Leonard D. Heaton, U.S. Army, retired.

David Packard, of California.

Francis D. Moore, of Massachusetts.

U.S. AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Frank G. Barnes, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. James R. Brickel, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Daniel L. Burkett, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Rupert H. Burris, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Lynwood E. Clark, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Richard N. Cody, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. John W. Collens III, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Richrd B. Collins, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. George A. Edwards, Jr., xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Andrew P. Iosue, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. John E. Kulpa, Jr., xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Howard W. Leaf, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Louis G. Leiser, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Dewey K. K. Lowe, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. James E. McInerney, Jr., xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Richard E. Merkling, xxx-xx-xxxx xxx-... FR, Regular Air Force.

Brig. Gen. Kenneth P. Miles, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Harry A. Morris, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. William R. Nelson, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. William C. Norris, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Jack I. Posner xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. John S. Pustay, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Thomas F. Rew, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Carl G. Schneider, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Lawrence A. Skantze, xxx-xx-xx... xxx-... FR, Regular Air Force.

Brig. Gen. Henry B. Stelling, Jr., xxx-xx-xx... xxx-... FR, Regular Air Force.

Brig. Gen. John C. Toomay, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Stanley M. Umstead, Jr., xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Jasper A. Welch, Jr., xxx-xx-xxxx xxx-... FR, Regular Air Force.

Brig. Gen. George W. Wentsch, xxx-xx-xxxx FR, Regular Air Force.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Lt. Gen. William Y. Smith, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. James R. Allen xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Eugene F. Tighe, Jr., xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Lucius Theus xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Guy E. Hairston, Jr., xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles F. Minter, Sr, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Robert C. Mathis, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Andrew B. Anderson, Jr., xxx-xx-x... xxx-x... R (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Ranald T. Adams, Jr., xxx-xx-xx... xxx-x... R (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William B. Yancey, Jr., xxx-xx-x... xxx-... FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Edgar S. Harris, Jr., xxx-xx-xxxx

FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Robert L. Edge [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Gerald J. Post [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. James A. Young, [redacted] (brigadier general, Regular Air Force), U.S. Air Force.

To be brigadier general

Maj. Gen. Benjamin R. Baker, [redacted] FR (colonel, Regular Air Force, Medical), U.S. Air Force.

Maj. Gen. Jesse M. Allen, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Lincoln D. Faurer, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles A. Gabriel, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Lloyd R. Leavitt, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Winfield W. Scott, Jr., [redacted] FR (colonel, Regular Air Force), U.S. U.S. Air Force.

Maj. Gen. Lovic P. Hodnette, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Bennie L. Davis [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Ralph J. Maglione, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Robert A. Rushworth, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Thomas M. Ryan, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Anderson W. Atkinson, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William J. Kelly, [redacted] FR (colonel, Regular Air Force, Judge Advocate General), U.S. Air Force.

Brig. Gen. George W. Rutter, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig Gen. Edward J. Nash, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John W. Collens III, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig Gen. William R. Nelson, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Jack W. Waters, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig Gen. Billy M. Minter, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Kenneth P. Miles, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Louis G. Leiser, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard N. Cody, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John E. Kulpa, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Charles F. G. Kuyk, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard E. Merkling, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. David B. Easson, [redacted] FR (colonel, Regular Air Force), U.S. Air Force'

Brig Gen. William L. Nicholson III, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William D. Gilbert, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Lynwood E. Clark, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Grover J. Isbell, [redacted] FG, Air National Guard.

Brig. Gen. Raymond A. Matera, [redacted] FG, Air National Guard.

To be brigadier general

Col. Rudolph D. Bartholomew, [redacted] FG, Air National Guard.

Col. Charles R. Campbell, Jr., [redacted] FG, Air National Guard.

Col. John L. France [redacted] FG, Air National Guard.

Col. David B. Hoff, [redacted] FG, Air National Guard.

Col. William H. O'Bryan, Jr., [redacted] FG, Air National Guard.

Col. Ben L. Patterson, Jr. [redacted] FG, Air National Guard.

Col. Oscar T. Ridley, [redacted] FG, Air National Guard.

