United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

SENATE—*Thursday, June 23, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

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

Behold, I stand at the door, and knock: if any man hear my voice, and open the door, I will come in to him. . . . Revelation 3: 20.

O God, infinite, eternal and unchangeable who waits at the threshold of every heart, grant us the will to open the door of our hearts and let Thee in. If we have been too busy with lesser things, unheedful of Thy knocking and unresponsive to Thy voice, forgive us. In this hallowed moment, descend upon our hearts with all Thy quickening power. Take the dimness of our souls away that we may love Thee and serve Thee as we ought. Support us with Thy wisdom and grace as we toil with the tangled problems of our times. Crown our deliberations with actions which set forward Thy kingdom of justice and brotherhood.

We pray for the President and his counselors and for that unseen host in the service of this Nation that they may be given strength for the needs of the day.

And what we pray for this Nation we pray for all mankind that Thy kingdom may come on Earth. 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., June 23, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, June 22, 1977, be approved.

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

COMMITTEE MEETINGS

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

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

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for time under the standing order, and I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with statements therein limited to 2 minutes.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 89

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

I am transmitting herewith a copy of the "Twenty-First Annual Report of the President of the United States on the Trade Agreements Program—1976" issued pursuant to Section 163 of the Trade Act of 1974. This report covers a period of time prior to my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *June 23, 1977.*

MESSAGES FROM THE HOUSE

At 10:19 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to the resolution (H. Con. Res. 254) authorizing a correction in the engrossment of H.R. 6161, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 583. An act to amend chapter 5 of title 37, United States Code, to extend the special pay provisions for reenlistment and enlistment bonuses, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 11:19 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. ANDREWS of North Carolina, Mr. HAWKINS, Mr. FORD of Michigan, Mr. CORRADA, Mr. QUIE, and Mr. GOODLING were appointed managers of the conference on the part of the House.

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

H.R. 7558. An act making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1978, and for other purposes; and

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

EC-1542. A letter from the Principal Deputy Assistant Secretary of Defense transmitting, pursuant to law, the report of Department of Defense Procurement from Small and Other Business Firms for October-December 1976 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC-1543. A letter from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a follow-up report on the recommendations of the National Voluntary Service Advisory Council (with an accompanying report); to the Committee on Governmental Affairs.

EC-1544. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Ground Water: An Overview" (CED-77-69) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1545. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Crime In Federal Recreation Areas—A Serious Problem Needing Congressional and Agency Action" (GGD-77-28) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1546. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on a document concerning the National Direct Student Loan, College Work-Study, Supplemental Educational Opportunity Grant Programs which was recently published in the Federal Register (with accompanying papers); to the Committee on Human Resources.

EC-1547. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a report on a document concerning final regulations amending Title 45 of CFR Part 158 governing the Follow Through programs which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC-1548. A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of correspondence concerning the Mid-Session review of the 1978 Budget which the Commission has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

EC-1549. A letter from the Secretary of Transportation transmitting, pursuant to law, the Final Report on activities carried out under the High Speed Ground Transportation Act of 1965 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1550. A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a copy of an application by the Pleasant Valley County Water District of Ventura County, for a loan under the Small Reclamation Projects Act (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1551. A letter from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a status report concerning follow-up actions to the Defense Manpower Commission's final report; to the Committee on Governmental Affairs.

EC-1552. A letter from the Mayor of Washington, District of Columbia transmitting, pursuant to law, the annual report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1976 (with an accompanying report); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

With an amendment:

S. 142. A bill for the relief of Gaspar Louis Sayoc (Rept. No. 95-289).

Without amendment:

S. 344. A bill for the relief of Mr. Angelo B. Cortes (Rept. No. 95-290).

With an amendment:

S. 614. A bill for the relief of Chin-Ping Haskell (title amendment) (Rept. No. 95-291).

Without amendment:

H.R. 1437. An act for the relief of Soo Jin Lee (Rept. No. 95-292).

H.R. 3838. An act for the relief of Tulsedei Zalim (Rept. No. 95-293).

H.R. 4246. An act for the relief of Hee Kyung Yoo (Rept. No. 95-294).

By Mr. JOHNSTON, from the Committee on Appropriations:

With amendments:

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-295).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. Res. 204. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 9. Referred to the Committee on the Budget.

By Mr. EAGLETON, from the Committee on Appropriations:

With amendments:

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes (Rept. 95-296).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

John M. Harmon, of North Carolina, to be an Assistant Attorney General.

George M. Anderson, of North Carolina, to be U.S. attorney for the eastern district of North Carolina.

Henry M. Michaux, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina.

(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.)

HOUSE BILLS REFERRED

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

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

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. HATFIELD (for himself and Mr. PACKWOOD):

S. 1747. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 1748. A bill to amend title 5, United States Code, to provide Federal employees under investigation for misconduct the right to representation during questioning regarding such misconduct; to the Committee on Governmental Affairs.

S. 1749. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. PELL, Mr. RIEGLE, and Mr. STAFFORD):

S. 1750. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1747. A bill to provide for addition to the Fort Clatsop National Memorial of the site of the salt cairn utilized by the Lewis and Clark Expedition, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HATFIELD. Mr. President, today I introduce and send to the desk legislation to add the site of the salt cairn utilized by the Lewis and Clark Expedi-

tion to the Fort Clatsop National Memorial in Oregon.

I am pleased to have my colleague from Oregon, Senator BOB PACKWOOD, join me in introducing this legislation today. Congressman LES AUCOIN, who represents Oregon's First Congressional District, already has introduced a companion bill in the House. After considering this legislation during the last session, the full Senate approved it. I am hopeful that we will again take action to preserve this tangible evidence of a historic and courageous trek across our country.

The availability of salt was of the utmost importance to the Lewis and Clark Expeditions. Their journals tell us that during the preparations for the journey and on the trip itself the leaders were greatly concerned about having enough salt for their men. It was necessary because the strenuous physical activity involved in such an endeavor resulted in the loss of body salt, as well as to make their food more palatable.

When the expedition arrived at Fort Clatsop in December of 1805, it was imperative that their salt supply be replenished. Capt. William Clark wrote:

> We haveing fixed on this Situation as the one best Calculated for our Winter quarters I deturmin'd to go as direct a Course as I could to the Sea Coast which we could here roar and appeared to be at no great distance from us, my principle object is to look out a place to make Salt.

The place was found and a group of men spent 2 months to produce 20 gallons of salt by a continuous process of boiling sea water in five "kittles." The site of that salt cairn is located in what is now Seaside, Oreg. The land is presently owned by the Oregon Historical Society, which is willing to give it to the National Park Service as a satellite of the Fort Clatsop National Memorial, some 25 miles away.

I believe this action would be highly appropriate. The two areas are joined historically, and the designation of the salt cairn as a part of the Fort Clatsop National Memorial will result in better maintenance and identification of the area.

We in Oregon are fortunate to have Dr. E. G. Chuinard as the driving force behind this effort. Dr. Chuinard, who serves as chairman of the Oregon Lewis and Clark Trail Heritage Foundation Committee, has worked hard on this proposal with local government and interested citizens in an effort to protect this site. We owe it to our heritage to do so.

By Mr. MATHIAS:

S. 1748. A bill to amend title 5, United States Code, to provide Federal employees under investigation for misconduct the right to representation during questioning regarding such misconduct; to the Committee on Governmental Affairs.

S. 1749. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Governmental Affairs.

DUE PROCESS FOR FEDERAL EMPLOYEES

Mr. MATHIAS. Mr. President, I am pleased to introduce today two pieces of legislation which will provide due process for Federal employees in vital areas. These bills are the Federal Employee Right to Representation Act of 1977 and the Federal Employee Administrative Hearing Rights Guarantee Act of 1977. They deal with issues of immediate concern to all Federal workers.

FEDERAL EMPLOYEE RIGHT TO REPRESENTATION ACT OF 1977

This bill guarantees Federal employees the right to representation at meetings involving actual or potential disciplinary action. In a recent decision, Weingarten against United States, the Supreme Court ruled that under the National Labor Relations Act, private sector employees are guaranteed such a right. The Federal Labor Relations Council, in a major policy pronouncement, however, decided that under Executive Order 11491, as amended, Federal employees are not guaranteed a similar right. Therefore, it is necessary to enact legislation which would assure Federal workers this minimum guarantee of due process.

Under the legislation I am introducing today, any employee of an executive agency under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay of such employee, would not be required to answer questions relating to the misconduct under investigation unless he or she had been advised in writing of the nature of the alleged misconduct and of his or her right to representation. The employee would then be allowed reasonable time, not to exceed 5 working days, to obtain a representative of his choice, and would be allowed to have that person present during any questioning related to the allegations.

FEDERAL EMPLOYEE ADMINISTRATIVE HEARING RIGHTS GUARANTEE ACT OF 1977

This bill would guarantee Federal workers the right to a hearing prior to removal or suspension without pay. Under present civil service regulations, an employee is first discharged and then has a right of appeal. This process can take anywhere from 6 to 8 months. During this time the employee is off the payroll and generally out of work. Moreover, it has been the experience of those familiar with this area, that once a Federal employee is discharged from the Government it is extremely difficult for that person to obtain employment elsewhere.

This legislation would guarantee the right of a hearing to persons in the excepted service. Under existing law, if an individual is in the excepted service, he or she is not entitled to notice or a hearing unless he or she is a veteran. Obviously, this strikes most directly at women, most of whom are not veterans and, therefore, not entitled to any degree of due process. In lieu of this procedure, the bill also provides that a union holding exclusive recognition could negotiate a procedure which would be a substitute for the Civil Service Commission procedure, such as binding arbitration.

Thus, the simple purpose of this bill is to guarantee to employees in the executive branch, except those employees whose positions are of a confidential or policy determining character, a prompt evidentiary hearing conducted by an impartial individual prior to any removal or suspension without pay.

This two-bill package extends due process protections to Federal workers who would otherwise not be afforded these safeguards. The procedures outlined will not cost the taxpayer any additional money. They will, however, fulfill an obligation to be fair in matters related to public employment. The loss of a job or proceedings that might lead to such a loss are particularly important in this era of high unemployment. We must not be insensitive to the need for equitable treatment of those who do the Government's work. It is for that reason that I urge my colleagues to join with me in seeking passage of these two measures.

By Mr KENNEDY (for himself, Mr. SCHWEIKER, Mr. PELL, Mr. RIEGLE, and Mr. STAFFORD):

S. 1750. A bill to amend the Public Health Service Act and the Federal Food, Drug and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods; to the Committee on Human Resources.

SACCHARIN STUDY, LABELING AND ADVERTISING ACT

Mr. KENNEDY, Mr. President, I rise on behalf of my self and Senators SCHWEIKER, PELL, and STAFFORD to introduce the Saccharin Study, Labeling and Advertising Act.

Last March the Food and Drug Administration announced its intention to severely limit the availability of saccharin and to remove it completely from food products. The initial public reaction to the announcement was one of widespread disbelief and anger. Emotions ran high and often obscured the scientific controversy that underlaid the regulatory action.

In an effort to shift the debate from the emotional passions of the moment to a careful consideration of the health and safety issues involved, the Senate

Subcommittee on Health and Scientific Research requested the Office of Technology Assessment to assemble a panel of distinguished scientists to summarize all the known facts about the carcinogenic effects of saccharin. The OTA panel was also asked to assess the potential benefits of saccharin and the availability of alternative sweeteners. While the study was in progress, the subcommittee sought out the views of other prominent scientists.

The OTA report concluded that saccharin was a carinogen in animals and, therefore, had to be presumed to cause cancer in man. The nature of the risk was not defined and remained an unknown factor. Although the panel concluded that there had not been a scientific demonstration that saccharin was a benefit to any group of individuals, at least half the members of the panel felt that the potential benefits were of such a degree as to justify the continued marketing of saccharin with fully informed consent to the consumer.

Other experts were more positive about the potential benefits. Dr. Kurt J. Isselbacher, chairman of the Department of Medicine at Harvard and the chairman of the Harvard University Cancer Committee, testified before the Congress on March 24, 1977—

> Thus, I would submit to you that in the case of saccharin, the available data indicates, in my view, that the risk to humans for developing cancer from saccharin in the amounts ingested by the average individual is remote. While the harm I believe which may occur to millions in the absence of a non-nutrient sugar substitute is great.

Many other prominent physicians and scientists shared that view, the American Diabetic Association and the American Heart Association endorsed that view.

It was on the basis of that record that I issued a press release on June 10 enumerating the following conclusions about the saccharin controversy:

First. The Food, Drug, and Cosmetic Act as currently written leaves the FDA no choice but to remove saccharin from foods. I do not fault the FDA for its actions. The fault lies in the statute and not the Federal agency.

Second. Saccharin almost certainly causes cancer in rats.

Third. Saccharin poses potential risks for man. The nature and extent of that risk is unknown, but the worst case example presented indicates that a limited number of people would be affected—perhaps a thousand cases of bladder cancer a year.

Fourth. Saccharin may have benefit for several groups of persons: diabetics, obese people, persons with hypertension, thus, the group which may suffer adverse health effects by the removal of saccharin from the market is quite large—perhaps as many as 50 million Americans.

Fifth. The scientific community is deeply and approximately evenly divided over whether the risks of leaving saccharin on the market outweigh the benefits. Persons with impeccable scientific credentials reach exactly opposite conclusions after reviewing the same data.

Sixth. The central policy question is whether, in the face of scientific uncertainty about risk and benefit, individuals ought to be able to make a risk/benefit determination on a personal basis or whether the Federal Government ought to do it for them.

I pointed out at that time that whatever action we take involves a risk. If we ban saccharin, we avoid a potential risk of cancer, but we create a new potential risk in its place—a risk of exacerbated illness for large numbers of diabetics and others who may benefit now from saccharin.

Because of the division in the scientific community, because of the division in the OTA panel, because of the genuine uncertainty on each side of the risk/benefit equation—I decided that it would be best to allow each individual to become fully informed and then make a personal decision about saccharin use.

However, simply suspending the FDA action would not provide the fullest opportunity for informed judgments by consumers, so I recommended that conditions be imposed on the advertising, marketing, and promotional activities for foods containing saccharin. I proposed that all products containing saccharin have prominent box warnings on the labels. I proposed more extensive summaries of the scientific information be posted in stores selling food products containing saccharin. I urged that the advertising of products containing saccharin be strictly limited with all written advertisements to include a prominently displayed warning. I suggested significant restrictions for television and radio advertising. The reason for this was to limit the ability of the industry to counteract the effects of a box warning with massive media promotion. In addition, I proposed that no product containing saccharin be sold in vending machines unless those vending machines carried prominent warning messages.

I said that in addition to these measures, the National Academy of Sciences ought to be mandated to study the food additive provisions of the Food, Drug, and Cosmetic Act to see if the public health could be better protected by more flexible administrative provisions in that act. I also recommended a study to delineate the nature of contaminants currently found in commercial saccharin to see whether the current risk arises from the saccharin or from its contaminants.

During the past week, additional information on the saccharin controversy has come to public attention. In Canada an epidemiologic study, which is being reviewed by the Food and Drug Administration, concluded that saccharin is a human carcinogen. That study showed that males using saccharin have a significantly increased risk of developing bladder cancer as a result of saccharin use. If the Canadian statistics are applied to the American population, 7 percent of all male bladder cancer cases can be attributed to saccharin. There are 30,000 cases of bladder cancer annually in the United States with approximately 22,000 of them occurring in males. Thus, somewhere between 1,500 and 2,000 bladder cancer cases a year in males in the United States might be attributed to the use of artificial sweetners, primarily saccharin.

Subsequently, additional information came to light contradicting the conclusions of the Canadian study. Although the numbers of saccharin users in this case were much smaller, no statistical association between bladder cancer and saccharin use was found.

As chairman of the Senate Health and Scientific Research Subcommittee, I felt it would be important to have these new studies carefully evaluated before any legislative action was taken by the Congress in this matter. The Commissioner of the Food and Drug Administration felt the new information was of such significant importance for him to reopen the hearing process in order to fully evaluate its significance. Thus, the threat of an imminent removal of saccharin from the market was removed. The Commissioner has given us assurances that saccharin will remain on the market at least until October first.

In view of those assurances, I was surprised that the House of Representatives voted to require that FDA take no action to remove saccharin from the market. This measure was tacked onto an appropriations bill, was developed in haste, and had effects that reached far beyond any appropriate moratorium on FDA's action on saccharin. I think such precipitous action while the substantive committees of the Congress are weighing the scientific risks and benefits in order to present the Members of each body with all the pertinent information for them to make an appropriate decision, is unjustified.

Mr. President, I have obtained a copy of the Canadian study and I have asked both the Food and Drug Administration and several consultants to review it and comment on it for me. At the moment, after an initial review of the data, I still believe that the individual is in the best position to make a responsible judgment about whether he or she wishes to use saccharin. I believe more firmly than ever, however, that the individual must be given the information upon which to make that decision. Thus, the restrictions that I proposed earlier are far more important today. The legislation that Senator SCHWEIKER and I are introducing will enable the individual to fully inform himself, or herself, and to make an appropriate decision for themselves and for their children.

I have scheduled a Senate Health and Scientific Research Subcommittee executive session for Wednesday, June 29, at 10 a.m. to consider this legislation. By that time, I will have received the analysis of the Commissioner of the Food and Drug Administration as well as the consultants we will be contacting.

Mr. President, I know that millions of Americans strongly disagree with the Government's regulatory action with regard to saccharin. They want to be able to make their own decision unless the risk/benefit equation changes dramatically over the next week. I believe that is an appropriate course to follow, but the key is whether an informed judgment

can be made. The Congress must be informed when it makes its decision and must make it possible for the citizens to be informed so as to make their own personal decisions. That is why the appropriations process is not the proper vehicle to resolve the saccharin question. I believe this legislation will afford the Senate a full opportunity to be fully informed on the facts and to make an informed decision.

Mr. SCHWEIKER. Mr. President, I am pleased to join in introducing the Saccharin Study, Labeling and Advertising Act. This bill is an outgrowth of the agreement Senator KENNEDY and I reached earlier this month on a responsible, joint approach to dealing with the issues raised by the Food and Drug Administration's proposed ban on saccharin.

As I am sure all my colleagues know, the saccharin debate has been among the most heated issues of this session. When the FDA first announced its decision to impose a ban on saccharin, there was an enormous public outcry. Partially because of the way the original announcement was handled, public confidence in the FDA and in Federal food additive safety policy seemed at a low ebb. Many people did not want to see the last nonnutritive artificial sweetener taken off the market. They viewed the ban as an unjustified intrusion into their lives based on dubious scientific evidence. Many distinguished scientists felt that available evidence did not warrant a ban, especially in light of the health benefits that the use of an artificial sweetener may afford to diabetics and other persons who must for health reasons restrict their consumption of sugar. Feelings on the other side of the issue also ran deep, with some groups complaining that the FDA had dragged its feet and waited too long to impose the ban.

In light of these deep concerns, I called for hearings on the saccharin issue and introduced legislation to provide for a weighing of the risks and benefits before the ban went into effect. The Health and Scientific Research Subcommittee, on which I serve as ranking minority member and Senator KENNEDY serves as chairman, met with scientific experts, commissioned a review of the issues by a distinguished scientific panel, and held a public hearing on June 7. Legislation was also introduced and hearings were conducted in the House of Representatives.

Because it seemed that the FDA might act before Congress had had the chance to carefully consider the issues raised by the proposed saccharin prohibition, Senator KENNEDY and I reached an agreement which would guarantee time for proper congressional deliberation. The major points of that agreement are reflected in the bill we introduce today, which is in most respects similar to legislation sponsored by the chairman and ranking minority member of the House Health Subcommittee, Representative ROGERS and Representative CARTER. Briefly, the bill would provide for:

First. Two studies—one on the broader issues of food additive safety regulation and a second study devoted to the specific issue of saccharin. These studies would be completed within 1 year.

Second. A delay in FDA imposition of a ban on saccharin for 18 months, unless new data show that saccharin presents an unreasonable and substantial risk to public health. This delay will allow time for the studies to go on and new evidence to be carefully evaluated.

Third. The placing of warning labels on all saccharin-containing food products and warning statements on all written advertising of saccharin-containing food products.

Fourth. The posting of information on the saccharin issue in supermarkets and retail stores which sell saccharin-containing food products.

Fifth. Restriction of radio and television advertising of saccharin-containing food products to messages containing the information on the saccharin controversy which has been prepared for posting in retail establishments.

I believe the approach of this bill is preferable to the action taken by the House of Representatives during its consideration of the Agriculture appropriations bill on Tuesday. It gives the House and Senate authorizing committees the opportunity to fully review proposals for changes in our food additive safety laws. It guarantees consumers the right of informed choice when they consider whether or not to purchase saccharin and saccharin-containing products for themselves and their families. It provides for much-needed further research and allows for reasoned evaluation of the new evidence obtained.