Col. Paul N. Rogers, [redacted] FG, Air National Guard.

Col. Carl L. Trippi [redacted] FG, Air National Guard.

IN THE ARMY

The U.S. Army Reserves officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. William Henry Ecker, Jr., [redacted]

Brig. Gen. Marvin Herman Knoll, [redacted]

Brig. Gen. Franklin Lane McKean, [redacted]

Brig. Gen. Harry Stott Parmelee, [redacted]

Brig. Gen. Harold Newton Read, [redacted]

Brig. Gen. Lawrence Drew Redden, [redacted]

Brig. Gen. Walter Livingston Starks, [redacted]

Brig. Gen. Robert Murray Sutton, [redacted]

To be brigadier general

Col. William Roger Berkman, [redacted]

Col. Wilber James Bunting, [redacted]

Col. Robert Lorenzo Lane, [redacted]

Col. Henry Watts Meetze, [redacted]

Col. Lawrence Wilford Morris, [redacted]

Col. Berlyn Keasler Sutton, [redacted]

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Henry Hammond Cobb, Jr., [redacted]

Brig. Gen. Nicholas Joseph Del Torto, [redacted]

Brig. Gen. Robert Earl Johnson, Jr., [redacted]

To be brigadier general

Col. Edward Donald Bangs, [redacted]

Col. Jean Beem, [redacted]

Col. Robert Julian Bradshaw, [redacted]

Col. John Joseph Dillon, [redacted]

Col. Raymond Eugene Grant, [redacted]

Col. William Walton Gresham, Jr., [redacted]

Col. Charles Edward Lamoreaux, [redacted]

Col. James Ray Owen, [redacted]

Col. Robert Darrell Weliver, [redacted]

The Army National Guard of the United States officer named herein for appointment as a Reserve commissioned officer of the Army under the proivsions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Richmond Lindley Vaughan, [redacted]

The Army National Guard of the United States officers named herein for appointment as reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Charles Emerson Murry, [redacted]

Col. John Grady Smith, Jr. [redacted]

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. James Francis Hollingsworth, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Holloway Cushman, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designed by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Donn Albert Starry, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, U.S. Code, sections 3284 and 3307:

To be major general

Maj. Gen. James Clifton Smith, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. James Joseph Ursano, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Patrick William Powers, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George Magoun Wallace II, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Charles Echols Spragins, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Oliver Day Street III, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Hal Edward Hallgren, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Pat William Crizer, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Bert Alison David, [redacted] Army of the United States, brigadier general, U.S. Army).

Maj. Gen. Bates Cavanaugh Burnell, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Lawrence Edward VanBuskirk, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Charles Raymond Sniffin, [redacted]

[redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Calvin McWhorter, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Calvert Potter Benedict, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Alan Hoefling, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Elwood Hoover, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. William Loyd Webb, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert Jacob Baer, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Rolland Valentine Heiser, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert Haldane, [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. Henry Everett Emerson, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Stan Leon McClellan, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Rutherford McGiffert II, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Thomas Howard Tackaberry, [redacted] Army of the United States (brigadier general, U.S. Army).

Lt. Gen. John William Vessey, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

IN THE NAVY

Vice Adm. Earl F. Rectanus, U.S. Navy, for appointment to the grade of vice admiral on the retired list, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning John B. Abell, to be colonel, and ending Billy S. Smith, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 11, 1975.

Air Force nominations beginning Julius P. Greene, to be colonel, and ending William P. Dubose III, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

Air Force nominations beginning George R. Abbott, to be colonel, and ending James D. Sykes, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 1976.

IN THE ARMY

Army nominations beginning Clarence Kaplan, to be colonel, Regular Army, and colonel, Army of the United States, and ending Jackie W. Saye, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

Army nominations beginning James W. Adams, to be colonel, and ending Mary G. Young, to be colonel, which nominations were sent to the Senate and appeared in the Congressional Record on January 20, 1976.

Army nominations beginning Alford W. Green, to be colonel, and ending Vincent P. Yustas, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 26, 1976.