I know some of my colleagues are disturbed by recent reports of a new study, not yet available for scrutiny, which purports to link saccharin consumption with human bladder cancer. This type of evidence is certainly of great significance to the saccharin debate. The original FDA ban was proposed on the basis of tests which indicated that saccharin induced cancer in animals. No research associating saccharin with human cancer was presented at that time. Surely this new study must be weighed in making regulatory decisions about saccharin, along with other studies of the cancer-causing potential of saccharin which have recently come to light and which do not show any connection between saccharin consumption and human cancer.

The bill Senator KENNEDY and I propose today is designed to provide the American people with the information they need to make informed decisions while the scientific review process goes on. Both he and I firmly believe that we in Congress must not shirk our responsibility to protect the public health from unreasonable risks posed by the presence of carcinogens in our food supply. At the same time, it is unwise policy to ban saccharin until we have a fuller picture of the health risks and benefits posed by its use.

I believe this bill is a responsible approach, and I look forward to its prompt consideration by the Health and Scientific Research Subcommittee of the Human Resources Committee next week.

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

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

S. 1750

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

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling and Advertising Act".

SEC. 2. For the purposes of this Act, the term saccharin includes saccharin, saccharin calcium, saccharin sodium, and saccharin sodium tablets.

SEC. 3. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as "Secretary") shall arrange for the conduct of a study or studies to assess and evaluate—

(1) current technical capabilities to predict the direct or secondary toxicity or carcinogenicity in humans of substances which are added to or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain toxic or carcinogenic substances;

(3) the existing means of evaluating the risks to health from the toxicity and carcinogenicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations for legislative and administrative action as deemed necessary.

(c)(1) The Secretary shall first request the Institute of Medicine of the National Academy of Sciences (hereinafter in this section referred to as "Institute") to conduct the study or studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Institute directly related to the conduct of such study or studies will be paid by the Secretary. If the Institute is willing to do so, the Secretary shall enter into such an arrangement with the Institute.

(2) If the Institute declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b)," and

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

(1) the chemical identity of any impurities contained in commercially used saccharin,

(2) the toxicity of any such impurities including their carcinogenicity in humans, and

(3) the health benefits, if any, to humans resulting from the use of non-nutritive sweeteners in general and saccharin in particular.

(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations for legislative and administrative action as deemed necessary."

SEC. 5. (a) During the eighteen-month period beginning on the date of the enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin on April 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety.

(b) Subsection (a) does not limit the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act, as amended, to prescribe labeling for saccharin or any food, food additive, drug, or cosmetic containing saccharin. Notwithstanding the first sentence hereof, the Secretary shall not take any action with respect to the labeling of food inconsistent with the requirements of Section 6 of this Act.

SEC. 6. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o) If it contains saccharin, unless its packaging and labeling bear the following statement: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER.' Such statement shall be located in a conspicuous place on such packaging and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on the package.".

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.";

"(q) If it contains saccharin and is offered for sale at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently displayed notice of conspicuous and legible type and at a place of reasonable proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin.";

"(r) If it contains saccharin and is advertised on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, unless the manufacturer, packer, distributor, or retailer of such food devotes the entirety of each advertisement issued or caused to be issued by such manufacturer, packer, distributor, or retailer to all of the information contained in the notice prepared by the Secretary pursuant to subsection (q)." and,

"(s) If it contains saccharin and is advertised by written communication, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place in such advertisement and shall appear in conspicuous and legible type in contrast by typography, layout or color with other printed matter in such advertisement.".

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

Mr. PELL. Mr. President, the recent disclosure of the results of scientific studies conducted in Canada on the possible carcinogenic affects of saccharin have created a complex and difficult situation in this country. On one hand, we have a long, well-established, and valuable Federal statutory policy which prohibits, through the Delaney Clause of the Food and Drug Act, the sale or use as a food or food additive of any material which can be shown to cause cancer in animals or humans. On the other hand, in this unique situation a peremptory ban on the use of saccharin would deprive millions of Americans of the only sugar substitute on the market and would undoubtedly constitute a serious hardship to diabetics, to overweight children and adults, to persons concerned about proper dental care, and to many people who take prescription medicine which must be flavored with saccharin to make it palatable.

This situation has been further complicated by serious scientific questions raised about the cancer studies in themselves, and about the capability of current scientific technologies to assess carcinogenicity in substances such as saccharin.

I receive hundreds of letters from concerned and thoughtful Rhode Islanders, none of whom, of course, wish to contract cancer, but all of whom firmly believe that saccharin must remain available to them or to their children, at least in the immediate future until a substitute can be developed.

Therefore, today I am joining with Senator KENNEDY, the chairman of the Health Subcommittee, in introducing the "Saccharin Study, Labeling and Advertising Act of 1977." I believe this legislation will enable the Congress to respond to the immediate needs of Americans who consume saccharin as well as to establish a framework for regulating this substance in the future. This legislation is designed to accomplish three objectives. First, it delays for 18 months any ban by the Food and Drug Administration on the sale or distribution of saccharin. Second, it initiates a study of whether or not we have the technical capability to predict whether substances which cause cancer in animals can cause cancer in humans. This study would also evaluate how to measure and compare the benefits and the risks to humans from foods which contain toxic or carcinogenic substances, and it would elaborate for us those instances in which the benefits so far outweigh the risks that tolerance of such substances on the market place is advisable.

Finally, and this is a most difficult area in which to legislate wisely, this legislation establishes an interim regulation which calls for clear and forceful warnings about the possible cancer-causing effects of saccharin to be affixed to saccharin or to the labelling on food which contains saccharin, and requires equally effective notification in advertising for foods which contain saccharin.

The public has a right to have sugar substitutes available in the market, but until we know the full effect of saccharin, we must take every reasonable step to assure that the public is fully aware of the possible detrimental side-effects of this substance.

Mr. President, the subject of regulation of foods and drugs is complex and becoming more complex every day. The more science can tell us about food and its relationship to health, the more difficult some of these decisions may become, but I believe that the Congress must work in a partnerhip with the public so that these decisions can be made in an informed and responsible manner, and to avoid arbitrary or hasty decisions which affect millions of individuals.

ADDITIONAL COSPONSORS

S. 927

At the request of Mr. DOLE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 927, to establish a Minority Business Development and Assistance Administration.

AMENDMENT NO. 414

At the request of Mr. CRANSTON, the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of amendment No. 414, to be proposed to the bill (S. 1307)—with the amended title—to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.

SENATE RESOLUTION 204—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 9

(Referred to the Committee on the Budget.)

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following resolution:

S. RES. 204

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 9. Such waiver is necessary because (1) Section 506 of the bill, amending Section 308(b) of the Coastal Zone Management Act, as amended, establishes a coastal state impact fund for distribution of funds to States which are adversely impacted by offshore oil and gas exploration and development and production with appropriations beginning in fiscal year 1977; (2) Section 321(a) of the bill authorizes appropriations beginning in fiscal year 1978 for the funding of the Oil Spill Liability Fund which is established by the bill; and (2) Section 413 (a) and (b) authorize appropriations upon enactment for the funding of the Fishermen Contingency Fund which is established by the bill.

All these provisions relate to impacts of Outer Continental Shelf oil and gas development which are already occurring. Furthermore, additional development needs to be expedited to meet national energy needs.

The Committee action to report S. 9 was delayed because of the need to consider (1) other major bills which had not been within the Committee's jurisdiction prior to adoption of S. Res. 4 and (2) the energy proposals submitted to Congress by the President to implement his National Energy Plan.

AMENDMENTS SUBMITTED FOR PRINTING

WATER CONSERVATION—S. 1306

AMENDMENT NO. 463

(Ordered to be printed and referred to the Select Committee on Small Business.)

Mr. JOHNSTON. Mr. President, today I am submitting an amendment to S. 1306 which would provide special forgiveness on disaster loans made to disaster victims who suffer through consecutive disasters. This morning I submitted testimony to the Select Committee on Small Business on the purpose and effect of my amendment. I ask unanimous consent that the texts of the amendment and the testimony be printed in the RECORD.

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

AMENDMENT NO. 463

On page 4 add the following section:

SEC. 7. Notwithstanding the provisions of this or any other Act, the Administrator may cancel the principal of any disaster loan made prior to or after the date of enactment of this paragraph upon providing a subsequent disaster loan involving the same property damaged or destroyed by the prior disaster, except that. . . .

(i) the amount so canceled shall not exceed $10,000.00; and

(ii) in applying the $10,000.00 limitation with respect to the total amount of such loan which may be canceled, the Administrator shall consider as part of the amount so canceled any part of such loan which was previously canceled.

In the event that the Administrator determines such loss to have been an insurable property loss, no person shall receive an additional disaster loan for damage or destruction with respect to the same insurable property in connection with a disaster which occurs after the date of a cancellation under this paragraph. The Administrator shall promulgate regulations defining insurable property and insurable property loss pursuant to the purposes of this paragraph.

STATEMENT BEFORE COMMITTEE

Mr. Chairman, the proposed amendment addresses two problems: First, the compounded damage and hardship caused communities by consecutive disasters: and second, the lack of incentives for individuals and/or communities to procure adequate property insurance.

Disasters, by definition, occur suddenly and cause great damage and hardship. Consecutive disasters in any one community are very rare; yet when they do occur, the pain and suffering of a community are multiplied manyfold.

I come from a State which has supplied our Nation with an abundance of natural and human resources. Unfortunately, my State has had to bear more than its fair share of natural disasters. In September 1965 when Hurricane Betsy struck Louisiana, for example, thousands of my constituents were forced to abandon their homes to find more secure shelter. When they returned, many discovered substantial damage to housing structures and personal properties. Others returned to find their homes and personal properties completely lost. Hurricane Betsy wrought millions of dollars of physical damage and destruction and caused untold human hardship. In response to this calamity, Congress passed the "Southeast Disaster Relief Act of 1965". This act provided for low-interest disaster loans and for partial forgiveness of a disaster loan in an amount not to exceed $1,800 under certain prescribed conditions. Over twenty-six thousand disaster loans were made in eighteen of the southernmost parishes of my State alone. Four years later when Hurricane Camille struck Louisiana in August 1969, extensive damage and destruction again befell many of the same unfortunate victims of Hurricane Betsy. More than three thousand additional loans were made in the identical southernmost parishes to which I previously referred. Between 1965 and 1975, five of the eighteen parishes in the southernmost part of my State were declared major disaster areas on five separate occasions.

It is my belief that Congress is slowly but surely developing a comprehensive disaster relief and prevention policy. Past disaster relief legislation, however, has been directed towards major isolated disasters in providing disaster relief, little or no consideration has been given to those disaster victims who had recently experienced a prior disaster. The purpose of my amendment is to fill in the gap of our current disaster relief policy by authorizing special consideration of disaster victims who suffer subsequent disasters.

The amendment gives the Administrator of SBA the authority to cancel up to $10,000 of a previous disaster loan when a disaster victim applies for and receives a disaster loan for repair or replacement of the same property for which he received the first disaster loan. Please permit me to explain the limitations on this authorization.

On a subsequent disaster loan, a disaster victim would be eligible for a maximum forgiveness of $10,000.00 on the first disaster loan. If part of the first disaster loan had already been forgiven, however, the disaster victim would only be eligible for forgiveness in an amount equal to the difference between $10,000.00 and the prior forgiveness. For example, if a disaster victim received a $20,000.00 SBA disaster loan with a $2,500.00 forgiveness feature in 1965, and then applied for a $15,000.00 disaster loan in 1970 because of a new disaster, the disaster victim would only be eligible for $7,500.00 worth of forgiveness on the outstanding balance of his 1965 $20,000.00 disaster loan. This forgiveness feature is a small amount when compared to the trauma of someone who suffers successive disasters.

The amendment also provides an incentive for individuals and communities to obtain adequate insurance coverage for insurable property losses. By informing those who request and obtain the benefits of the amendment's cancellation feature that they must obtain adequate insurance on damaged property determined by the SBA Commissioner to be insurable, the disaster victim must then choose between obtaining insurance or being vulnerable to an absolute property loss in future disasters. This advance warning should be sufficient incentive to the wise to obtain insurance coverage.

Mr. Chairman, I believe that the amendment is creative, sensitive and practical. I thank you for your time and urge you to accept this measure to provide a small amount of relief to those who are or will be heavily burdened.

NOTICES OF HEARINGS

NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, June 30, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

M. Carr Ferguson, of New York, to be Assistant Attorney General vice Scott P. Crampton, resigned (Tax Division).

Russell G. Clark, of Missouri, to be U.S. district judge for the western district of Missouri vice William H. Becker, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

ATROCITIES AGAINST THE KURDS

Mr. PROXMIRE. Mr. President, as the time approaches when the Senate will consider the Genocide Convention, I would like to review a current example of a government which is persecuting an ethnic group within its borders. I refer to the action of Iraq toward its Kurdish population.

Perhaps the best overview of the atrocities committed by the Iraqis against the Kurds is a list compiled by the Kurdistan Democratic Party and submitted to Dr. Kurt Waldheim, the Secretary-General of the United Nations. Mr. President, I ask unanimous consent that this summary, entitled "Examples of Acts of Genocide Against the Kurdish People—Civilian Bombings, Massacres, Execu-

tions, Atrocities, Explusions, Deportations, and Acts of Terror," be printed in the RECORD.

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

EXAMPLES OF ACTS OF GENOCIDE AGAINST THE KURDISH PEOPLE—CIVILIAN BOMBINGS, MASSACRES, EXECUTIONS, ATROCITIES, EXPULSIONS, DEPORTATIONS, AND ACTS OF TERROR

On 9 June 1963, the Ba'th Government ordered a round-up of 128 innocent Kurds in the city of Sulaimaniya and transported them to the outskirts of that city, where thty were executed en masse and dumped into a mass grave.

During the second half of June 1963, the Republican Quarter in Kirkuk with 1,200 houses and 24 villages north of the town in the Dibis area, were attacked by tanks and levelled to the ground by bulldozers. Innumerable people were killed, others fled for their lives without any belongings. Up to May 1974, the Government still refuses to allow the people to rebuild their homes. Their land is being exploited by others, despite the fact that there was an explicit clause in the Peace Agreement 1970, guaranteeing the return of the villagers to their land. An eyewitness account of this act of genocide was published by a correspondent of the London Telegraph.

At the end of June 1963, on the order of the Ba'th Government, in the Kurdish town of Koy Sanijaq six innocent Kurds were tied to telephone posts and executed.

In July 1963, Taha al-Shakarchi (who was appointed in February 1974 commander of the Eighth Iraqi Army Division) was commanding officer of an Army unit near Koy Sanjaq. Near the village of Chinarook he rounded up the 15 Kurdish non-commissioned officers of his unit, forced them into a teahouse, where he had them crushed to death by rolling his tanks over the house. Six months later, and after the collapse of the Ba'th regime, the bodies of the NCOs were discovered.

In Spring 1966, in the village of Saruchawa, close to the town of Raniya, and while an Army unit was approaching menacingly, the village elders, led by the village Mulla (village priests), holding out the Koran, appealed for mercy on behalf of the entire village community. In response, they were all mowed down by machine guns and buried in a mass grave.

On 19 August 1969, the village of Dakan within the Shaikhan district (Mosul province) fell into the hands of an Iraqi Army unit. The children and women of the village had already taken refuge in a cave close by. Under direct orders of and supervision by the commander of the Fourth Division and the commander of the Shaikhan district, the Iraqi Army surrounded the cave and burned alive the 67 women and children trapped inside.

In September 1969, the Christian village of Soria in the Zakho area was surrounded by tanks from every direction and shelled until no inhabitants were left alive.

On 9 October 1969, a Kurdish representative met the President of the United Nations General Assembly at New York, where he presented to him a memorandum supported with documents and photographs condemning the Government's dastardly acts at the village of Dakan.

On 30 January 1973, Iraqi Army forces attempted to take over the Shaikhan region of Khaneqin, expelling scores of families from their ancient homesteads and killing innocents who refused to leave. Despite the fact that representatives of the KDP and the Ba'th Party were negotiating the implementation of the Peace Agreement 1970 on Kurdish Autonomy for Kurdistan, the Ba'th Party ordered to terrorize and to kill systematically the Kurdish population.

On 9 February 1973, Iraqi artillery shelled the village of Yosfan in the Sinjar region. The reason for the indiscriminate and inhuman shelling was the refusal of the local inhabitants to be enrolled in the Ba'th Party. The shooting caused the death of ten women and five children. Eleven members of the local KDP were summarily executed and shot in the open street.

On 26 February 1973, Iraqi soldiers employed brutal methods, when searching houses of Kurdish inhabitants of Sinjar.

On 6 March 1973, 46 Kurdish peasants were expelled from the Ghere village in Kirkuk region and Arab tribesmen were settled in their place.

On 7 March 1973, the Ba'th Party gives order to the inhabitants of the village Qazan Belagh, in Qara Hasan, Kirkuk region to evacuate the village under the pretext of national interest. The village is far from any oil fields and any military installations.

On 26 March 1973, a number of Iraqi soldiers, belonging to a unit of the Fourth Division whose commander was on inspection tour, attempted to molest sexually 12-year old Ferma Mohammed from Dinarta in Aquara region. When the child resisted, he was assaulted and knocked unconscious. Thereafter, the Iraqi soldiers bound his legs to a mule, to be dragged along the ground.

On 27 March 1973, the same unit attacked the village of Dinarta, expelling the inhabitants of the village. Nine men were killed, trying to defend the inhabitants, including 65 year old headman Haji Ali Amda.

On 24 April 1973, a telegram of the Zakho region informs the KDP about additional large numbers of refugees fleeing from Sinjar as a result of continual terror being applied by the Iraqi authorities there. The refugees lack food and are shelterless.

On 15 May 1973, a brigade of the Iraqi Army enters the village of Teqteq in Shaikhan area. The two hundred families there are terrorized and expelled. They flee into the mountains.

On 22 May 1973, more than two hundred families are terrorized and expelled from Ain Safin region by the Iraqi Army. The families are left shelterless and starving. Although a serious smallpox epidemic breaks out among the children, the Iraqi health centers in the region refuse to treat them. Over one hundred children died.

On 24 May 1973, two bodies are found in the river Wandin Khaneqin. The security forces of the Iraqi Government claimed that these bodies had been washed ashore by a flood. The bodies were, however, identified as of two locala men who had been tortured by the Army recruiting forces and had subsequently been shot and thrown into the river.

On 8 June 1973, Iraqi police forces were sent to the villages Annare and Tel-Ades to arrest eight members of the KDP. The remaining villagers were terrorized and all expelled.

On 28 June 1973, Iraqi police forces occupied the village Qamishlan in Khanaqin area. The inhabitants are expelled and flee to the liberated area, adding to the strain on food and shelters.

On 1 July 1973, an Iraqi Army unit, backed by artillery, started a heavy attack on Khaneqin, causing many casualties among the civilian population.

On 12 September 1973, Iraqi police forces of Kirkuk headquarters, supported by ten armored vehicles, surrounded the village Zerdik, arrested and deported many of its inhabitants. Their fate is unknown.

On 29 January 1974, Iraqi security forces entered Duzkhormatu region in Kirkuk area and arrested eight Turkmen Iraqi citizens. Their fate is unknown.

On 8 February 1974, the Iraqi Government gave orders to the inhabitants of the villages Qerede, Qotaras, Karenmed and Qoshqanje to evacuate their villages within 24 hours.

On 10 February 1974, the following additional villages receive orders to be evacuated within 24 hours. The order is signed by the Central Government's Governor of Kirkuk province and commander of the Second Division under pretext of military security. The inhabitants of the villages Muhhawali, Pelhani, Sarelo, Soy, Serbeshakh, Olafat, Olasor, Jabal Bor, Matare, Tel Sharaw and Charok are forcefully removed within five hours.

After outbreak of total war in April the following examples illustrate conditions of genocide:

On 14 April 1974, 11 Kurdish patriots were hanged in Arbil, after having been sentenced to death and tortured in Bagdad. Indeed, some of them had had their hands cut off or their eyes gouged out. Some of these martyrs had been in government custody for one and two years on trumped up charges. The hanging at that time was a deliberate provocation for the KDP.

On 16 April 1974, Aqra, with a population of 7,000 was heavily bombed. Many houses, churches and mosques were destroyed, collapsing over the bodies of their inhabitants, all civilians.

On 24 April 1974, Qala Diza, with a population of 20,000 was heavily bombed. 131 civilians were killed and over 300 injured. The martyrs were mainly children attending schools, since two schools were bombed deliberately.

Between 23 and 27 April 1974, the area of Chouman was bombed, including Gallala, with a population of 5,000. 40 people were killed and 51 injured. (See photograph in Exhibit F).

On 25 and 26 April 1974, Dahok, with a population of 40,000 was shelled. Many people were killed and injured.

On 28 April 1974, the town of Halbja, 80 km from the battle field, was bombed and over 100 houses were destroyed. 42 people were killed and over 100 were injured. The inhabitants had to evacuate the town and took refuge in the mountains.

Between 21 April and 10 May 1974, Zakho, a town with a population of 25,000 was bombed and shelled. During these 20 days the town kept burning.

On 30 April 1974, 5 Kurdish students attending the College of Literature of Bagdad University, were sentenced to death and executed. Among them was a girl, Layla Kassem.

On 1 May 1974, the Iraqi Army entered the town Zakho and indiscriminately shot at everybody in sight. 63 persons were killed and over 100 injured, mostly women and children.

On 8 May 1974, another 6 university students were hanged.

Mr. PROXMIRE. Mr. President, this list is over 3 years old. It is incomplete, reflecting only the known incidents of crimes against the Kurds. These events nevertheless indicate the seriousness of the campaign of persecution directed against the Kurds.

Mr. President, our information about the situation in Iraq is sparse at best. Nonetheless all countries should condemn such actions taken against an ethnic minority.

The attacks upon the Kurds over the past few years vividly demonstrate the continuing need for the United States to press for human rights. I urge my fellow Senators to join me in urging ratification of the Genocide Convention to make clear the opposition of this Nation to the crime of genocide.

POPULATION POLICY

Mr. PACKWOOD. Mr. President, today our country faces a pervading crisis which some call a population explosion, others an ecological threat, still others polluted environment, because population and pollution are interdependent, I will speak of a population crisis—a crisis which makes a mockery of "America the beautiful!"

Those were my thoughts 7 years ago when I introduced several bills to help promote population control. Those are my thoughts today. Sadly, little has been accomplished in the past 7 years despite the mounting evidence that pollution of our country and gluttony of our resources make population control absolutely necessary.

Let us look at some of the developments since 1970. The energy crisis, the dangers of pollution to our bodies and our spirits, water shortages and high unemployment—all of these relate directly to population control. Yet despite the debates on these problems, the connection is rarely made of their critical relationship to population control.

Most Americans think the lower birth rate and women's liberation have taken care of our population problem without any planning. This erroneous impression overlooks the distressing increase in illegal immigation and a birth rate higher than zero population growth. The facts are that we cannot expect this crisis to resolve itself or disappear.

If we continue at the present rate, our population will exceed 320 million in 50 years. This growth equals 31 more cities the size of Chicago, and will require additional farmland to grow more food for this many more people, additional energy to run their homes, and the list goes on and on. Those figures are based on our 1975 rate of growth with 3,149,000 American births, 450,000 legal immigrants and some 800,000 illegal immigrants.

[These are the figures cited by ZPG, and the illegal immigration estimate is higher than I cited in introducing this bill.]

So here we are in 1977 with little accomplished in this area. Where do we go? Fortunately, the United States is in a position to stabilize population painlessly if we start planning now. Given our past record that, of course, is a very big "if." Specific fertility goals and a crackdown on illegal immigration are both essential to make the transition from growth to stabilization go smoothly.

Reducing the influx of illegal immigrants is a crucial component of population stabilization for this country. Recently I introduced the Alien Employment Act to prohibit the employment of illegal aliens. I believe this bill targets the problem well. Today it is not against the Federal law to employ an illegal alien, and that means these jobs are lost to our citizens. Too many Americans assume illegal aliens only take low-paying jobs that Americans do not want. This is not true. A recent study by the Immigration and Naturalization Service shows that fewer than one-third of the illegals in the United States are employed in agriculture. Most have jobs that could and should be filled by Americans.

Illegal aliens cost American taxpayers an estimated $13 billion per year. For each additional 250,000 illegal immigrants, the taxpayer's bill increases approximately $500 million. These illegal aliens affect our population problem now and their impact will be even worse in the future.

Limits on illegal immigration are only one of the steps we must take to reduce our population growth. While strict policies will be needed to reduce illegal immigration, a reduced fertility rate can be achieved through voluntary actions of Americans. Voluntary action, however, must be encouraged through education and planning. Universal family planning services are absolutely essential. Our activities in this area in the past 7 years have not been adequate. An estimated 4.6 million low and marginal income women were denied family planning help in 1975, because these services were not available. Two million middle and upper class teenagers also could not get help.

Although the number of women of child-bearing age is increasing, funding for family planning has remained at about half the level required to help only low- and marginal-income women. This is unconscionable. Fortunately, funding for family planning has recently taken an upward turn and is likely to be raised even higher than the President's recommendation in the fiscal year 1978 Labor-HEW appropriation bill. The plus to spending for family planning is that for each dollar spent now, the Government will save $2 next year in medicaid and welfare payments. These savings will continue through the years.

Contraceptive help for teenagers is an issue many State and Federal legislators and parents would prefer to ignore. When one out of five babies in the United States has a teenage mother, however, we can no longer pretend teenage pregnancy is not a serious problem. Teenagers also account for half of all illegitimate births and one-third of all abortions. These numbers represent young people who desperately need family planning help.

Our Victorian approach to contraceptives—whether through denial of access to teenagers or prohibiting advertising and displays—has been truly detrimental in terms of the present high rate of sexually transferred diseases, the number of unwanted, and unloved children who are brought into the world, and the limited educational and employment opportunities facing young women who are forced too early into motherhood. We need to deal with contraception in a mature and enlightened way.

I also consider it of great importance that we encourage contraceptive research. The Commission on Population Growth and the American Future recommended a minimum annual funding of $150 million for reproductive and contraceptive research. In fiscal year 1976, less than $12 million was appropriated. At a time when controversies abound about the safety of some birth control methods, new alternatives are not available. This is a serious obstacle to any progress we try to make in the family planning area.

Particularly considering the rather poor choices available for temporary birth control, it also is very important that any individual be able to choose sterilization as an alternative, without restriction and with sufficient information about procedures, risks, and consequences to make an intelligent decision.

Underlying all these changes must be a commitment to education about the need for population control, human sexuality, contraception, family life, parenthood and no-children families. Active, informed public participation in formulating sensible population policy depends on increased public awareness of population trends and our dwindling natural resources.

In America, we still have time to achieve zero population growth without coercion and without sacrificing our environment further to support more people. Seven years ago, we could only see the shadow of environmental and energy problems; today the burdens of pollution and waste are ominous realities. We do not have 7 more years to waste before we tackle our population crisis. We must act now to adopt a national population policy and to prevent an America without room, resources or hope for her people.

AWACS SALE TO IRAN

Mr. CULVER. Mr. President, the sale of E-3A AWACS aircraft to Iran would raise some very basic questions regarding our own national security interests and President Carter's new arms sales policy.

After earlier press reports on the possibility of such a sale, Senators EAGLETON, PROXMIRE, MATHIAS, and NELSON joined me in requesting a General Accounting Office investigation into this matter. We are particularly concerned that sensitive AWACS technology could fall into unfriendly hands, that the inherent offensive battle management capabilities of the AWACS system could have a destabilizing effect in the Middle East, and that the already large-scale presence of American support personnel in Iran will be exacerbated. The evidence made available to me to date indicates that these are well founded concerns that deserve the closest scrutiny if this sale is proposed to the Congress as required under the Arms Export Control Act.

President Carter recently established a welcome new policy to restrict and control foreign arms sales. Since Iran already is the recipient of vast quantities of modern U.S. weaponry and AWACS represents our most sophisticated military technology, this sale may well be the place to draw the line—in our own national security interest.

Mr. President, I ask unanimous consent that today's Washington Post arti-

cle about the AWACS to Iran proposal and the text of our request to the General Accounting Office be printed in the RECORD.

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

BATTLE EXPECTED ON RADAR SALE TO IRAN

(By Robert G. Kaiser)

The Carter administration has notified Congress in secret that it intends to sell Iran seven highly sophisticated airborne radar systems for $1.2 billion.

This decision—which will be made formal and public July 6—is expected to provoke the first public debate over American arms sales to foreign countries since President Carter announced a new policy intended to reduce those sales. Several administration officials said yesterday that the $1.2 billion sale to Iran violates that new policy, but others disagreed.

Two senators said they thought the sale flouted Carter's stated intentions, and Sen. Thomas F. Eagleton (D-Mo.) said it is "my very strong inclination" to introduce a motion in the Senate to block the sale.

The proposed deal—which was all but finally arranged by the Ford administration—raises many of the problems the Carter administration will face if it seriously tries to reduce America's role as an international arms merchant.

Opponents of the sale will attack it on many fronts, charging that it involves a radar system of questionable efficacy, that it will escalate the arms race in the Middle East, that it risks revealing valuable secrets to the Soviet Union, that it could draw Americans into a future Iranian military adventure and that Iran is incapable of handling such sophisticated equipment.

Eagleton, a longtime opponent of this radar system, called the proposed sale "outlandishly incredible." Sen. John C. Culver (D-Iowa) said it was "basically contradictory to Carter's arms-sales policy."

Proponents reply that Iran has no reliable air defense system, and it is in America's interest to sell one to the shah. Because the system is primarily defensive, it should not escalate the arms race in the region, they say. The fact that Americans will have to help man the system means the United States will be able to influence and restrain the shah if necessary, they add.

Administration officials also contend that the radar system—known formally as the Airborne Warning and Control System (AWACS)—is less lethal than many of the American weapons systems the Shah would like to buy.

Since the Carter administration plans to sell the Shah less than he was able to buy from the Nixon and Ford administrations, they add, this sale should be seen as something of a sop to the Iranian appetite for fancy weaponry.

These officials note that Carter has "already decided not to allow Iran to purchase F-18L fighter aircraft, a model that is unlikely to be built for the U.S. Air Force.

AWACS has long been a controversial system, and has already cost the United States more than $2.4 billion. For that amount the Air Force has thus far received two copies of the system—a modified Boeing 707 jet aircraft equipped with elaborate radar and data processing equipment built by Westinghouse.

Congress has appropriated funds for the gradual acquisition of 28 of them at a cost of $125.6 million apiece—more than the unit cost of the controversial B-1 bomber.

Two reports prepared by the General Accounting Office have sharply criticized the AWACS concept as extravagant and potentially ineffective. The GAO, an arm of Congress, is preparing another study of the implications of selling AWACS to Iran. It is also expected to be critical.

The original U.S. Air Force mission for AWACS was to provide a flying defense perimeter around the continental United States that would provide early warning of a Soviet bomber attack. As that threat diminished, the Air Force talked of using AWACS as a tactical weapon that could be used over a European battlefield.

Most recently it is described as most effective as an early warning system and potential command and control vehicle over friendly territory during an air attack, perhaps in Europe.

Through all these changes in proposed mission, the Air Force remained firm on one point: it needed 31 of the planes, whatever they were to be used for.

The United States has long been pressing its NATO allies to acquire an AWACS force for use in Europe. Though well-disposed to this idea in principle, the NATO countries have never produced the money to buy the expensive planes, and it is not clear that they ever will.

Congressional sources charge that the Air Force wants to sell AWACS to Iran in part to keep the project alive here, pending a decision by NATO to acquire it, or an increase in the number of planes acquired by the Pentagon. The Carter administration has reduced the annual U.S. "buy" from six to three AWACS planes—a level of production which Boeing officials call "not an economic rate."

The idea that Iran acquire AWACS is not a new one. It was most recently ratified in a study the Pentagon completed in January on a contract from the shah, who wanted U.S. advice on how to improve his air defenses.

According to one well-placed source, Westinghouse had a lot to do with preparing that report. "People in the Pentagon who reviewed that study got briefings on it from Westinghouse," the source said.

Carter administration officials cite that report as the justification for selling AWACS to Iran. The gist of its conclusions was forwarded to Congress in the advance notification of the sale—classified "confidential"—that the Pentagon sent to the Hill June 16.

The notification said a ground radar system would cost billions for Iran because of rough terrain and atypical air temperature patterns in the Persian Gulf, so AWACS was desirable. Moreover, the Pentagon said AWACS would enable Iran to guide fighter aircraft whose mission would be to defend cities and oilfields in case of an enemy attack.

This is a reference to the AWACS aircraft's acknowledged capability to serve as a command and control weapon—a defensive capability in an enemy attack, but potentially an offensive capability too, if Iran sought to launch an attack.

Culver and other critics cite this as the principal reason why the sale of AWACS to Iran would violate Carter's arms transfer policy.

In May Carter said that, henceforth, the United States would not "be the first supplier to introduce into a region newly developed, advanced weapons systems which create a new or significantly higher combat capability."

For Iran's neighbors—Iraq, say—AWACS' command and control capability would certainly look like a new combat capability, Culver said yesterday.

Congressional critics also ask whether Iran can be trusted with AWACS' secrets (even its operating manuals are highly classified in the U.S. Air Force), and whether the United States wants to sell Iran a system that would admittedly have to be manned by American technicians for years to come.

Each craft is intended to carry a crew of 26, according to one source, and most of these would be Americans until Iran's already-strained skilled manpower pool could be drawn on to provide native replacements.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 27, 1977.

Mr. ELMER B. STAATS,
Comptroller General of the United States, Washington, D.C.

DEAR MR. STAATS: It is our understanding that the Defense Security Assistance Agency will give preliminary notification to the Congress in the near future of a proposed sale of E-3A AWACS aircraft to Iran.

We have serious questions about the advisability of this sales, and we request that the General Accounting Office prepare a Letter Report to assist the Congress in reviewing this proposal under the provisions of The Arms Export Control Act. We would like the report to address the following issues.

1. What is the intelligence community assessment of the technological security problems involved in this sale? Which AWACS component systems, including enhancements, are most sensitive in terms of United States and NATO weapons systems and capabilities? What benefits for its own weapons development programs could the Soviet Union gain from access to an AWACS aircraft or its components? What benefits could such access provide for Soviet countermeasures against a NATO AWACS force, and for countermeasures against the NATO air defense system? Would the presence and operation of AWACS in Iran expose sensitive AWACS systems to greater security risks from espionage by agents in place, or from ELINT and SIG INT operations, than would be the case for an AWACS deployment in Europe? How could an Iranian AWACS configuration be altered to reduce the security risks of Soviet access?

2. How could AWACS be used to increase the offensive capabilities of the Iranian Armed Forces, particularly for force projection beyond Iranian borders? Which AWACS component systems are most significant for offensive operations? Could Iran net its land and naval forces into the AWACS command and control system? How could an Iranian AWACS configuration be altered to limit its capabilities to primarily defensive operations?

3. How many American support personnel and dependents over what time frame are associated with is proposed sale? Will Americans be required to support the 707-320B airframes?

As you know, the preliminary notification period for submitting a proposed arms sale for Congressional review is 20 calendar days, and the Congress has 30 calendar days after a formal notification to vote a concurrent resolution of disapproval.

We are therefore requesting an expedited report, which we believe is warranted by the serious questions involved in this case. We would appreciate your report on or about July 1, 1977. Interim partial responses would be welcomed.

To facilitate your inquiry, we are sending a copy of this letter to the Secretary of State and the Secretary of Defense.

Sincerely,

JOHN C. CULVER.
THOMAS F. EAGLETON.
WILLIAM PROXMIRE.
CHARLES McC. MATHIAS, Jr.
GAYLORD NELSON.

A-10—AIR SUPPORT AIRCRAFT

Mr. GOLDWATER. Mr. President, there has recently been considerable discussion of the Air Force's newest close air support aircraft, the A-10.

Unfortunately, much of the discussion has centered around the tragic accident at the Paris Airshow involving

the A-10. It is important that this accident not detract from the positive facets of the A-10 program.

The A-10's greatest asset, in any view, is its capacity in an antitank role with the 30-mm cannon. If you have not seen a film clip showing that cannon in action against tanks during tests in Nevada, you have missed an impressive sight.

Equally impressive, but not as readily apparent, is the ability of the A-10 to survive in the combat environment where the aircraft can operate to best advantage. An article in the June 20 edition of Aviation Week and Space Technology magazine provides a comprehensive assessment of the survivability of the A-10 in the attack role. I ask unanimous consent that the article be printed in the RECORD.

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

A-10 SURVIVABILITY IN ATTACK ROLE SHOWN DURING SIMULATED COMBAT

(By Donald E. Fink)

BARSTOW, CALIF.—USAF/Fairchild Republic A-10s demonstrated higher than anticipated survivability rates during attacks against simulated Warsaw Pact armored forces participating in the recent Red Flag 77-76/Irwin II multi-service combat exercise staged at the U.S. Army's nearby Ft. Irwin range.

The four-week exercise combined two of USAF's recurring Red Flag combat training sessions at Nellis AFB, Nev., with full-scale Army Maneuvers at Ft. Irwin involving 4,000 ground troops (AW&ST May 23, p. 24).

Coordinated air strikes during the exercise were flown against ground targets simulating a massive well-protected armored thrust of the type the Warsaw Pact is capable of launching against North Atlantic Treaty Organization forces in Western Europe.

The combined defensive threat that would accompany such a thrust was represented by simulated Soviet surface-to-air missile and anti-aircraft gun sites on the Nellis Red Flag range and agressor aircraft flown from Nellis air combat training squadrons. A Soviet-style command and control network was used by the aggressor forces to coordinate the combined air and ground defenses with the ground attack.

More than 100 aircraft flown by Air Force, Navy and Marine Corps pilots and several units of Army helicopters took part in the exercise, flying more than 3,500 sorties. It was the first time the A-10 had participated in an exercise of this scale or fired live ordnance under conditions closely matching those of actual combat.

During the first three weeks of the exercise, four A-10s from the 333rd Tactical Fighter Training Squadron at Davis-Monthan AFB, Ariz., operated from a rough strip on Bicycle Dry Lake, 10 to 15 mi. behind the main battle area. But a flash flood generated by heavy rains on the Ft. Irwin desert range inundated the dry lakebed and forced the unit to shift its operations to the Barstow/Daggett Airport here.

While at Bicycle Lake, the A-10s operated in a variety of harsh conditions, including temperatures in both extremes, high winds with blowing dust and finally, the flash flood. Despite the conditions, the A-10 unit flew more than 50 sorties from its Bicycle Lake base without encountering any unusual maintenance problems.

Average turnaround time between sorties was 15-20 min., according to ground crews, even though the blowing dust often was so bad the men had to wear surgical masks and sand goggles.

During the three weeks of remote operations, the ground crews had to change two main landing gear tires—one of which was in marginal condition for rough field operations when the aircraft arrived—and one nosewheel tire, according to Chief M/Sgt. Richard T. Furney, maintenance supervisor for the A-10 unit.

"We carried in a lot of spares we didn't need, since we encountered no unusual maintenance problems at all," Furney said. "The exercise was harder on the people than it was on the airplanes."

The aircraft carried full 1,350-round loads of live 30-mm. ammunition for the General Electric GAU-8/A 30-mm. gun mounted in the nose and two USAF/Hughes Maverick air-to-surface missiles under the wings. The pilots were limited to firing 600 rounds of 30-mm. ammunition per sortie, and on most flights carried special training versions of the Maverick, which were attached to the wing pylons and electronically compute trajectories each time the pilot fires. Seven live missiles were fired against a variety of armored targets with excellent results.

After shifting to Barstow/Daggett—during the redeployment the four aircraft flew the prescribed number of sorties—the A-10 unit went into a surge exercise aimed at flying a maximum number of sorties in a single day. The goal of 24 sorties was exceeded by eight.

At Barstow/Daggett, the aircraft were based slightly closer to the battlefield target areas than was general practice during combat operations in South Vietnam, Furney said. Sorties over the Ft. Irwin range averaged about 30 min., whereas most ground attack missions in Vietnam lasted about 50 min.

The Red Flag/Irwin exercise provided realistic training, and from the pilot point of view was well worth the money spent, in the opinion of Lt. Col. Thomas B. Thompson, commander of the 333rd Tactical Fighter Training Squadron. This was the first opportunity the A-10 pilots had to fire live ordnance and at the same time evaluate defensive tactics that were developed in A-10 tests at Nellis earlier this year.

The Nellis tests showed several things about the A-10's capabilities when attacking armored columns with forward firing weapons, such as the Maverick missile and the GAU-8 gun, Thompson said. The first is that A-10's pilots can negate most of the threat from enemy interceptor aircraft and surface-to-air missile batteries by flying to the battle area at altitudes of 100 ft. and below.

Once the battlefield area has been penetrated, the effective ranges of the Maverick and the gun make it possible for A-10 pilots to hit the lead elements of attacking tank forces and turn away before closing within range of low-altitude anti-aircraft guns, such as the mobile ZSU-23-4 quad-23-mm. and ZSU-57 twin 57-mm. guns the Soviets use with their armored forces.

"The 30-mm. gun is devastating at slant ranges of 4,000 ft., and has the capability to kill tanks at ranges of up to 6,000 ft.," Thompson said. "It's effective against lightly armored vehicles at ranges of 10,000-12,000 ft."

The Maverick missile has an effective slant range of more than 25,000 ft., and is limited primarily by the pilot's ability to acquire visually and identify targets at those distances, he said.

"What we are trying to do is stay under the radar of the surface-to-air missiles and outside the quad-23 range," Thompson said. "We feel as A-10 drivers that if we can stay outside 6,000-7,000 ft., we can greatly reduce the effectiveness of the type of defensive threats we know the other side has."

If it becomes necessary to close to shorter ranges, the experience gained at the Red Flag/Irwin exercise and the earlier tactics tests at Nellis show the A-10 still can survive with the right kind of three-dimensional jinking. During the joint exercise, video tapes were taken through the optical view finders on simulated ZSU-23-4 and ZSU-57 sites on the Nellis range as aggressor forces attempted to track attacking A-10's.

In 112 missions most of which were flown against a coordinated ground and air defense threat, one A-10 was certified as being shot down by a ZSU-23 battery. Several A-10s were caught in ZSU-23 radar and optical trackers, but computer analyses of the tracking data showed the aircraft either were out of range or the pilots evaded the 23-mm. shells by following prescribed jinking techniques.

Four other A-10s were certified as being shot down, one by a simulated Soviet SA-6 surface-to-air missile site at Nellis and three by aggressor interceptors.

The A-10's maneuverability at low altitudes and high speeds is another feature that enhances its ability to survive in a high-threat environment, according to Navy Lt. Carter Chapman, Jr. Chapman is a Navy exchange pilot assigned to the 333rd, and has been flying the A-10 since November.

"The gun makes it possible for us to hit targets without ever going inside 4,000 ft.," Chapman said. "And, once we've made our kill, the aircraft's tight turning radius enables us to get out of there without passing over the target."

The ability to press home an effective attack and break off before passing over the target is considered to be an important factor in the A-10's survivability, based on combat experience in South Vietnam. In that arena, aircraft attacking targets with shorter-range guns or free-fall ordnance usually ended up flying over the targets. This increased their exposure to the Soviet supplied quad-23-mm. and twin 57-mm. guns and also made them vulnerable to attacks with the shoulder-launched SA-7 infrared-guided missile as they flew away from the target.

The A-10 operates most effectively when used in pairs, Chapman said. One aircraft goes in at low altitude to attack the front line of armor with the 30-mm. gun, while the other one trails several thousand feet behind at a higher altitude and off to one side.

"The first aircraft in attacks the tanks, while the second one stands off and uses the Mavericks to knock out the quad-23 gun sites," he said. "The No. 1 aircraft operates up to the minimum of 4,000 ft. from the front line, while No. 2 stays out in the area between 12,000 and 4,000 ft."

After making a couple of passes at the front line of armor, during which the first aircraft expends its 30-mm. ammunition and the second its Mavericks, the aircraft fly out of the battlefield area, exchange positions in the formation and return for another series of attacks.

The effectiveness of the A-10 against ground targets was observed by this Aviation Week & Space Technology editor during a flight over the Red Flag/Irwin battlefield in a USAF/Cessna O-2A forward air control aircraft. The pilot, Maj. Robert L. Keen of the California Air National Guard's 196th Tactical Air Support Squadron, was one of three forward air controllers directing strikes on the Ft. Irwin range on the day the A-10s flew the 32-mission surge.

All of the pilots appeared to be taking the exercise as seriously as actual combat—this editor earlier flew a low-level attack mission in a USAF/Cessna A-37 with the Air Force Reserve's 47th Tactical Fighter Squadron—and the constant threat of aggressor air attack, coupled with communica-

tions jamming in the battlefield area, added to the realism.

A-10 attacks observed by this editor were pressed home from extremely low altitudes, and made maximum use of the mountainous terrain on the Irwin range. For the exercise, all pilots were restricted to a minimum altitude of 100 ft., but in a real combat situation the A-10 pilots said they would fly lower.

During one sortie, two A-10s flying in thee dual-aircraft formation alternately attacked a double column of Army trucks lined up to simulate tanks. The canvas covers had been removed from the truck beds, which gave them low silhouettes.

In multiple runs, the A-10s approached from behind hills that flanked the dual column of vehicles, and attacked through a narrow pass. Both aircraft directed what appeared to be devastating 30-mm fire along the full length of both columns before breaking off and flying low-altitude evasive profiles at speeds ranging between 300 and 400 kt.

In the air-to-air arena, A-10 pilots use this same low-altitude maneuverability to counter attacks by aggressor aircraft, Thompson said. This forces aggressor aircraft to move in for short-range gun attacks, since their missile radars are not able to distinguish the low-flying aircraft from the backgound clutter.

"In terms of the air-to-air threat, we force the opposition into a hemisphere of action, versus a sphere of action," he said. "At low-level, we deprive aggressors of the three dimensions they need to press home an effective attack."

THREAT EVASION

If an A-10 pilot can see an aggressor aircraft in time, he has an excellent chance of evading the threat, Thompson said. In the two-ship formation, the pilots continually are checking each other to prevent a surprise attack from the rear.

"I'm not saying we wouldn't lose aircraft in a combat situation, because we would," he said. "But we now believe the A-10 has a much higher survivability than we thought before."

This view is shared by the Red Flag/Irwin officials who were operating the simulated Soviet air/ground threats during the exercise. Their conclusion was that the tactics tested so far by the A-10s will considerably improve their ability to survive in a high-threat environment.

The development of tactics has to be evolutionary to keep pace with new defensive threat improvements, according to Col. Joseph C. Romack, deputy chief of staff for tactics at the Nellis AFB Tactical Fighter Weapons Center. By early next year, the Nellis group will have looked at a full spectrum of tactics for the A-10, ranging from methods for firing the 30-mm. gun and Mavericks at very low levels to the proper techniques for delivering free-fall ordnance and working with Army helicopters performing close ground support missions.

INITIAL TESTS

Initial tactics tests with the A-10 were conducted at Nellis early this year, using six aircraft from the 333rd squadron at Davis-Monthan, Romack said. The combined air and ground threat on the Nellis range was arranged to match the conditions the A-10s would face from Soviet-type defenses. In the first series of tests, the effectiveness of the GAU-8A gun was evaluated during firings at medium altitudes of about 2,000 ft., with the aircraft firing at targets from slant ranges of about 4,000 ft. In a second series of tests currently under way, the effectiveness of the gun is being evaluated in firings at altitudes around 100 ft.

"These are not tactics tests per se, since they are aimed more at determining how effective the weapon is," he said. "At the 4,000-ft. slant range, 80% of the rounds hit in a 16-ft.-dia. circle."

At the very low altitudes, the slant range trajectories will be much shallower, so the bullet patterns will be more elliptical in shape, Romack said. But preliminary test results indicate that a sufficiently large number of rounds still would hit a target.

Since the tests are aimed at proving the gun can be fired effectively at the very low altitudes, a limited number of rounds will be used each time and the targets will be full-scale representations of armored vehicles, not real tanks. "We've already done penetration tests on real armored vehicles and are satisfied the 30-mm. gun is an effective anti-tank weapon," Romack said.

COMPUTER PREDICTIONS

"This time we're trying to determine if we can duplicate computer predictions of hit probabilities at the very low altitudes." When attacking at the low altitudes, the A-10s actually will be using the front lines of heavy armor as screens against the ZSU-23 and ZSU-57 guns, which would be mounted on lightly armored vehicles following some distance behind.

"The quad-23s, for example, would not be the first vehicles out. The GAU-8 could take them on and destroy them at ranges of 8,000 to 10,000 ft.," he said. "So they have to trail behind the front lines of tanks, and if we attack at the very low altitudes, the gunners would have to depress their barrels so low they would be shooting the antennas off the lead tanks." Romack added that the low-level maneuverability of the A-10 has proved to be an effective capability in countering air attacks, and that the Nellis tests showed A-10 pilots flying the two-ship formation actually are able to protect each other using the GAU-8 gun in the air-to-air mode. "We haven't yet worked out A-10 tactics for delivery of free-fall weapons, but we'll do that late this year," he said. "We also are going to be working with the Army to develop tactics for working with and against helicopters."

These activities will include escorting helicopters, flying flack suppression missions for them, operating with helicopter-borne forward air controllers and finally pitting the A-10 against helicopters in an aggressor role.

One of the most interesting aspects of the A-10 participation in the Red Flag/Irwin exercise involved coordinated operations with Army/Bell AH-1S Cobra helicopters equipped with the Army/Hughes TOW anti-tank missiles, according to Thompson.

"Both the A-10 and the Cobra are low-altitude aircraft and have a similar stand-off capability," Thompson said. "We're able to operate down in the same type of terrain, at about the same altitudes, and the Red Flag exercise gave us a good opportunity to develop techniques for coordinated operations in a communications jamming situation."

The Cobras were located at Bicycle Lake with the A-10s for the first part of the exercise, but when the lakebed was flooded, the helicopters went to dispersed sites and the A-10s shifted to Barstow/Daggett. Rendezvous techniques then were worked out, enabling the A-10s to meet the Cobras over the battlefield on a precise schedule.

In general, the Red Flag/Irwin exercise gave most of the participating pilots an opportunity to improvise and exercise their own judgment under stress conditions closely matching those of combat.

Such a situation was encountered during the A-37 attack mission this editor flew with the 47th Tactical Fighter Squadron. The leader of the six-aircraft flight was Capt. James Valance, and the aircraft this editor rode in was flown by Capt. Ron B. Wilhite.

The mission was briefed to fly a loose formation from Nellis to a holding point called Silurian Hills, east of the Ft. Irwin range, and then attack a truck convoy in the northern part of the battlefield. Weather conditions were marginal, and a low-altitude freezing level kept the O-2A forward air control aircraft grounded, so the mission was directed by a ground-based forward controller.

The A-37s flew to the Silurian Hills holding point and circled, with four aircraft low and two high for protection against aggressor attacks, until the flight was cleared into the battlefield area. Communications were fair to poor with heavy jamming, and the flight was slightly disorganized in leaving the holding point. But the pilots still managed to press the attack, and this editor—riding in the sixth aircraft—was given a good demonstration of high-speed, terrain-following flight.

The flight leader hit the pre-planned initial point on time, but a communications problem developed with the forward controller. When the flight leader's aircraft popped up over the target area, Valance said he saw moving vehicles instead of the expected stationary ones.

DRY RUN

Since there was no smoke marking the target, Valance did not drop his ordnance—live BDU-33 training bombs—and called to the rest of the flight that he was "going through dry." Each pilot was given the option of dropping his bombs if he spotted the target, but each decided to carry his ordnance back to Nellis.

Wilhite said later that the training gained on such missions was extremely valuable for a pilot whether or not he had previous combat experience because it stressed the importance of being able to think clearly under conditions of stress.

MINE SAFETY

Mr. WILLIAMS. Mr. President, Tuesday the Senate passed S. 717, the Mine Safety and Health Amendments Act of 1977, after 2 days of careful consideration and debate. Many Senators worked hard in shaping this legislation, and in considering it.

The careful consideration of this bill was aided by the hard, talented and unselfish work of the staff of the Subcommittee on Labor. I want the record to reflect my gratitude for the tireless efforts of Ms. Denise Medlin, Ms. Joan Wilson, Ms. Maureen Dollard, and Ms. Martha Woodman. I would also like to praise the efforts of Mr. Roy Wade of the staff of the Committee on Human Resources, who has for years worked on and has come to intimately understand the safety and health problems of our Nation's miners.

Their dedicated work and long hours helped immeasurably in preparing this bill for the consideration of the Senate, and on behalf of the committee, I would like to thank them.

"THERE'S MORE TO RUSSIA THAN AMERICANS RECOGNIZE"

Mr. MATHIAS. Mr. President, I wish to commend to my colleagues an excellent article by Peter Osnos of the Washington Post entitled "There's More to Russia Than Americans Recognize." Mr. Osnos has been in Moscow since 1974. He makes the point that it is dangerous for Americans to take what amounts to a one-dimensional view of the U.S.S.R. Too much depends on our recognizing that this is a complex country. I ask unanimous consent that this

excellent article be printed in the RECORD.

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

THERE IS MORE TO RUSSIA THAN AMERICANS RECOGNIZE

(By Peter Osnos)

MOSCOW.—After three years of living in Moscow, it would be relatively easy in a farewell piece such as this to tell you all that is wrong with the U.S.S.R., to rehearse once again the inefficiencies and inequities of the Soviet system. But if Americans know anything about the Soviet Union, we probably know what is bad about it.

Instead, I'd like to suggest something of what I think is wrong with us.

That may seem an odd way of rounding out a tour as a Moscow correspondent, but my point is precisely that we have tended over the years to dwell so much on the very real shortcomings of the Soviet Union that we bear a deep hostility toward this remarkable and confounding country—which doesn't do us any particular good and in a nuclear age could lead to catastrophe.

We recognize a great deal in the United States that is evil—crime, racism, poverty, injustice—and yet we don't conclude from such glaring faults that we are all bad.

It is, by the same token, a mistake to conclude that, because there is so much in the U.S.S.R. which we find repugnant—the lack of free expression, the self-righteousness and hypocrisy of the ideology—the whole system is rotten.

As seen from here, though, Americans are so suspicious of Soviet political motives that, aside from the ballet and making weapons, they don't think Russians are good for much.

The phenomenon is hardly a new one. Twenty years ago, Harold J. Berman, then as now a scholar of Soviet law at Harvard, wrote a memorable essay he called "The Devil and Soviet Russia." In that era of Sputnik supremacy in space, when Americans were suddenly alarmed about the successes of Soviet science, Berman's contention was that we had become so fixated on the evils of communism that we were not prepared for its achievements.

If Russia was really as bad as we imagined it, he wrote, "with 20-million prisoners in Siberian labor camps, workers ground down by management, every tenth person an informer, people afraid to talk about anything," then we in the West should have nothing to worry about: "Such a system could not survive a single major crisis."

In fact, said Berman, "The Soviet system which has been created is quite different. It is a working totalitarianism . . . It is a system that gives promise of achieving the very goals it has set for itself: economic security, political power and technological progress—by the very means it proclaims: absolute subservience to party discipline and the party line."

The professor was right. For all the continuing backwardness in some rural areas and a general living standard that is still far below that in the West, the U.S.S.R. today is unquestionably one of history's imperial giants. The Kremlin now presides over the world's second largest economy, the biggest in terms of critical energy output. It has a mighty military machine and dominates an alliance that the Pentagon would have us believe is stronger in many respects than our own. And Moscow today wields formidable political influence on events in every corner of the globe.

There was truth as well as pure bombast in the speech Leonid Brezhnev made last month when he presented a new national constitution to the party's Central Committee.

"The capitalist encirclement of the U.S.S.R. exists no more," he declared. "Socialism has turned into a world system and a mighty socialist community has formed. The position of world capitalism has been substantially weakened. Dozens of young states, former colonies, are coming out against Western imperialism."

Considering this is a country that, as every Russian will tell you, was ravaged by revolutions, invasions and terror for most of the century, the record is certainly impressive. That much in recent years has come to be officially recognized in the United States—at least it was in the previous administration.

"The issue of how to deal with the Soviet Union has been a central feature of American policy for three decades," Henry A. Kissinger declared in a major pronouncement on the subject in February, 1976. "What is new today is the culmination of 30 years of postwar growth of Soviet industrial, technological and military power. No American policy caused this; no American policy could have prevented it . . .

"Coping with the implications of this emerging superpower," he added, "has become our central security problem."

Kissinger's solution was detente (he wasn't the first to come up with the idea, but he was the one to get it implemented). Detente, as the French writer André Fontaine neatly put it, was not the same as peace or else it would have been called peace. It was an arrangement whereby a combination of political, military, technical and commercial agreements were reached for the expressed purpose of preventing the sort of confrontation that would end in mutual annihilation. For a time, roughly between the summers of 1972 and 1975, the process was working. To borrow from Chairman Mao, a hundred flowers bloomed.

I have watched detente unravel since then to the point where virtually all that is left is a batch of yellowing declarations of good intentions, essentially meaningless in a real crisis, and the strategic arms limitation talks that are a lot further from success than any reasonable person would want them to be.

The Kremlin reviles Jimmy Carter, calling him a "demagogue" in his domestic policy who supports "absurd and wild concoctions" about Soviet abuses of human rights and who seeks "unilateral advantage" for the United States in the arms talks. Carter says people shouldn't get rattled every time Brezhnev sneezes.

Two-way trade is stagnant and hardly anyone here holds out much hope for improvement, let alone the billions that were once talked about. Cultural and scientific contacts are mostly cosmetic. For the first time in years, an American diplomat and journalist have been expelled. Others have been severely harassed.

Where have all the flowers gone?

There are, of course, a multitude of explanations for what went wrong. On my list are: A) Détente was oversold by Richard Nixon in an effort to distract attention from Watergate, and then disillusionment set in; B) A powerful alliance of security-minded conservatives and human-rights liberals in the United States whipsawed Kissinger as alternatively soft and cynical; C) The Soviets, being Soviets, pressed for advantages in places like Angola (where they succeeded) and Portugal (where they did not), thereby cutting the ground out from those in Washington who contended that Moscow would act responsibly; D) Military-industrial lobbies in both countries went on pursuing their vested interests in expanded outlays for defense.

I leave it to geopolitical pundits to assess the strategic implications of issues like C and D. The arguments I want to stress here are more the matters of attitude, A and B. It was, unfortunately, I believe, American antagonism to détente, those endless debates over one and two-way streets, whether we were duped in this deal or that, which was instrumental in its eventual collapse.

We have so deeply ingrained an aversion to godless Bolshevism, going back for as long as the Communists have been around, that we seem incapable of accepting that the Russians can ever do anything positive, except for the occasional talent or goodwill of individuals.

As Berman was saying two decades ago, the fact that this is a system we do not like does not mean that it is totally bereft of virtues.

"It is a false conception of evil," he wrote, "which assumes that men who believe in evil doctrines—such as doctrines of world revolution or the dictatorship of the proletariat—cannot at the same time work to accomplish great humanitarian benefits. . . . For example, under the leadership of the Communist Party of the Soviet Union, the number of doctors in Russia increased from about 20,000 in 1917 to about 300,000 in 1957 . . . and, under the same leadership, illiteracy declined from over 50 percent to less than 5 percent."

The Kremlin's firm and often harsh control has made it possible to mobilize the resources for transforming places like Kazakhstan in Central Asia, Daghestan in the Caucasus Mountains and Yakutia in Northeastern Siberia from the wilds they were merely two generations ago, remote lands of nomads and exiles, into modern societies. After all, vast areas of the Soviet Union were totally undeveloped at the time of the revolution. But today, for instance, Yakutsk, the capital of Yakutia, has a population of 150,000, high-rise apartment buildings, theaters, a university—all that in winter temperatures often more than 40 degrees below zero.

Yes, the U.S.S.R. is an empire run from Moscow and outright nationalism is not tolerated. Nonetheless, such ancient peoples as the Armenian, Georgians and Uzbeks retain amazingly strong local identification and character. What they have lost in autonomy, small and often embattled nations like Armenia have gained in security. They have a language, their culture, even their own church. Communism has been imposed on them, but it has not crushed them.

Even in the most enlightened of philosophies good and bad are intertwined. Berman again: "Did not Cromwell, the great restorer of English liberties, treat the Irish with barbaric cruelty? Did not Americans who fought for the inalienable rights of 'all men' at the same time buy and sell slaves?"

Turning the reasoning around a bit: Is it not conceivable that the same Soviet leadership which so severely restricts free expression at home and seeks ever greater influence abroad might genuinely want to improve its peoples' lives, might genuinely want a measure of mutually beneficial cooperation with the West, might genuinely be committed to preventing a nuclear holocaust?

The way it has looked to me from here, Americans more often than not say no.

Partly, we may be negative because Kremlin ideology is so infuriatingly bumptious, demanding credit that is not deserved and asserting achievements that have not been attained. Because the Soviets so aggressively insist that they are perfect, we instinctively want to counter with their flaws.

In the early 1970s, when the Kremlin began to allow tens of thousands of Jews and other minorities to emigrate each year, it proclaimed that anyone who wished to go could do so (except for those with state secrets, who would have to wait a few years and that no one who tried to leave would be harassed. It was obvious to Americans that those assurances were false. Hundreds of Jews lost their jobs, some were drafted into the army, others were jailed.

So, instead of concentrating on how much

the door had been opened—in 1973, about 35,000 Jews left—we focused on how closed it still was. Finally, the Soviets got fed up with the controversy, claiming that their humanism was not appreciated. The rate of Jewish emigration, at least, is down by more than half.

But sometimes it has struck me that our suspicions were exaggerated. Take the case of the 1975 Apollo-Soyuz mission when Russian and American spaceships linked briefly in orbit. On the eve, an article by a space expert published on The Post's editorial page reamed the exercise, comparing it to the 1972 grain deal in which the Russians suckered American traders. The expert's contention was that the Soviets were benefitting by access to our advanced technology while the U.S. side got nothing.

The way it looked from here, the United States got valuable first-hand exposure to the Soviet space program and examined its intricacies and shortcomings, which we found to be many. But even more importantly, the mission was the occasion for a tremendous outpouring of good will toward the United States. "The Apollo-Soyuz project," said an article in an important Soviet journal, "is a symbol of the changing relations between the U.S. and the U.S.S.R."

Many ordinary Russians were emotional. I listened carefully as they watched the blast-offs on television, clustered at store windows, in offices and homes. Invariably, the comments centered on the excitement of such cooperation and how it might mean the countries would get along more easily.

"It makes me feel better," said a World War II veteran, a man I know well and who keeps a very cool eye trained on what the Kremlin does, "to know that old allies can work together instead of always trying to outdo each other." Treacly, perhaps, but sincere.

I had to fly to Washington the next day, so it was there that I watched Apollo maneuvering into position for docking with the waiting Soyuz. "At last," cracked someone in the group gathered around the TV set, "we found a way to stick it to the Russians." Everyone else guffawed.

We are also condescending about some things the Soviets do well. The example of literature has fascinated me. It is a very rare American who could name any contemporary Russian author besides Alexander Solzhenitsyn—and he is better known for his political dissent than his novels. Yet there is a very active literary life here: People like Yuri Trifonov, Valentin Rasputin, Vasily Belov, Alexander Vampilov, Vasily Shukshin, Chinghiz Aitmatov and Fazil Iskander are greatly admired by the intelligentsia and write with style and insight—even if they do battle the censors behind desks and in their heads.

Two years ago, when I wrote a long article about some of these authors, the headline given by an editor was "The Writers Who Stay," as if anyone of worth should be expected to leave.

For all the well-known restrictions on Soviet cultural life, it is a fact that a sophisticated Russian knows a great deal more about our contemporary fiction than we about theirs. "Anywhere that people like to read," as one Russian put it, there are fans of Faulkner, Baldwin, Salinger, Vonnegut, Updike, Albee, all of whom and others have been expertly translated.

We like to believe that our literature must be better than theirs because it is unfettered. But that should not impose ideological blinders on Americans which prevent us from taking what the Soviets do at its true worth.

The Soviet Union is a closed society, but it is not nearly as closed in many ways as it used to be. For over three years now, since jamming ended, millions of Russians have listened to the daily broadcasts of the Voice of America and the BBC. It is no longer even considered daring to do so. Russian young people, even in the countryside, pattern themselves increasingly on the casual, blue-jeaned and rock music styles of their Western counterparts. Hundreds of thousands of sportsmen and visitors will be streaming into Moscow for the 1980 Olympics, another big hole in what was once truly an Iron Curtain. Always lurking somewhere, crude and vicious, are the men from the KGB security police.

But the KGB is not everything.

Well, then, you may fairly ask, how do I think we can make our attitude toward the Soviets less reflexively hostile?

That is a very tough question for which I have no all-encompassing answer. We should try, in keeping ourselves informed about what is happening here, to separate the real advances in Soviet economic and social life from the ideologically inspired claims—pro and con. We should try, of course, to continue expanding contacts in scientific and cultural fields that slowly grind down barriers to understanding. We should be, perhaps, more skeptical of what dissidents say because, with a cause to plead, they cast matters in the most apocalyptic light.

Changes obviously can come about. Remember how menacing the Red Chinese seemed only a few years ago? Then came the Nixon trip to Peking in 1972 and a slew of what in retrospect were naive reports on the dignity and purity of Chinese life. Today, we probably have a more realistic view of China than of the Soviet Union, although we know less about it.

So far, 1977 has been a terrible year for Soviet-American relations. A freeze like that, it seems to me, encourages just those repressive influences in the system that we find most abhorrent. The current crackdown on dissidents, the most extensive in this decade, would be harder for the Kremlin to undertake if Moscow's vested interest in good relations with Washington were greater.

Lev Kopelev, a wonderful man, a writer now 65 who spent a decade in Stalin's prison camps and has been harassed again in recent years for his outspoken defense of human rights, put the situation so eloquently in an interview not long ago that I'd like to repeat it.

"I sympathize with your President Carter in his support of human rights," Kopelev said. "I think that he is a good and sincere man. There is at last a politician who puts together politics and morals. But I think that in his tactics, especially with our country, he makes mistakes.

"He is too straightforward, too direct. He doesn't understand the special nature of our society—not Communist or Marxist traditions, but Byzantine, Oriental conceptions of prestige. If I were to advise Carter how to help us," he chuckled, "I would say, 'Be firm in your convictions but, at the same time, offer some golden bridges. Make it so that our side can come to you without losing prestige'."

He added with a sigh: "If now starts again, the Cold War it will be worse for us, for all our people."

THE AMERICAN LEAGUE PENNANT RACE

Mr. BROOKE. Mr. President, at the risk of running afoul of my colleagues from New York, Maryland, Ohio, Wisconsin, and Michigan, I feel compelled to rise this afternoon and convey my belief to these gentlemen that the pennant race in the American League's eastern division is all but over.

Now I know it is only June. I know anything can happen. I know the best of teams can falter in the dog days of August or down the grueling September stretch.

But I also know that our beloved Boston Red Sox have jelled into the most awesome club in the league. They amaze at the plate; they excel in the field; they now dominate on the mound.

I think my colleagues from New York can attest to this. For it was only last Friday that their rich and somewhat bloated Yankees came to Boston in first place only to be bombarded back to third place by sunset Sunday.

And for those that think the Sox success stems from friendly Fenway Park, we need only witness the methodical destruction of the somewhat respectable Baltimore Orioles in Baltimore Monday, Tuesday, and Wednesday nights.

Mr. President, I remember all too well sitting with the distinguished Speaker of the House TIP O'NEILL and one of the truly great Red Sox fans, his dear wife Millie, during the seventh game of the 1975 World Series. Mr. President, we were denied that year. But only by Joe Morgan's two-out single in the very last inning. And Mr. President, this year it will be different. This year, Mr. President, the Red Sox are going all the way.

Mr. MATHIAS. Mr. President, the Senator from Massachusetts, Mr. BROOKE, has referred to me and I feel obliged to respond.

We who cheer for the Baltimore Orioles are not daunted by the Senator's taunts. We retain a quiet confidence in our team. They have won the pennant before and we know they will again. The timing is part of the art they know through practice how to bring to perfection. We love our Birds when they win and only a little less when they lose.

It seems to me that the Senator's statement ignores one of the most famous lessons in the literature of sport.

I would be the last to equate Boston, the Athens of America, the hub of the universe, with Mudville. But the Senator from Massachusetts should remember Mudville.

In Mudville they too thought victory was in the bag. It was in Mudville that Casey stood, as those in Boston apparently stand today, "in haughty grandeur there." But when it was all over there was "no joy in Mudville."

I do not wish to dilute the Senator's anticipation of joy today because it may be all he will get. But a great baseball classic cries out in answer to the Senator from Massachusetts. I feel obliged to recite it now to refresh his memory and to restore an historic equilibrium to our national sport:

CASEY AT THE BAT

It looked extremely rocky for the Mudville nine that day;
The score stood two to four, with but an inning left to play.
So, when Cooney died at second, and Burrows did the same,
A pallor wreathed the features of the patrons of the game.

A straggling few got up to go, leaving there the rest,
With that hope which springs eternal within the human breast.

For they thought: "If only Casey could get a whack at that,"
They'd put even money now, with Casey at the bat.
But Flynn preceded Casey, and likewise so did Blake,
And the former was a pudd'n, and the latter was a fake.
So on that stricken multitude a deathlike silence sat;
For there seemed but little chance of Casey's getting to the bat.
But Flynn let drive a "single," to the wonderment of all,
And the much-despised Blakey "tore the cover off the ball."
And when the dust had lifted, and they saw what had occurred,
There was Blakey safe at second, and Flynn a-huggin' third.
Then from the gladdened multitude went up a joyous yell—
It rumbled in the mountaintops, it rattled in the dell;
It struck upon the hillside and rebounded on the flat;
For Casey, mighty Casey, was advancing to bat.
There was ease in Casey's manner as he stepped into his place,
There was pride in Casey's bearing and a smile on Casey's face;
And when responding to the cheers he lightly doffed his hat,
No stranger in the crowd could doubt 'twas Casey at the bat.
Ten thousand eyes were on him as he rubbed his hands with dirt,
Five thousand tongues applauded when he wiped them on his shirt;
Then when the writhing pitcher ground the ball into his hip,
Defiance glanced in Casey's eye, a sneer curled Casey's lip.
And now the leather-covered sphere came hurtling through the air,
And Casey stood a-watching it in haughty grandeur there.
Close by the sturdy batsman the ball unheeded sped;
"That ain't my style," said Casey. "Strike one," the umpire said.
From the benches, black with people, there went up a muffled roar,
Like the beating of the storm waves on the stern and distant shore.
"Kill him! kill the umpire!" shouted someone on the stand;
And it's likely they'd have killed him had not Casey raised his hand.
With a smile of Christian charity great Casey's visage shone;
He stilled the rising tumult, he made the game go on;
He signaled to the pitcher, and once more the spheroid flew;
But Casey still ignored it, and the umpire said, "Strike two."
"Fraud!" cried the maddened thousands, and the echo answered "Fraud!"
But one scornful look from Casey and the audience was awed;
They saw his face grow stern and cold, they saw his muscles strain,
And they knew that Casey wouldn't let the ball go by again.
The sneer is gone from Casey's lips, his teeth are clenched in hate,
He pounds with cruel vengeance his bat upon the plate;
And now the pitcher holds the ball, and now he lets it go,
And now the air is shattered by the force of Casey's blow.
Oh, somewhere in this favored land the sun is shining bright,
The band is playing somewhere, and somewhere hearts are light;
And somewhere men are laughing, and somewhere children shout,
But there is no joy in Mudville: Mighty Casey has struck out.

ERNEST LAWRENCE THAYER.

INTRODUCTION OF SMALL BUSINESS PAPERWORK REDUCTION AND INVESTMENT ACT

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I have reported periodically to the Senate on our committee's inquiry into the impact of the Pension Reform Act of 1974, ERISA, on small businesses.

Our annual report for 1975 (S. Rept. 94–646) outlined the problems of reporting and compliance which were being experienced by the 96 percent of retirement plans which have less than 100 participants, and the 93 percent which have less than 25 participants. These problems were taken up in public hearings conducted jointly with the Senate Finance Committee on February 2 and 3, 1976. The interim findings were summarized in a statement to the Senate at the end of the 94th Congress (CONGRESSIONAL RECORD, September 30, 1976, p. 33951, and in the committee's annual report for 1976 (S. Rept. 95–30). Last month, our joint hearings with the Senate Finance Committee were resumed, with sessions on May 10, 11, 24, and 25.

Out of these most recent hearings has emerged a bill which is being introduced today. The purpose of the bill is to address the unintended side effects of ERISA, including the excessive paperwork, lack of coordination among administering agencies, delays in governmental action, and increased conservatism which has placed pension fund investment beyond the reach of the small business segment of our economy.

WHAT THIS BILL WOULD DO

The major provisions of this bill include:

A single annual report on pensions. Such a combined report would be filed with one Government agency.

This would be backed up by requiring an agreement among all agencies on access to the particular information which they need.

The Federal Paperwork Commission estimated that such provisions would result in initial savings of $50 billion to Government and $357 billion to business. Annual savings thereafter approximate $288 million, for a total of $2.99 billion over a 10-year period.

Small business representation on the ERISA Advisory Council. There would be at least one small business spokesman on this body so that input on the needs of smaller firms can be furnished before regulations and forms are published.

The bill also makes the Council advisory to the Department of the Treasury and the Pension Benefit Guaranty Corporation, in addition to the Department of Labor, as is provided in the present law.

Consequences of delay shifted to the Government. The burden of inertia in decisionmaking would be shifted to the Government by holding a business harmless for a year if the Government does not act on an ERISA-related request within 180 days.

Joint report to Congress. The bill gives Congress a mechanism for following through on its recommendations by requiring a joint report by the agencies concerned on their progress in carrying out the act within 180 days.

Extending the Federal "prudent man" rule. The bill asserts a new policy—that pension investments should take into account the long-term productivity and capacity of the economy; and it creates a legal protection—that investment in a smaller business is not an automatic violation of the prudence standard of the law.

Because of the statistics showing that the great majority of retirement plans are sponsored by smaller businesses and because we know that these smaller plans are less able to absorb the costs and fees of filing multiple reports, limiting the Government to requiring a single report would clearly be most helpful to smaller firms.

BENEFITS TO THE RETIREES AND THE ECONOMY

We have seen in the social security study now underway in the Senate Finance Committee that the ratio of active workers to dependents is falling from about 3 to 1 now to 2½ to 1 or even 2 to 1 in the years ahead, and this calls for maximum efficiency and productivity to sustain the real income of retirees. Under these circumstances, we cannot afford a situation where a prime source of capital is effectively "off limits" to the most inventive, resourceful and competitive segment of the economy—smaller business.

Many studies confirm the fact that more than half of all inventions originate with small enterprises or individual inventors. Thus, small enterprises can help to assure that the economy remains healthy and vibrant. This helps retirees by building the ability of the economy to deliver to them the highest possible real-income purchasing power.

INHIBITING EFFECT OF ERISA ON INVESTMENT IN SMALLER BUSINESS

However, witnesses at the May hearings confirm that access to pension fund investment has been virtually eliminated for the small business community.

The intention of those who drafted the statute may have been completely different. But the day-to-day practicalities are illustrated by a survey of the International Foundation of Employee Benefit Plans, which found that, because of the enactment of ERISA, nearly two-thirds of pension fund managers—64 percent—felt less willing to place their funds in anything other than the most established "blue chip" investments.

For example, Bruce Fielding, a trustee of a pension fund set up by the 500,000-member National Federation of Independent Business, testified at the May

hearings that investment by this fund was restricted to securities which are rated AA or higher. This means that even capital formed by small business is being funneled to Government and big business.

CONTINUING EFFORT TO DEVELOP A SOLUTION

Nearly everyone who has examined this area recognizes that ERISA has created problems for smaller plans and smaller businesses in the administrative and investment areas. This bill is an attempt to advance the dialog on what should be done about these problems.

The intent of our bill is certainly not to compel any investments in small business. We are seeking to make clear the fact that the statute should not prohibit a sound investment opportunity by the stronger pension plans in a venture capital firm or smaller business, which promises to benefit the beneficiaries and the general economy at the same time. If a fund manager wished to consider such possibilities, the many protections of the statute, including the requirements of prudence, would continue to apply to any and all investments of this type.

If these proposals can be improved upon, we shall gladly make the effort to develop them further to accommodate all of those who are concerned. We welcome and are seeking suggestions by the pension community and shall hold further hearings in an effort to formulate reasonable and effective legislation in this area.

MINORITY BUSINESS AND ASSISTANCE ACT

Mr. MATHIAS. Mr. President, I am pleased today to become a cosponsor of S. 927, a bill by the distinguished senior Senator from Kansas, Mr. DOLE, to establish a Minority Business Development and Assistance Administration in the Department of Commerce for the purpose of improving Federal assistance to minority business enterprise.

The heritage of business enterprise that has made our country the vital and strong democracy that it is today is in no small way the legacy of every American. It is the responsibility of the Senate to do whatever it can to encourage Americans of every race and national origin to participate in this heritage.

We must, in short, encourage minority business ownership. The people of Maryland are aware of this and two men, Herman Carter and Isaiah McKenzie of Harbor City Associates, have developed a "Bold Blueprint for Successful Minority Economic Development." I would like to conclude my remarks by asking unanimous consent that their paper be printed in the RECORD.

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

A BOLD BLUEPRINT FOR SUCCESSFUL MINORITY ECONOMIC DEVELOPMENT

This paper defines a program of long-range economic planning for the minority community. The major premise is economic parity can only be achieved by a major long-term commitment to increase minority proprietorship of firms in selected industries coupled with the long-term employment and career opportunities they provide. Past programs and legislative attempts have failed to achieve this goal due to their focus on short-term solutions. The CMEP speaks to this problem with far-reaching implications in an attempt to provide an alternative.

INTRODUCTION

The events of the late fifties and turbulent sixties produced a series of economic, educational, social and political gains for the Black Community. The 1954 Supreme Court decision opened the door for occupational advancement and quality in education. The many pieces of Civil Rights legislature were aimed at the creation of quality of life for all people. The Voting Rights Act allowed many Blacks, especially in the South, to exercise their franchise to choose elected representatives; thereby increasing economic opportunities at their local level. Billions of dollars were allocated during this period extending from fiscal 1960 to the present for the purpose of bettering the economic lot of the poor, Blacks and other minorities. Programs of description were devised and administered for upgrading skills, teaching skills, providing low-cost housing, daycare for children of working mothers, medical assistance and food stamps to name a few.

The Small Business Administration assisted in the creation and guidance of thousands of minority enterprises by making available millions of dollars in direct funding or guarantees for loans from local lending institutions nationwide. The surviving new entities provided a new income-base for the entrepreneurs and jobs for minority workers. President Nixon authorized the creation of Minority Enterprise Small Business Investment Companies (MESBIC's) to create venture capital for businesses owned by socially or economically disadvantaged persons to offset the inherent risk of minority business. Minorities have been the beneficiaries to a lesser extent of increased entrance in the trade unions. These two decades of American history were characterized by a re-assessment of several social values, resulting in the burning of bras and cities.

The major goal of all such programs is to "better the economic lot of the poor and the disadvantaged" thereby substantially increasing their stake in the social, political and cultural fabric of the nation. This was an attempt to correct many centuries of disregard, discrimination and deprivation of economic equity. It is our basic contention that these programs have failed to produce a meaningful impact in this area of social responsibility. The billions of dollars expended to achieve this objective have not yielded a suitable return on investment, if the true intent is economic parity. It is the purpose of this paper to examine these efforts on various levels, suggest an alternative solution, and discuss means of implementation.

SIZE AND DISTRIBUTION OF THE BLACK POPULATION IN THE UNITED STATES

The 1970 Census Report indicates that 11.1 percent of the total United States is Black.[1] Blacks represent 90 percent of the total minority population in the United States or 22.6 million persons. The largest concentration of Blacks is in New York representing 11.9 percent of that state's population.[2] Other population characteristics are depicted in Illustration I. The Black population is concentrated predominantly in the metropolitan areas. As depicted in Illustration I, more than half of all Blacks are still residing in the South. The gains in housing have not been as drastic as some others (income, elective office, etc.) so the main location of Blacks is in the inner-city. Economic gains have allowed only a small percentage of Blacks to migrate to the surrounding suburban communities. Even with the "open-housing" provisions of Civil Rights legislation, there still exists the "economic discrimination" and credit restrictions to disallow the acquisition of the desired property. Urban Renewal and low-income housing is a substitute for this.

Hence, Black businesses tend to be concentrated in the inner-city in order to be accessible to the minority market.

ILLUSTRATION I

RACE OF THE POPULATION FOR REGIONS: 1970

U.S. regions	Negro and other races						Percent distribution			
	Total	White	Total minority	Negro	Total other	Total	White	Total	Negro	Other
United States	203,211,926	177,748,975	25,462,951	22,580,289	2,882,662	100	87.5	12.5	11.1	1.4
Regions:										
Northeast	49,040,703	44,310,504	4,730,199	4,344,153	386,046	100	90.4	9.6	8.9	.8
North-Central	56,571,663	51,641,183	4,930,480	4,571,550	358,930	100	91.3	8.7	8.1	.6
South	62,795,367	50,420,108	12,375,259	11,969,961	405,298	100	80.3	19.7	19.1	.6
West	34,804,193	31,377,180	3,427,013	1,694,625	1,732,388	100	90.2	9.8	4.9	5.0

INCOME LEVELS

As indicated in Illustration II, the ten years 1960–1970 produced a 50 percent increase in median income in the blacks and other races category ($4236 to $6516) a ratio of 64 percent compared to White income in 1970. "With upgraded employment and income, Negroes provide a growing consumer . . .".[3] The estimated purchasing power of Blacks in 1970 was $33 billion.[4] "Median Income in 1973 was $7270 for Black families and $12,600 for White families . . . Black family median income did not grow between 1969 and 1973, after an appreciable 32 percent increase during the previous four-year period."[5]

This peak is a result of the Nixon Administration's progressive paring of federally funded social programs, and continued with the extension of this policy into the Ford Administration. Further interpretation of income distribution shows that although purchasing power approximates $30 to $35 billion the black market is by no means a rich one.

Footnotes at end of article.

ILLUSTRATION II

DISTRIBUTION OF FAMILIES BY INCOME—IN 1947, 1960, AND 1970

[Adjusted for price changes, in 1970 dollars]

Income	Negro and other races			White		
	1947	1960	1970	1947	1960	1970
Number of families (thousands)	3,117	4,333	5,413	34,120	41,123	46,535
Percent	100	100	100	100	100	100
Under $3,000	54	36	20	20	13	8
$3,000 to $4,999	25	22	17	24	13	10
$5,000 to $6,999	11	16	16	24	17	11
$7,000 to $9,999	7	15	18	18	26	20
$10,000 to $14,999		8	17		21	28
$15,000 and over	4	3	11	15	10	24
Median income	$2,807	$4,236	$6,516	$5,478	$7,664	$10,236
Net change, 1947–70:						
Amount	(X)	(X)	$3,709	(X)	(X)	$4,758
Percent	(X)	(X)	132.1	(X)	(X)	86.9

Source: U.S. Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census.

Note: X—Not applicable.

Approximately 33 percent of all Black families are below the $3,500 poverty level and 35 percent earn greater than $10,000.[6] These two observations of black income i.e., the peak in 1969 and the divergence in income levels of the black new middle class and the black "underclass" are important if one is to get a realistic picture. However, Blacks as consumers are a potent force, causing firms to devote an ever-increasing portion of their marketing budget to this market segment. More recent estimates of the minority community's spending power are close to $70 billion annually.

PROGRESS IN BLACK BUSINESS?

With the enormous influx of resources in the form of capital, technical assistance, legislation at all levels of government, what is the state of minority business today? William B. Johnson, former director of the State of Ohio Office of Minority Enterprises has stated that "the biggest problem with black businesses is that there are not enough of them. Blacks spend an estimated $70 billion annually in the U.S. Marketplace, yet Black owned firms make up less than three percent of all U.S. firms. Blacks participate in the economy primarily as consumers and this needs to change." The problem and the challenge is well-stated.

The "Survey of Minority Owned Businesses," a Bureau of the Census Special Report released in 1972 informs us that in 1969 all minorities comprised approximately 17% of the U.S. population, controlling only 0.9% of the total number of businesses. Blacks comprise approximately 11% of the 1969 population and controlled only 0.9% of the total businesses in the country. Gross receipts for all minority-owned businesses during this period totalled 10.6 billion dollars, 0.1% of the total business receipts. In 1971, minority businesses owned only 0.3% of all business assets and accounted for only 0.1% of business investments. The number of Black firms increased during the period 1969–1972 from 163,000 to 195,000. Gross receipts increased from $4.5 billion in 1969 to $7.2 billion in 1972. This still only approximates 0.1% of total gross receipts for U.S. business. It also does not indicate the number of businesses started-up and failed during the period.

Studies conducted by the public and private sector indicate that 60% small businesses fail within the first five years. Businesses located within the inner-city ghetto areas still have an even higher failure rate. Blacks have no businesses approaching the corporations in the Fortune 500, and relatively few listed on the New York Stock Exchange. Thus, we see that the efforts of the public and private sectors to maintain a "viable, dynamic and progressive role for small enterprise in the American economy."[7] have produced no significant change.

What are the programs and organizations involved in this effort to achieve economic parity? What are the shortfalls in their structure and mechanisms for implementation that allow this gap in income and ownership to be perpetuated? Is this the best approach to the problem, or is there a better way? Examination of the various entities will possibly provide greater insight and answers to the questions.

FEDERAL PROGRAMS

Federal efforts directed to the minority enterprise community are many and varied. The following discussion is an attempt to dissect and evaluate some of the entities that have the greatest funding and impact.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration (SBA) was created by Congress in 1953 as an independent agency. In an effort to assist small business and increase the number of minorities in business, Title IV of the Economic Opportunity Act of 1964 authorized an Economic Opportunity Loan Program (EOL). This program was established to administer minority business loans involving direct financing and commercial bank participation. The main purpose of the EOL program involves "assisting low-income individuals who, due to social or economic disadvantage, have been denied the opportunity to acquire adequate business financing through normal lending channels on reasonable terms."[8] Public Law 94–305 June 4, 1976 raised the ceiling on EOL from the 1972 level of $50,000 to $100,000.

The SBA guaranteed loan program requires the lending of funds from commercial banks with an SBA guarantee of 90% repayment.

EOL LOANS

FY 1964 to FY 1974, 46,109 loans, $683.4 Million. Average loan $14,821.

	Number loans	Total dollars	Direct	SBA part
Fiscal year:				
1973	7,661	$148.25	$73.75	$74.50
1974	5,290	109.00	63.00	46.00
1975	3,618	73.60		

It is without question that the EOL program is needed to provide capital for the potential small businessman and the existing business with a need for a small amount of debt financing for expansion or inventory requirements. The criteria used to evaluate potential businesses' (business plan, market analysis, funding requirement, long-range planning, resource utilization, management team even break-even analysis) are not of sufficient quality in some instances to make an intelligent and realistic decision. It has been an honest criticism that some businesses have been programmed for failure from their inception.

It has been historically traditional for the SBA to undercapitalize a starting entity, not allowing for contingencies or seasonal and cyclical sales variations. Most of the loans have been for activities in the retain and service sectors of business. These loans leave little if any room for working capital but are designed for acquisition of tangible or intangible assets. It has been the frequent criticism of loan recipients and their advisors that unless peak dollar sales are generated from the first day of operation the enterprise is doomed.

Another criticism is the management and technical assistance provided by the Administration is often inadequate and inappropriate. SCORE and ACE advisors are often unacquainted with the individual nuances of the business they are assigned. There are not enough of them to assist and the entrepreneur is not often sophisticated enough to seek the assistance before the crisis ensues. Because the evaluating criteria for the management assistance is based on the volume of clients served little information can be documented in regards to the quality of the assistance given.

Congressman Parren Mitchell in response to the plight of the minority businessman and the inadequacies of the SBA has introduced legislation HR 567.

OFFICE OF MINORITY BUSINESS ENTERPRISE (OMBE)

OMBE under the Department of Commerce is instrumental in funding Business Development Organizations (BDO's) in an effort to assist clients in the procurement of contracts, prepare financial packages. The BDO's also supply management assistance and technical services. OMBE was established in 1969 by Executive Order to coordinate various government programs. In 1972 $40 million was appropriated to generate small businesses through over 300 local community organizations. This was cut in 1973 to six regional offices and twelve field offices. The establishment of "one-stop service centers" eliminated duplicity of effort by several organizations in one area. These Centers should provide all services a potential businessman requires. These include market research, financial packaging, management and technical assistance, etc. OMBE's budget has increased from $40 million in 1969 to $53 million currently.

In fiscal year 1976 OMBE:

(1) assisted 7121 clients to procure $486 million in contracts—

Private Sector—39 percent—$189.6 million.

Federal Government—32 percent—$155.5 million.

State and Local Government—29 percent—$140.9 million.

(2) assisted in preparing 5700 approved financial packages averaging $57,800.00

(3) loans to minority entrepreneurs number 4301 valuing $231.4 million

(4) lines of credit extended numbered 265 nationally with a dollar value of $14.4 million.

PROBLEMS

The "Investigative Report on the Office of Minority Business Enterprise" (March 1975)

Footnotes at end of article.

issued by the House Appropriations Committee pointed out several organizational difficulties. Functionally, the Committee concluded that nationally:

(1) Generalists, often lacking education or experience in business, serve in specialist positions in finance, business education, construction contracting and government and private procurement.

(2) While considered a key factor in the ultimate success of a minority business, management services and technical assistance (MSTA) has been much less than anticipated and is predominately oriented to the initial period of the contract, with little assistance after a firm begins operations.

(3) Employees of the funded organizations (BRC's, CEBO's) lack a depth of expertise in MSTA to provide the kind and amount of assistance required even if staffing and time were available.

BUSINESS RESOURCES CENTERS

Business Resource Centers (BRC's) receive funds from OMBE as business development centers (BDO's), local private sector groups and perhaps local government. They have a variety of functions which include:

(1) Providing the link between minority suppliers and majority (corporate) purchasers through a Minority Purchasing Council (MPC).

(2) Provide local businessmen with management services and technical assistance.

(3) Maintain a core of professional advisors from the corporate community.

(4) Provide a capital base through a capital development program involving local commercial lending institutions, mortgage broker, bonding companies and industrial finance companies.

Problem.—They operate under OMBE with the aforementioned difficulties. The National Minority Purchasing Council has yet to develop a reporting procedure which corporations are comfortable with, nor has the purchase requirements of the local MPC's been set high enough to produce an appreciable impact. The focus is on contracts in the service area with no appreciable input as to industrial and manufacturing opportunities realistically availble for minorities.

COUNCIL FOR EQUAL BUSINESS OPPORTUNITY

Councils for Equal Business Opportunity (CEBO's) are funded by OMBE, and other public and private organizations. They have several alliances in the business community that provide advice and counsel. Most CEBO's specialize in packaging deals for minority businesses and providing "start-up" funding. Others have been designated, as is the case with BRC's as "one-stop service centers." These have the additional functions of providing MSTA, business counseling, and other client assistance. Certification for 8A assistance for the SBA in addition to preparation of loan information packages are also included. Their activities include servicing and counseling of clients in several sectors of business (service, industrial, contracting, etc.).

Problem.—CEBO's do their best work in the start-up of businesses. The necessary MSTA and follow-up have been discussed under the House Appropriations Committee Report. As in the case of BRD's and BRC's the measures provide a means for starting a business in the usual areas (service, retail) but lack the components necessary for long-range servicing. This contributes to the failure rate of businesses.

MINORITY PURCHASING COUNCILS

Minority Purchasing Councils are organizations with representation from the major corporations nationwide. Their goal is to actively identify products and service requirements within their organizations that can be supplied by minority contractors. The Purchasing Agents of these Corporations match these requirements to a list of minority contractors and suppliers that has been developed. The National Minority Purchasing Council had reported total contracts of approximately $700 million in fiscal 1976. This concept is an excellent means for providing business to ongoing minority concerns capable of quality output.

Problem.—The contracts goal of several local MPC's is set much too low to significantly impact the community in which it operates. Several members state that if certain manufacturing companies were minority-owned their output could be much greater. However, again, minority firms are clustered in the service and retail areas. This still remains a bonafide attempt on the part of the majority (corporate) community even though greater efforts could be made.

PRIVATE AND LEGISLATIVE EFFORTS

Equal Employment Opportunities Commismission (EEOC) and Affirmative Action Programs.

Legislative attempts have produced the EEOC and Affirmative Action Programs. The goal is to assure minority participation in employment and contractual opportunities. This is the Federal government's mandate directed to the public and private sector. The concepts are now being challenged as being a form of reverse discrimination. The Supreme Court has recently decided to hear a case involving university admission requirements which may have a negative impace on both these needed pieces of legislation.

After two decades of programs and monetary attempts to foster minority business, several facts stand out in description of the black business community.

Blacks represent 11% of the total U.S. community with a purchasing power approaching $70 billion. Blacks are a growing consumer force.

Median income increased from 55% of white income in 1960, peaked at 64% of white income in 1970 and fell to 58% in 1973.

MEDIAN INCOME

	1960	1970	1973
Black	$4,236	$6,516	$7,270
White	7,664	10,236	12,600
Percent	55	64	58

Black business represent only 0.3% of total U.S. business. There is not one corporation in Fortune 500, only a few listed on the New York Stock Exchange.

Black business receipts in 1969 were 0.1% of total business investments. In 1972 receipts were still less than 0.1% of total business even though there was an increase to $7.2 billion.

There was a net gain of 32,000 businesses during the period 1969–1972 (163,000 to 195,000) and a net gain of $2.7 billion ($4.5 to $7.2 billion).

SBA is experiencing a 30% loan default rate and businesses have a 65% failure rate.

Black business still is 60% family-owned and concentrated heavily in the service and retail areas. The businesses are clustered in the inner-city where duplicity of service and competition for the black market is greatest.

PROGRAMS

SBA, OMBE, CEBO, MESBICS, CETA, BRC, MPC, EEOC, Affrmative Action.

Failure to Deliver the Achieved Goals—

Lack of adequate funding—Funds on short-term basis no long-term funding,

Provision of funds to acquire assets not working capital,

Funding is insufficient to acquire high-level income producing businesses (manufacturing production),

Therefore businesses cluster in service.

Lack of management capabilities (experience with successful, planned, well-financed business),

Persons with the expertise remain in sheltered corporated environment due high capital requirements of manufacturing, production,

Persons with partial training in some areas of business do not have available information to acquire expertise,

Programs lack coordination of effort to deliver similar services at an effective rate,

Programs are geared for start-up funding and servicing. There is a paucity of intermediate and long-term planned utilization and replacement of resources, and

Management and technical assistance does not compare with the knowledge of modern business concepts, mechanics and proper planning on the part of the owner or entrepreneurial group. MS&TA offered by program agents is evaluated on the basis of client encounters, not quality of information.

Minority business will not make sufficient progress toward increasing the low (0.1%) of the Gross Business Receipts until the nature of the businesses significantly shifts from the service and retail sectors to the industrial and manufacturing sectors. We must concentrate our attention toward not only the number of businesses but give even greater attention to the quality and income producing potential of the business. There must be a planned effort using the best available talent and resources to achieve this goal if true economic parity is ever to be realized.

CARTER-M'KENZIE ECONOMIC PLAN (CMEP)

Now, let us turn our attention to one possible alternative to the chronic unemployment of the Black community, and a plan to achieve economic parity. The only inconsistency with public and private sectors' attempt to solve the problem is they have not completed the journey to the end of the road. The problem with minority entrepreneurs is their fraternity is not large enough to have a significant impact on the economy. There is an immense imbalance in the ownership structure of American Business. Economic parity can only be achieved by increased minority ownership of main line businesses. To word the problem more effectively, we will never be able to reach parity as long as minorities do not have a proportionate segment of privately owned enterprises within our capitalistic society. As long as we follow the trend of dribbling small doses of medicine to the minority community under the disguise of minority development programs designed to meet the least of community and/or minority businessmen's needs, programs will ultimately result in failure. Programs must be designed to succeed rather than flounder and eventually fail.

How do we go about building economic parity? What are the best means to insure success rather than failure? There is no easy answer to these two questions. The Carter-McKenzie Economic Development Plan for the minority community attempts to provide an answer.

Let us take a look at economic parity. By definition, it refers to being equal partners within the economy. Equality in income, employment, ownership and even unemployment. Blacks spend an estimated $70 billion annually in the United States as consumers, but own less than 3% of manufacturing firms that produce the consumable items. Unemployment is approximately 7.6% overall. However, it approaches 13% within the Black community, 47% for Black teenagers. These are current statistics despite the funds targeted for economic development. Despite an enormous number of programs that came out of the sixties and seventies, the statistics prove a worsening situation. This coupled with the aforementioned situation relative

to minority proprietorship, clearly indicates that we do not even encroach or approximate economic parity.

The major impact of the CMEP will be the increased ownership of firms in the manufacturing and production industries. Our $70 billion of consumption can be returned to minority owned businesses, thereby increasing job opportunities within the minority community. This would in turn increase minority employment in the total job market.

CMEP is a bold blueprint for success. We propose to build an organization that would search for the companies within the economic community with the following characteristics:

1. Present operating companies with excellent growth potential in specific, designated target industries.
2. The industries are labor intensive and can have increased employee rolls.
3. High potential for diversification of product lines and clients.
4. Stable or increasing market.
5. Income producing companies with economic impact.

Once the companies have been identified, the organization would initiate the process of purchasing or financing the operation of the firm for minority ownership and development. This is in keeping with the major goal of CMEP:

"To provide long-term employment and career opportunities for minorities in the private sector through increased minority proprietorship."

SHORT-RANGE EMPLOYMENT REQUIREMENTS

In any economic development plan, it is necessary to develop the type of labor that is required to perform the tasks. Our short-term employment plan does just that. It prepares the labor pool on a short-range basis to be absorbed into the business's pool for long-term employment. Whenever possible, CETA and Public Works funds will be used for training for a guaranteed position in an ongoing concern rather than merely being given a temporary job. The private sector could be involved in that training. Using CETA or Public Works funds, training could be given on their sites for employment by the minority enterprise. The providing of training sites instructors, plant foremen, etc. would enhance their corporate image. It would also add immensely to their Affirmative Action and Social Action plans. Of course, whenever possible, training would be done at the minority firms.

Training programs have been severely criticized in the past for several reasons. These include:

(1) Training persons for non-existent jobs.
(2) Oversaturating a specific job field.
(3) Poor training due to poor programs and/or poor supervision.
(4) Short-term employment with no chance of advancement.

CMEP short-range employment objectives are designed to negate all these criticisms and present training/employment opportunities to the capable unemployed with potential for making a contribution.

IMPLEMENTATION

The objective of the CMEP in regards to the acquisition of businesses meeting the aforementioned criteria will be accomplished by the following operating procedure:

(1) Search and Selection.—The businesses will be selected in conformance with the standards and criteria mentioned previously. A staff of experts well-trained in the area of acquisitions will be established with the only function of preparing documentation on operating businesses with the required amount of potential for minority ownership. A strict set of guidelines will be developed. Recommendations to the Director will be made.

(2) Mechanism for Ownership.—Procedural guidelines will be developed and used by expert staff to determine the best approach for financing or purchase of the business.

(3) Selection of Proprietor and Staff.—A staff will be developed to search for the proper type of proprietorship. Several alternatives are available which will be discussed later. It will be the purpose of the CMEP to develop the proper proprietorship mix and structure, provide the best talent available for management and technical expertise. Rather than provide MS & TA, the CMEP is interested in locating or developing trained experienced personnel. Rigid requirements will be formulated and adhered to.

(4) Funding Requirements.—Utilizing the best available tools including econometric models, PERT etc., the CMEP staff will determine the mode mechanism and mix of funding the operation requires over the short, intermediate and long-range. In conjunction with the Marketing Staff, determinations will be made to maximize the use of financial, human and material resources.

(5) Loan Committee.—A committee of elected and appointed officials would be selected to approve the use of a financial pool for the minority businesses recommended by CMEP.

CMEP implementation will be carried out by the following staff and functions:

1. Research and Development Department—

This department will be responsible for identifying labor intensive industries with high growth potential within a stable or growing market. Research and Development staff will also have the capability to determine the employment outlook and expansion potential of the firm into new markets. This department will explore the possible acquisition of divisions or subsidiaries of major corporations.

2. Marketing Department—

This department will be chiefly responsible for the actual acquisition of the firms. They will evaluate the profit potential, market development, diversification of the industry and all and every aspect of the industry and the potential companies.

The Marketing Department will not be seeking new or high-risk ventures. They will not be seeking companies that cannot survive in their prospective market places. Start-up and risk capital should be left to the organizations presently established. They will perform the most complete financial analysis of each firm before the actual acquisition decision is established. Such analysis will include a study of their actual and potential sales over the last ten years, sources and uses of funds, profit and loss projections over the next 10–20 years, labor and economic impact long-range, and other analyses assisted by econometric data. Total long-range planning will be performed thoroughly and accurately before any recommendations are made.

FINANCIAL DEPARTMENT

The Financial Department will be responsible for the determination of the following:

(1) Staffing and funding requirements to ensure long-term success and growth.
(2) Appropriate and adequate financing of the acquisition.
(a) public funding
(b) private funding
(c) equity financing
(d) bond market
(3) After analyzing the business plan in conjunction with Marketing Department, Finance will make the recommendations as to the type, mix and amount of financing needed.

CAPITAL FUNDING COMMITTEE

The Capital Funding Committee should be composed of either elected/appointed officials or individuals appointed by the officials. This important Committee (3–5 persons) will be presented with the findings of the CMEP staff (Information Package) to include the following data:

1. Funding requirements
2. Management and technical requirements
3. Employment impact and absorption potential (prior-trained employees)
4. Potential use of volunteers from the Corporate community
5. Marketing and business plans
6. Financial plan (short, medium and long-range).

It is anticipated that the Committee would have the capacity to make swift, binding decisions based on the available information provided by the staff.

CMEP calls for a pool of $50 million. These funds, approved by the Committee would be used as direct loans with interest tied to the cost of money to the government. This is similar to the SBA Direct Loan Mechanism. Even when funding is achieved through the private sector, the Capital Funding Committee should act on the recommendation. This Committee could be tied to the House Sub-committee of Banking. Under these conditions, lines of credit will be sought whenever possible with the major Black banks in the United States.

RESEARCH DEPARTMENT

We have intentionally reserved one responsibility of the Research Department for last. The Research Deartment will conduct research efforts to develop a management pool to draw potential buyers to purchase and manage these firms. Essential to the success of any operation is expert management with sufficient assets and working capital funding. CMEP insists that the following minimum standards be established.

(1) Present entrepreneurs operating successful businesses (15–500 employee range)
(2) General management from Corporations
(3) Middle and top-level management on loan from major corporations to assist in search and start-up
(4) Recruitment of top black graduates from business schools
(5) Emphasis on proven talent with the best credentials and motivation.
(6) Projects must be low-risk as supported by research (venture capital is not the goal)
(7) Provisions for adequate financing must be assured.
(8) Provisions for low-interest long term capital financing must be assured.

SUMMARY

We have established the need for a new approach to the pursuit of economic parity. The only logical and consistent approach to the problem. It is by no means intended to be a panacea for such a complex problem as this. We certainly need the programs mentioned earlier to even begin to dent the economic frontier. Abolishment of the programs is not the answer, improvement and expansion is. But the use of funds for long-range projects is certainly a needed and worthwhile adjunct to the other efforts. We have presented the concept and structure. Proper placement and mechanics have been suggested, but more time and the expertise of other individuals more attuned to government is needed. It is our hope that you endorse the idea, offer your suggestions for improvement and set the wheels in motion for timely implementation.

FOOTNOTES

[1] "Largest Black Population Business Will Find in The Empire State," Commerce Today 2 (April 1972): 29.

[2] Ibid.

[3] "Growing Retail Market Seen in Joint Survey of Nation's Minorities," Commerce Today (August 1971): 18.

[4] Ibid.

[5] "Blacks Gain in Elective Office, Education: Drop in Income Ratio," Commerce Today (September 1974): 16.

[6] "Black America Still Waiting for Full Membership," Fortune (April 1975): 165.

[7] The Vital Majority: Small Business in the American Economy, Small Business Administration, Washington, D.C. 1973 p. xiii.

[8] U.S. Small Business Administration Annual Report (1974), Small Business Administration, Washington, D.C.

TELEVISED DISCUSSION OF SMALL BUSINESS ISSUES

Mr. NELSON. Mr. President, Senator HATHAWAY and representatives of the small businesses recently appeared on public television's MacNeil/Lehrer Report. In the lively discussion which followed, the small business representatives, Roger Travis, John Ellsworth, and Milton Stewart, examined a number of public policies affecting independent business. Mr. Stewart was able to reflect on a recent meeting he had participated in with President Carter. Senator HATHAWAY mentioned pending small business legislation and provided information on the work of the Senate Small Business Committee. Overall, the program provided a clear-cut summary of many of the issues affecting small business, and some of the legislative initiatives directed toward those issues.

Mr. President, I ask unanimous consent that the transcript of the program be printed in the RECORD.

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

THE MACNEIL/LEHRER REPORT

ROBERT MACNEIL. Good evening. It didn't exactly dominate the headlines today, but President Carter made a little history yesterday. He was the first President in living memory to sit down to hear the woes of small business and make key members of his cabinet listen with him. Why is that important? Politically it's important for Carter because the small businessmen of America are collectively probably the most frustrated bloc of citizens in the nation. Economically it's important because ninety-seven percent of the businesses in this country are small. They provide half of private employment and they create more than a third of the Gross National Product. But they also represent one of the last institutions clinging to the great American myth of free enterprise—the historic belief that any man with energy and a business idea could set up to sell a product or a service, and make it. And in making it, he would nourish the American virtues of competition and independence.

Today they see that myth exploding around them as they count the rising bankruptcies and struggle not for success but for survival. Tonight, what are their problems, and can Jimmy Carter do anything about them? Jim?

JIM LEHRER. Robin, the President and his people listened to a long list of problems yesterday. Some of them were familiar and the kind that are not necessarily unique to small business—things such as inflation, taxes, high interest rates, and so on. But there is one particular gripe that has its special slant for the operator of a small business, and it's called "government regulation." It came out number one on a list of complaints of small business that was compiled recently by the U.S. Chamber of Commerce. One of the deliverers of this and other messages at the White House yesterday was Milton Stewart. Mr. Stewart is president of the National Small Business Association and chairman of the board of his own company, Terra California, a construction firm started fifteen years ago; it presently has fifty employees. Mr. Stewart, what did your group tell the President yesterday that you wanted him to do about government regulation?

MILTON STEWART. Essentially, Mr. Lehrer, we could have summarized it very hastily: to change the direction of federal policy in six or seven major areas from supporting bigness in the economy in many ways to specifically expanding the small business sector of the economy, something to which the President committed himself in October at a meeting he had with the leaders of the small business community. When you say "government regulation" you have to think of it more broadly than those words are usually meant. We were talking about the whole structure and thrust of the executive branch of the government as managed by the President.

LEHRER. I realize that, but the government regulation is the term of the small businessmen themselves, not mine. Now, what do you want the President to do on that specific thing? Do you want him to do away with regulations, do you want him to change regulations, or what?

STEWART. We know he can't do away with them every place and every way, but we'd like to do at least reach for goals like only two reports a year from a small business to the federal government . . .

LEHRER. Compared with what now?

STEWART. We quit counting, when you get over 1,400 or 1,500 sometimes in some kinds of businesses. But if you got down to two reports and the second one, the non-tax report, was duplicated by government computers all through the government, we think that would be better than having to come back to small companies again and again and again. It seems like an easy thing to do, but the government is so big and the laws are so complex it isn't.

LEHRER. Let me make sure I understand what you mean. A small business, no matter what kind of small business it was, no matter what regulatory agency they were reporting to, would file one basic report a year plus a tax return, right?

STEWART. Right.

LEHRER. And then what you're saying is that basic information would then through the government bureaucracy have to be funded—it would become the government's responsibility to distribute rather than yours.

STEWART. Right. Now, that's a nice idea, just like it's a nice idea that we all could pay less taxes. Now, we all can't but our business tax structure can be made much fairer. We can arrange it so it follows the same principle our personal taxes do: biggest burden for broadest back—not the case now. Our biggest companies pay relatively less than our small companies in taxes.

LEHRER. All right. Mr. Stewart, did President Carter say, "Right on, fellas. I'm going to do everything you want"?

STEWART. It's a cherished aim to quote the President of the United States, but let's put it this way: this was step two in the democratic process; before he became President he expressed a point of view about the need to expand the small business sector and to change the direction of the government with respect to these matters. Yesterday, sitting in the White House, he reaffirmed that commitment and he also expressed with it the view of his government, his administration. He had with him an unprecedented number; he had three Assistant Secretaries, the Director of the Budget, the Manager of the Domestic Economic Council, six or seven White House assistants . . .

LEHRER. Two reports a year—he said, "I'm going to do that for you"?

STEWART. No, he emphatically did not. What he said was he thought that was the right direction for us to move toward, and he and Mr. Lance—he's put him in charge of this paperwork business—I came away convinced, and I think we all did, that they're going to try. Whether they can reach our dream target or not within one year, four years, eight years, none of us know. But the thing we were after what this was more than anything else—was a direct . . . confrontation is the wrong word . . . meeting between the Presidency, which represents all the country, and the small business community's leadership in a broader, better way than we've ever had the opportunity to do before. Now it will take some time for step three—implementation, policy, action—to go through this enormous establishment, the federal government. But we know we're going to have the help of Congress in this as well as the President, and that makes a great difference.

LEHRER. All right. It's a delight to interview a happy man; a man with problems, but who is happy.

STEWART. Happier, Sir.

LEHRER. All right. Thank you, Mr. Stewart. Robin?

MACNEIL. Let's talk to a man in the thick of these problems. John Ellsworth is the president of Ellsworth Cabinet, Incorporated, of Willoughby, Ohio. He employs fifteen people making crafted home furniture. Mr. Ellsworth is a political scientist who left graduate school just short of a Ph.D., joined the Navy for four years, and then thought he'd try being his own boss. Mr. Ellsworth, do you draw hope from the President's meeting yesterday?

JOHN ELLSWORTH. Very much. I think it's the first time that we know that we have a small businessman in the White House who has fought the battles that we're fighting presently and who has established a dialogue. He was the one who offered the invitation for the small business people to come down. We're very hopeful.

MACNEIL. Mr. Carter is a millionaire now in his peanut business—or before he let it go into trusteeship during his Presidency—is that a small business?

ELLSWORTH. No, it isn't, but I suppose it's the great hope of any of us who decide to become a small businessman that someday we will not be a small businessman; and I think that he is the epitome of the American dream.

MACNEIL. Okay. What is a small business in your definition?

ELLSWORTH. I think that there can be many definitions of small business people, but basically small business people are those who have an idea or want to perform a service or make a product and use all their wits about them to get into business so that they can do what they want to do the way they want to do it. It may be as many as a hundred or even 150 people, but as long as they are not a monopoly in their market and they're not on the open market, nor do they publicly trade stock, they're probably a small business person.

MACNEIL. What are the problems of a small businessman that you see from your perspective?

ELLSWORTH. The very largest is that of retaining enough from profits so that we can form capital, and in forming capital to have enough to operate on, to buy machinery and equipment to create jobs, because basically small business is peculiar from large business in the sense that we are much more labor-intensive than are the larger busi-

nesses, we tend to have many, many more people working for us for the product that comes out rather than having a machine which knocks out widgets all day long.

MACNEIL. Okay—creating capital is one problem with the tax structure and the economy the way it is. What about the specific problem of our interface with the government bureaucracy?

ELLSWORTH. We can have serious difficulties. I know of several cases where one regulatory agency would require one thing, another regulatory agency would require something else. For the small business person to wade through all of the regulations is sometimes just stymying. I would say that knowing what the regulations are, understanding how to get through them and being optimistic enough to get through them or to make the attempt is probably the biggest problem in that area.

MACNEIL. What's the worst example of that you've run into?

ELLSWORTH. I can give you a specific example which is my own. Several years ago I needed to have an additional process so that I could go out and expand my market by being able to service several larger stores, and it was a simple matter of installing a larger spray booth. But I ran up against an ocean of regulation, an Occupational Safety and Health Administration regulation, which required that I have a certain temperature in the spray booth. In order to get that temperature I had to satisfy an Environmental Protection Agency requirement that the air going out would be mixed in so many parts of particulate matter, and so forth, and it also had to be heated air, which brought in the requirement for natural gas. At the time we had twenty-one employees. I was hoping to add four jobs. We now have fifteen people. I didn't expand the market because I couldn't get through the regulation in time to be able to satisfy the demand that was there. That is probably one of the most typical examples that I can give.

MACNEIL. Do you have any real hope that as a result of yesterday's meeting that the government is really going to make life easier for you, or is it endemic in the way our government is organized that it cannot do that?

ELLSWORTH. It may be endemic that the government cannot do it, but the real hope is there. If the hope is finally gone that a person can't have a dream and pursue it, then indeed the whole American enterprise system is just not going to survive.

MACNEIL. We'll come back, Jim?

LEHRER. Robin, I think the next guest is with you in New York—Mr. Travis.

MACNEIL. You're absolutely right.

LEHRER. You can't win them all.

MACNEIL. (Laughing.) Yeah. Thank you. I hope you were listening, though. He's a man who would seem to be the epitome of the American dream. Roger Travis started with $1,000 in capital and two employees ten years ago to manufacture disposable medical products. His company, Medi, Inc., of Holbrook, Massachusetts, now employs 450 people and is successful. He's also president of the Smaller Business Association of New England. Let's talk about the SBA, the Small Business Administration, which is supposed to be looking after people in small business. You told us that you didn't use the Small Business Administration when you were setting up your business. Why not?

ROGER TRAVIS. Primarily, when I originally started my business I didn't really know very much about the SBA, and then when I did try to learn something about them, one of the basic requirements is the fact that you have to be turned down by your bank before the SBA will grant you a loan. Fortunately I convinced my bank that they shouldn't turn me down, so I overcame that obstacle.

MACNEIL. From the point of view of smaller businessmen in New England, as you call them, is the SBA doing its job?

TRAVIS. I think you have to keep in mind that the SBA at current time has something like 4,000 employees. They are representing ten million American small businesses. That's not very many people. I think that working under the constraints of the Congressional delegation puts new responsibilities on the SBA continually while the Office of Management and Budget continually cuts them back. So it's a difficult thing; I think they're doing their job, considering the limited resources they have . . .

MACNEIL. They're understaffed and underfinanced, you think.

TRAVIS. You can compare the Department of Agriculture; it has 100,000 employees.

MACNEIL. What should the Small Business Administration be doing that it's not to help you people?

TRAVIS. I think there are several things. First of all, it can come from the top. Currently in the federal government there are nine different agencies dealing with small business. What I would like to see is all these agencies combined and have an office—whatever you want to call it—office of small business and have it at cabinet-level status. That would be a start. The other thing would be to do something . . .

MACNEIL. Why should there be that when there isnt an office of big business in the cabinet?

TRAVIS. They're there; they're in Washington all the time. (Laughing.) We just can't afford people there all the time. I think it's such a significant part of the economy; if this country is to grow and prosper you'd have new companies and new ideas—the small business person is the one that's going to do it, and we need representation at the White House level, at the cabinet level.

MACNEIL. When a business gets as large as yours does—450 employees now—does it have the same problems that Mr. Ellsworth's business does with only fifteen employees, or can you better cope with all this tangle of regulation?

TRAVIS. No, I don't think we can cope any easier than Mr. Ellsworth. We've got the same problems that everybody else has. 450 people are not very many people. You look at the large corporations; General Motors probably has more lawyers than we have employees. We don't have in-house lawyers and we don't have in-house accountants.

MACNEIL. How many people of your 450 are occupied most of their time dealing with government?

TRAVIS. Currently—we just happen to be in the medical business—in the past year I've had to add five people that do nothing but work on the area of what they call "medical device legislation" which was passed last May. This required our company to expend $400,000 in upgrading and renovating our plant, plus five, six new people just to implement the regulations. This comes under the Food and Drug Administration. Those people, as far as I'm concerned, are nonproductive. I wish the government would pay for them; we're paying for them, though.

MACNEILL. Thank you. Jim?

LEHRER. Yes, Robin. The Senate's legislative business concerning small business, including oversight of that Small Business Administration, now comes under the Senate Select Committee on Small Business, and that, interestingly enough, is a new development. The man most responsible for this change is Senator William Hathaway, Democrat of Maine, a member of the Select Committee. Senator, first of all, why is that change that you engineered so important?

Sen. WILLIAM HATHAWAY. For the first time since the Small Business Committee was started some twenty-five years ago, the Small Business Committee now has some legislative jurisdiction. Prior to this time the jurisdiction over the Small Business Administration was the Subcommittee of Banking; the Small Business Committee itself simply made recommendations to the other committees of the Senate—with some success, but not as much success as when you have the jurisdiction yourself to legislate. Now, to be sure, our jurisdiction is limited to just the Small Business Administration, but already this year we've had a bill passed, signed by the President, to increase the authorization for the Small Business Administration. We're working on a product liability bill that would make the Small Business Administration a reinsurer with respect to product liability. And the Committee, I expect, will be very active. Of course, we'd like to have had more jurisdiction than that, but if you took jurisdiction over everything in which small business is involved then you'd have too much jurisdiction—you'd have jurisdiction over every committee in the Senate.

LEHRER. Senator, you just took my next question right out of me. That's really the problem, isn't it? The Small Business Administration has, as you say, limited kinds of things that it can do, and yet the regulations that these gentlemen are complaining about can come under the jurisdiction of a health committee, a safety committee, a labor committee, or whatever, and there's nothing at all that you-all can do about it, right?

HATHAWAY. No, nothing that we can do within the Committee. But the members on the Small Business Committee do serve in some of these other committees. You mentioned some of the regulations; well, I serve on the Human Services Committee. As a matter of fact, we're holding hearings on the Occupational Safety and Health Act right now in that Committee, so I have a chance to get a small business input into that.

LEHRER. Based on your perspective—you've served on this Select Committee since 1972, if I'm not mistaken, so you've been watching this whole area for some time—what would you pinpoint as the Small Business Administration's most glaring problem at this point, or its deficiency in terms of serving small business?

HATHAWAY. I think it was pointed out already, I think by Mr. Ellsworth or perhaps by Mr. Travis, maybe both, that the Small Business Administration is grossly understaffed; you know, it's 40,000 people trying to handle a tremendous workload.

LEHRER. What would they do if they had enough staff?

HATHAWAY. For example, in the area of government procurement there aren't enough personnel there to get to the small business people to let them know how they should bid on government contracts. Now, the law provides that the small business sector of the country should get its fair share of government contracts. The Defense Department does pretty well—I think they get thirty-seven percent in the Defense Department, but the overall volume I think is down close to, from all government agencies, around twenty-five percent. And a lot of the reason for this percentage being so low is because a lot of small business people throughout this country just have no way of getting that information, and we don't have the personnel in the Small Business Administration to help these people out. Now, we hold seminars and do things like that, and we have some traveling agents—I think there are one or two in the New England area that go up into Maine and Vermont and New Hampshire for a short period of time and try to help the people out, but that's nothing like

having someone in every small business office who's an expert on government contracting.

LEHRER. Senator, in the real political world of the U.S. Congress and trying to accomplish, in terms of legislation, what these gentlemen want and what small business wants, and obviously what you support, too, aren't you going to be confronted with a real problem? After all, the regulation that Mr. Ellsworth was just talking about in his spray unit—those regulations were originally set up to protect the workers, to protect the air for the general public—there's a reason for these regulations. How do you resolve those very, very conflicting interests?

HATHAWAY. It's very difficult to. We have cut down a little bit of the burden of regulations—the ERISA forms, for example, which is the new pension law. They used to have to fill out, I think, sixteen pages, and that's cut down to six. Another report, 941, on which you have to list your employees that you pay Social Security or withholding taxes for, we've changed that requirement so you just list the employees on an annual basis instead of quarterly. And that saves the small businessman a lot. As a result of a suggestion made to me by a constituent of mine, Dick Kendall in Auburn, Maine, we're doing something that Mr. Stewart mentioned earlier in the program: we're trying to get OMB to go through all of the forms that the small businessman has to fill out and make sure that they only have to answer the same question once. Oftentimes they have to answer the same question over and over and over again through many different forms, and that one answer could be computerized through and satisfy all the rest of the forms they have to fill out.

LEHRER. Let me ask you, Mr. Ellsworth; here you have Senator Hathaway, a member of the committee that has jurisdiction over you and your concerns. If you had one thing you'd like for him to do—you've got an opportunity here—what would it be, Sir?

ELLSWORTH. I think I would like to ask Senator Hathaway to: (a) continue to be a champion of small business in the Senate Small Business Committee; (b) I would like to ask him for further help in regard to those types of forms which are extremely difficult to fill out. For example, the 1040, which this year contains on the first page what I would consider to be an apology from the Director of the Internal Revenue Service for the very difficult nature of it.

LEHRER. Of course, that's something that applies to everyone.

ELLSWORTH. It certainly does.

HATHAWAY. That's something to be done through the Finance Committee.

LEHRER. All right. Robin?

MACNEIL. Yes. Let me ask what is probably in this company a heretical question. Is it possible that we are moving irresistably in this era into a time when big business will increasingly take over simply on the grounds of its efficiency—its cost efficiency and everything else—to the country and that it is just a sentimental attachment to perhaps outdated ideas to keep on wanting to support small business? Why do we need small business, and isn't it more efficient just to go to big business?

TRAVIS. I totally disagree with that. If you look at where the small, innovative ideas come from in this country—Polaroid Camera, Xerox, digital equipment with their minicomputers—the new, innovative ideas that make this country grow come from small companies, they do not come from big businesses. Big businesses are basically good at taking something that's already been built into an idea; and when you get to the stage where you have to mass produce it and mass service it and mass merchandise it, big companies are good at that.

MACNEIL. Is big business the enemy of small business, Mr. Stewart?

STEWART. Yes and no. No in an ideological sense; yes, unfortunately, if you use the word "enemy," properly speaking, as a competitor for what the society has to offer. I'm delighted that Roger mentioned the innovative role of small business technologically, because this was one thing the President specifically mentioned yesterday. He told us he had just had a report from the director of his Office of Science and Technology, Dr. Press, telling him about how much greater leverage, value and exchange for investment the government got from putting dollars into small business research and development as against big business. Now, to answer your question, small business gets three and a half percent of $25 federal billion a year that go for R&D in this country. The federal government has put over a trillion dollars into fewer than 200 companies since World War II.

MACNEIL. Can I interrupt you for a moment?

STEWART. Please.

MACNEIL. If it's so glaringly obvious that the return is better of R&D from small business, why hasn't the government discovered that before?

STEWARD. I think this has not been what you might call a secret to many people, in government and out; but that government trombone is endless. You blow in very hard for very long before you get any noise coming out the other end. And let me put it this way: that's one of the things we were delighted with about yesterday's meeting. We think our new President is going to cut the length of that trombone, that when we blow in at one end it's going to get to the right ears a lot faster than it ever has before.

MACNEIL. If small business represents such a large and important—and as you've just indicated, important in a different way—part of the economy, why has it been so hard up to now to get anyone to pay effective attention to this in government?

STEWART. Well, you've got three of us here. John, Roger and I are not atypical people at all. There are some ten million of us in the country; we're cranky, stiff-necked, opinionated. You get four of us in a room, you'll get eight opinions. That starts the problem. We're tough to organize, we're tough to hold together. Big business and big labor and the big bureaucracy—the government—can do things more easily, more quickly, but at last, as the young people say, we've got our thing together. And I think you're going to find—we've always been somewhat feisty—I think you're going to find we are going to be more effective in the future. There is no inevitability to the growth of business in this country. It reflects public policy.

MACNEIL. Do you believe that, now that the wand of Presidential publicity has touched you?

TRAVIS. Very much, and I couldn't agree with Milt more, because Mr. Stewart and I have had great difference of opinion just between the two of us. I would not hasten to say, either, that all we need is a place to stand up and shout, and we'll shout long and hard because we are independent people. We're not loners, we're just independent people and we have a tendency to make things go. Kentucky Fried Chicken, for example, is one of the things we made go, and power steering and a whole host of inventions of military significance.

LEHRER. I just wanted to ask the Senator Robin's question in terms of why the small business message has not gotten over in Washington up till now.

HATHAWAY. Probably because it's been somewhat diffused over the years, probably because small businessmen feel, like a lot of other individuals, "Oh, well, I'm just small; there's nothing I can do." But I think that over the years, Jim—just the last few years—that its impact is increasing considerably. Witness the House version of the tax stimulus bill, where the employee tax credit really is designed just for small business—the forty percent with a $40,000 cap, and I think that was a step in the right direction.

MACNEIL. Senator, could I ask you one quick question, because we just have a few seconds?

HATHAWAY. Sure.

MACNEIL. Do you believe Mr. Carter will be able to shift the emphasis towards more small business—a growth in small business proportionally in the economy?

HATHAWAY. Yes, I do, Robin.

MACNEIL. Thank you very much indeed. Thank you both in Washington, Mr. Stewart and Senator. Thanks, Jim, and good night. Thank you both here. Jim Lehrer and I will be back tomorrow night. As you may have heard, the SALT talks collapsed in Moscow today. Tomorrow night we'll look into the reasons for that and its possible significance. I'm Robert MacNeil. Good night.

PORTUGAL

Mr. BROOKE. Mr. President, both Houses of the Congress have passed legislation authorizing the appropriation of a $300 million balance of payments loan for Portugal. This loan will be an important U.S. investment in democracy in Portugal. It will give further substance to our commitment to democratic government.

Those of us who have watched developments in Portugal during the past several years have been deeply impressed with the commitment of the Portuguese people to freedom. In April 1974, they rejected the decades old authoritarianism of the Salazar-Caetano dictatorship. Having done so they then rejected an attempt by the Communists and others to impose a dictatorship of the left in November 1975. Since that time they have democratically elected a president and a parliament and have a functioning, albeit minority government. The Portuguese military is supportive of the democratic experiment and has returned to its rightful role as a professional military, now concerned with closer integration in NATO.

In achieving their revolution into democracy the Portuguese people have suffered many economic dislocations. These dislocations, if allowed to fester and deepen, would pose a major threat to Portuguese democracy. It is for that reason that the United States and other donors are being asked to provide medium term economic assistance to Portugal. The government of Portugal is taking steps to put its economic house in order but it needs the financial support of its sister democracies to do so. This need and the reasons why the United States and others should be willing to help meet it have been outlined in a detailed submission to the Congress by the Executive entitled, "Balance of Payments Loan For Portugal." I recommend that interested Senators contact the State Department for a copy of this justification.

Recently, The Economist published a survey of Portugal that I believe is an excellent review of many of the factors that should be taken into consideration as the U.S. seeks to fashion its relation-

ship with Portugal in such a way as to give maximum encouragement to the democratic forces there. The Economist survey is also an excellent companion piece to the Executive's justification document for the $300 million loan. I, therefore, ask unanimous consent that the Portugal Survey in The Economist be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. BROOKE. Mr. President, credit for the existence of democracy in Portugal rests with the Portuguese people. U.S. efforts to date have been supportive of their desire for a free and open society. A decision on the part of the Congress to agree with the administration's recommendation of the $300 million loan to Portugal is in the best interest of our country, for it is becoming increasingly evident that democracy and freedom can only flourish if states adhering to these ideals are mutually supportive of each other. At this point in time it is Portugal that is in need of our support. And it is in our interest to provide it.

EXHIBIT 1

A REVOLUTION TAMED

The revolution in Portugal has been tamed. Anarchy has been avoided. The extremists on both the left and the right have been curbed. But the victory the moderate democrats have won is precarious. In trying to make sure that political commonsense will prevail, they know that they still have a fight on their hands.

In April, 1974, the soldiers who for nearly 40 years had kept in power one of Europe's most ossified dictatorships, tutored by a reclusive pre-Keynesian professor of economics, contemptuously kicked it aside. In September, 1974, a far-left minority emerged as the most powerful force among the country's soldier rulers. For a bizarre year, Portugal was treated to an immature and sometimes incoherent debate between rival officers about what form of "popular power" should be imposed on a bewildered and reluctant people. A revolutionary Pandora's box of indiscriminate nationalisation, workers' takeovers and land seizures reduced the economy to near ruin. But in April, 1975, the Portuguese people took advantage of their first free elections for 50 years to express massive support for the country's three democratic parties. When Portugal's military rulers tried to override the voters' choice, a popular revolt, designed to stop the threatened abortion of democracy, broke out in the north.

For a time, in a maelstrom of conflicting political, economic and even geographical interests, Portugal teetered on the edge of anarchy. But in November, 1975, a group of efficient, professional officers at last decided to restore order and to try to take the army out of politics. Giving their support to the democratic idea, they put down the last bid of the extreme left to seize power.

Today Portugal is a country with a hangover after a revolutionary spree. The innocent euphoria of April, 1974, and the effervescent enthusiasm of party activists have been replaced by the feeling that life and work must go on. The Portuguese man in the street is less subdued than he was under Salazar, but he now seems to be reconciled to the idea that society cannot be changed overnight.

With the political dust settling, Lisbon still looks remarkably as it did before the revolution. The same battered cars race crazily down the streets; the men wear the same carefully brushed, old-fashioned suits; the women still wear clothes that might have been judged fashionable in France before the war. For the traveller entering Portugal from Spain, it is immediately apparent that the political changes in Spain have arisen from deeper social and economic causes than has been the case in Portugal. Portugal's revolution has been largely political; the economic and social changes are only now just beginning to follow in its wake.

Portugal is a small country, with a population of less than 9m. So it is easy to dismiss the constant rumours of plots and counterplots, which are still the coin of political discussion today, as the fevered imagination of a country that has had an overdose of palace revolutions and to dismiss the bitter infighting of the past two years as the parish pump politics of an isolated and backward society. It is tempting even to belittle Portugal's democratic achievement. With the tattered remnants of yesterday's garish political posters peeling slowly off the walls, the people seem to be weary of revolutionary and even democratic verbiage. Many of the people living in run-down, high-priced, sometimes food-rationed Lisbon complain resignedly that Salazar had never allowed his capital to become like this.

But this is an over-pessimistic view, for the great majority of the people cherish their new-found freedom and wish to preserve it. They knew that the years after Portugal lost its dictatorship and its colonial empire would not be easy ones. Their country had been brought close to ruin when it became the political plaything of a handful of inexperienced army captains inspired by the crude revolutionary teachings of the liberation movements that they had once been sent to suppress in the jungles of Portuguese Africa. At the same time, the world economic recession helped to dry up the remittances from Portuguese workers abroad, cut Portugal's tourist earnings, reduced its exports and jacked up its energy bills. The surprising thing is that Portugal came out on the other side with a democracy at all. Most Portuguese are now prepared to give their first democratic government in 51 years a chance to get on top of problems that were not, for the most part, of its own making. This has been underlined by the extraordinary consistency of Portuguese voters in the support they give the various political parties (as the chart above shows).

In Portugal, the people took on their rulers and won. Suddenly freed from one dictatorship, the Portuguese refused to stoop down and let another one climb on to their backs. In doing so, they taught others in the western world a lesson. A clique of far-left soldiers were prevented from gaining undemocratic control of a Nato country with an important strategic base in the Azores. Portugal's openly anti-democratic Communist party was a warning to western statesmen to take a close look at the democratic claims of other Communist parties, such as those in Italy, Spain and France. At the same time, the close links forged between Portugal's democratic parties and their counterparts elsewhere in western Europe, as well as Portugal's starry-eyed enthusiasm for EEC membership, show that the European community is a rallying point for democracy. The Americans too have learned something. In Chile, they rushed flat-footedly into helping right-wing soldiers to engineer a coup that would almost certainly have taken place without their interference, and they got pilloried round the world for doing so. In Portugal, they held themselves discretely aloof and so helped the democratic forces to expose the blatant Marxist attempt, backed by Russian money, to seize power.

Portugal's recent history has also acted as a warning light for Spain, although most Spaniards would deny they had anything to learn from the backward little neighbour they like to patronise. Portugal provides an awful example to Franco's successors of what happens if you try to turn a dictatorship into a democracy too slowly. When Salazar was incapacitated by a stroke in 1968, his successor was the well-intentioned Mr. Marcello Caetano, whose gradual approach to liberal reform over five years succeeded only in antagonising the extreme right, in frustrating the democratic opposition and in giving the revolutionary left a rare opportunity to gain power. Portugal's example showed the Spaniards too that the people's democratic vote can be the strongest bulwark against any revolutionary bid for power.

Portugal's importance as an emergent democracy in a world where democracy, especially in Latin countries, is under threat, is by no means over. Democracy in Portugal is still not unassailable. How the democrats finally came to power in Portugal will be briefly described in the next article. The rest of the survey will deal with their chances of staying in control.

WHIRLWIND

A handful of captains sent Portugal's prime minister and president, Mr. Marcello Caetano and Admiral Amerigo Tomas, scurrying to Brazil in April, 1974. The captains were finally moved to revolt by the colonial wars in which they had been serving. Stirrings within the army against Portuguese rule in Angola and Mozambique had been growing in the mid-1960s as the cost to Portugal of fighting the wars began to outweigh the economic advantages of retaining the colonies. Many of the professional officers were influenced by the left-wing literature of the Marxist liberation movements they encountered. And there was plenty of discontent among the conscripts, many of whom were in the army for a full four-year spell. To appease the conscripts, Mr. Caetano ill-advisedly devised a scheme to promote them faster than the professional soldiers. This further incensed the middle-ranking officers, who formed a dissident organisation, the Armed Forces Movement (AFM), in 1973.

The skillfully planned coup of April 25, 1974, was based on a surprise takeover of Lisbon. It was made possible by the wholesale indifference of most officers as to whether the Caetano regime lived or died. Hardly a shot was fired in its defense, except by the secret police, terrified, for the most part unreasonably, of what might happen to them. The young AFM officers asked an Angolan war hero and renowned critic of the old regime's colonial policy, General Antonio de Spinola, to take over as president. The general committed the AFM to holding elections within a year, and appointed a respected liberal, Mr. Palma Carlos, as prime minister. Within weeks, leftwingers in the AFM, critical of what they called "bourgeois democracy", were chafing at the president's conservatism. In July they forced General Spinola to replace Mr. Carlos by one of their number, Colonel Vasco Gonçalves, whose subsequent line was undeviatingly pro-Communist. In September, they forced General Spinola himself to resign, replacing him as president with a pliant opportunist, General Costa Gomes.

In the ensuing six months, the AFM radicals went on an anti-democratic jamboree. They announced their intention of staying in power for at least three years more. They allowed the Communists and others on the far left to take over most of the media, local

authorities and trade unions. The soldiers stood aside as public meetings of non-socialist parties were broken up by left-wing mobs. The drive to the left went out of all control after March, 1975, when a right-wing countercoup, supposedly led by General Spinola, was suppressed. Banks, insurance companies and major industries were nationalised; workers took over many factories; peasants and workers seized land in the southern and central provinces of Portugal; and military discipline largely collapsed. The army radicals themselves split into quarreling factions, differing on obscure points of left-wing semantics. One group, led by a maverick left-wing romantic, Portugal's security chief, General Otelo Saraiva de Carvalho, championed the idea of Cuban-style "people's power" to replace the political parties. Another group, led by the prime minister, General Gonçalves, supported a more orthodox system of Soviet-style " committees for the defence of the revolution".

The soldiers reckoned without the people. The radicals made the fatal mistake of sticking to the old AFM promise of free elections within the year, dismissing them as an "opinion poll" that could not possibly affect their hold on power. But the results were damning. Over 70% of the voters supported the three democratic parties taking part, and no more than 17% supported the soldiers' only friends, the Communist party and its allies.

When the soldiers tried to stamp out what remained of Portugal's shortlived press freedom, the democratic parties took their hordes of followers on to the streets in orderly shows of strength against the soldiers. And beginning in July, 1975, anti-Communist riots broke out in the north. The riots forced the inanimate bulk of the Portuguese officer corps, which had up to then lamely followed the lead of the radical junior officers, to sit up and take notice. In September a group of socialist officers under Major Melo Antunes, the most intelligent and moderate of the original Marxist AFM officers, threatened to go north and raise the standard against a complete takeover of Lisbon by the extreme left. The president was finally compelled to sack General Gonçalves as prime minister, and to replace him with the more moderate Admiral Pinheiro de Azevedo.

The admiral struggled manfully to restore a semblance of order against the left-wing strikers, right-wing bombers, mutineering soldiers and angry farmers who took to Portugal's streets that heated autumn. But his nominal chief of security, General de Carvalho, was on the other side. The government itself went on strike in November, and anarchy seemed close at hand. But on November 25th, an unknown young officer, Lieutenant-Colonel Ramalho Eanes, moved in with a crack commando force to scotch an uprising by far left paratroops supporting General de Carvalho, and peace, if not prosperity, was restored to Portugal.

So ended Portugal's extraordinary flirtation with the far left. Like shooting stars, Portugal's khaki revolutionaries have plummeted into obscurity. General Goncalves, the former pro-Communist prime minister, lives quietly near Lisbon. Major, formerly General de Carvalho, is free but is awaiting an investigation into his alleged part in the November uprising. General Spinola, after more than a year in exile, returned to Portugal in August. Some of the left-wing soldiers are in exile. Some have been retired or given secondary posts. Of the officers who once tried to run a country only General Eanes retains real power.

UNSMILING SENTRY

In the relatively short space of time—no more, in fact, than 18 months—since General Antonio Ramalho Eanes came into prominence, he has emerged as the builder of Portugal's democracy. He did not design it. That was done by the political parties in the constituents assembly. He did not provide the raw materials. That was done by the Portuguese electors. But he alone put it patiently together, stone by stone.

Having emerged as the army's strongman in November, 1975, and having been appointed the following month as chief of staff, he quickly set about bringing the motley remnants of Portugal's politicised armed forces to order. Extreme left-wingers were rigorously purged. He then overruled the more moderate socialist soldiers, led by Major Antunes, who argued that the army still had a part to play in making sure the country's civilian rulers stuck to socialist policies. With equal firmness, he overrode the objections of right-wing officers, who were grumbling at the socialist bias of the new Portuguese constitution, and who disliked the idea of the Socialists, Portugal's biggest party, governing the country. In February, 1976, General Eanes signed a pact with the political parties which relegated the army to a fairly minor constitutional role. The new constitution came into effect in April, 1976, when parliamentary elections were held. These produced much the same results as the constituent assembly elections held the year before. In June, General Eanes, who had been persuaded to run for president with the backing of the three democratic parties, won over 60 percent of the vote. The following month he swore in Portugal's first democratic government since 1926, a minority Socialist one under Mr. Mario Soares.

You do not, of course, sign away the most powerful force in Portuguese politics at the stroke of a pen, and Portuguese democracy still looks frayed around the edges. The defense minister, Lieutenant-Colonel Firmino Miguel, an old associate of ex-president Spinola's, is a serving soldier, not a politician. The constitution gives the army a role unusual in most western democracies. For example, article 273 gives the armed forces "the historic role of guaranteeing conditions which allow the peaceful and pluralist transition of Portuguese society towards democracy and socialism". The governing body of the old Armed Forces Movement, its revolutionary council, still exists, though more as a field where Major Antunes and his socialist soldiers have been put out to grass than as a politcal force.

But General Eanes, the man who could have taken power by force of arms but chose the ballot box instead, is the best guarantee of the army's neutrality. "Portuguese democracy", as the Socialist prime minister, Mr. Mario Soares, once remarked without a trace of flattery, "is lucky to have such a man as Ramalho Eanes." A serious, quiet, shy, intensely hardworking man who rarely smiles in public, the general reminds people of that old model of Portuguese introspection, the dictator Antonio Salazar. Such impressions, however, are wrong, for, unlike Salazar, General Eanes sees his mission as that of making Portugal a modern western European democracy. He is blunt about the limited role he wants the army to play in Portugal. The army exists only, he says, "to defend national interests, and to guarantee the institutions established by the freely expressed will of the people through their votes."

The moderation of his views owes a lot to the course of his own political career. As one of ex-president Spinola's early supporters, he was appointed in 1974 to run Portuguese television. After opposing Communist attempts to monopolise the small screen, he was accused of being implicated in the abortive right-wing coup of March, 1975, and resigned. But he was subsequently cleared in an inquiry and attached to the general staff of the armed forces. He became the link man between the moderate socialist officers, under Major Melo Antunes, who in the summer of 1974, with the Socialist party leader, Mr. Mario Soares, were fighting to stop the extreme left taking the country over completely, and a group of no-nonsense professional soldiers. The most important of these "operational" soldiers were Colonel Jaime Neves, who heads the Amadora commando regiment, and Colonel Soares Carneiro, a soldier with a subtle politcal mind who, as president of the Commando Association, can still call on the loyalty of several thousand ex-commandos. With the help of the commander of the northern military region, Brigadier Pires Veloso, these were the two men who waited for, and crushed, the left-wing uprising of November, 1975.

So General Eanes has divided loyalties. With no military power base of his own, he has to keep his right-wing commando allies sweet. At the same time he owes his political elevation to Major Antunes's moderate socialist soldiers and to the Socialist party itself. General Eanes was partly paying off old debts when in July, 1976, he accepted the not exactly faultless argument of Mr. Mario Soares that he should lead a Socialist minority government, although his party had gained only 35 percent of the vote. The president has respected old debts, too, by not removing Major Antunes and his friends from the revolutionary council. General Eanes has even refrained from firing General Vasco Lourenco, the left-wing military governor of Lisbon, who is always making provocative remarks about Portuguese politics. The socialist officers have no real power any more, But their repeated warnings that the army must act to stop civilian politicians moving the country too far to the right are a constant source of irritation to right-wing officers.

The views of Colonels Neves and Carneiro are hardening. They are unhappy that Melo Antunes and his friends are still around. They are unhappy too that General Eanes bowed to civilian blandishments and ran for the presidency of the republic. They regarded his candidacy as putting him too much in hock to the political parties, especially the Socialists, who supported him. The colonels would have preferred General Eanes to have stayed above the battle as an impartial military figure, watching from the sidelines and ready to intervene should the civilian politicians make a mess of things.

The colonels are still loyal to General Eanes—perhaps all the more so now that he has the democratic halo of having won three-fifths of the vote in a free election. But they want him to use his powers to push the government in a conservative direction. They would either like him to insist that Mr. Soares form a coalition with one of the parties to his right; or they would like General Eanes to form a government of "technocrats" and soldiers; or they would like him to dissolve parliament and to call another general election, in which he would lead his own Gaulist-style party and would appeal for a mandate for tough action.

Anxious not to be left out in the cold, the socialist officers under Major Melo Antunes have also argued that General Eanes should take a more direct role in government. They say he should appoint a moderate left-winger as prime minister. Possible names for the job are the present defense minister, Lieutenant-Colonel Firmino Miguel, or a member of the council of revolution, Commander Almeida e Costa of the Portuguese navy.

With friends such as these on both his left and his right, it says much for General Eanes's strength of mind that he has stuck to his resolve to keep the soldiers in the barracks. Long before any mutterings in the army, whatever their political tone, come to a head, he hopes that the government will have taken the measures needed to make Portugal's economic recovery possible. The President is watching the Socialists' progress

in this direction. The economic measures announced in February and the government reshuffle in March were, in his view, a step forward. If international bankers are satisfied enough with the government's progress to lend Mr. Soares a third of the $1.5 billion for which he is negotiating, General Eanes may be satisfied too.

Even so, the president has not avoided leaning on his Socialist friends when necessary. General Eanes sees his central role as that of "creating the conditions in which the government can exercise its authority". That definition embraces a promise to send troops to help the government enforce its agrarian reform laws against the Communist-run farm co-operatives of the south, the offer of full presidential support for the government in any tussle with the unions, and a pledge of support for any attempt to get the private sector of the economy moving forward again. General Eanes's speech at the swearing-in of the minister of industry in February, for example, sounded like a recital of battle orders: "The role of private investors and the conditions which allow private saving to take place must be defined so that people understand it is not a social sin to succeed". Acidly, he remarked of the public sector: "The policy of permanent loans, of deferred payments, of artificially maintaining high costs is an abandonment of essential social programmes". The civilian prime minister was being reminded that the army president could keep the colonels at bay only if measures are taken to restore the economy to health. For democracy to survive in Portugal, socialist ideals have to take second place.

To keep the soldiers out of politics as far as he can, President Eanes has actively began trying to promote the role the army can play in the defence of western Europe. In this he is getting help from the Americans and from Nato. In February, the Americans handed out $30m in military assistance, most of it presumably to be spent on Portugal's brand-new Nato brigade now being set up in Santa Margarida, 90 miles north of Lisbon. The brigade will be an air portable one for use in southern Europe. Who will transport this force remains something of a mystery, as Portugal lacks the aircraft. But Nato itself seems less concerned with what the Portuguese force would add to western defence than with Portugal maintaining itself as a democracy. The brigade will be equipped with American-modernised M48 tanks. The Portuguese air force has also been given 14 Fiat G-91 jet-attack and six trainers by the West Germans, as well as a batch of T-38 training aircraft by the Americans. The Portuguese would like some modern fighter-bombers and long range maritime reconnaissance planes, but they may have to wait a while. The navy wants new frigates and corvettes. But then the navy, although the best trained of Portugal's armed services and potentially the most useful to Nato, is in no position to stage a coup and so it comes at the end of the queue for new equipment.

General Eanes, as army chief of staff at the beginning of 1976, began to slash the size of the armed forces from a colonial peak of 210,000 to about 60,000 now. By next year, the plan is to reduce the army