IN THE NAVY

Navy nominations beginning Thomas K. Aanstoos, to be ensign, and ending John M. Messner, to be a chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on December 11, 1975.

Navy nominations beginning Steven J. Brunson, to be ensign, and ending Albert H. Jensen, to be temporary lieutenant (jg.) and permanent warrant officer and/or permanent and temporary warrant officer, which nominations were received by the Senate and appeared in the Congressional Record on December 19, 1975.

Navy nominations beginning Robert Lee Anderson, to be captain, and ending Bernice Jones Zigovsky, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

Navy nominations beginning Robert Carter Donaldson, to be commander, and ending Chris A. Taylor, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

Navy nominations beginning Arthur Philip Abel, to be lieutenant commander, and ending Mary Pauline Yont, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

The nomination of Lt. Comdr. Ned E. Mufley, U.S. Navy, for appointment to the grade of commander while serving as leader of the U.S. Navy Band, which nomination was received by the Senate and appeared in the Congressional Record on January 26, 1976.

IN THE MARINE CORPS

Marine Corps nominations beginning Maynard P. Bearce, to be second lieutenant, and ending Robert H. Zobel, Jr., to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

Marine Corps nominations beginning William T. Adams, to be chief warrant officer, W–4, and ending Robert F. Zurface, to be chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1976.

WITHDRAWAL

Executive nomination withdrawn from the Senate February 6, 1976:

FEDERAL HOME LOAN BANK BOARD

Ben B. Blackburn, of Georgia, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1978, vice Thomas R. Bomar, resigned, which was sent to the Senate on October 6, 1975.

EXTENSIONS OF REMARKS

IN NOBODY WE TRUST

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, February 6, 1976

Mr. HARRY F. BYRD, JR. Mr. President, an excellent editorial recently appeared in the Boston Herald American, entitled "In Nobody We Trust."

This editorial discusses the personal experience of William Randolph Hearst, Jr., Kingsbury Smith, and the late Frank Conniff in Moscow in 1956, and the recent Moscow visit of the U.S. SALT negotiating team.

Communist Russia, then and now, remains a closed, repressive police state. As the editorial points out:

The lesson is simple. Four years of détente have changed nothing about sneaky Communist practices . . . they have not changed in more than 20 years.

Even more to the point—they have never changed.

And they never will.

I think this editorial makes a most important point. It is essential that the United States never lose sight of the fact that while moods and methods, words and gestures may change in Moscow, the nature of that Communist dictatorship remains constant.

Mr. President, at this point I request unanimous consent that the editorial from the Boston Herald American be printed in the RECORD.

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

IN NOBODY WE TRUST

The object lesson of this editorial—as revealing as it is sinister—can only be made fully clear by summarizing two stories which happened about 20 years apart. The first is how it happened that William Randolph Hearst, Jr., and his two top editorial assistants, the late Frank Conniff and Joseph Kingsbury Smith, happened to win the 1956 Pulitzer Prize for international reporting for a series of exclusive and unprecedented interviews with the major leaders of the Soviet Union, including Khrushchev.

It seems the journalistic task force was ensconced in Moscow's National Hotel, facing the Kremlin, trying to figure a way to break through the icy isolation of Russian officialdom. The solution came when Kingsbury Smith, talking at an area of the room he figured would be tapped for eavesdropping, said: "Mr. Hearst, let's keep it positively in mind that President Eisenhower cautioned us that his message is to be delivered by us to the premier alone, nobody else."

Only a few days later, the Hearst team got an invitation no other foreign correspondents had ever received. They were invited to the Kremlin for a personal interview with the premier. At conclusion of a lengthy session, he unhappily remarked—"Are you sure that's all you want to tell me?" That was all—for the time being—he was informed. At their request, the Hearst team visitors subsequently were allowed to interview practically every hotshot in the Kremlin—without ever once giving a hint of the mysterious White House message that was obviously being so eagerly sought.

There never was any such message, of course. Which brings us to the second of the two stories involved here. All members of the U.S. delegation that went to Moscow with Secretary of State Kissinger during his just-concluded talks with Soviet leaders were given an advance list of "security reminders." It had six major points, which read as follows: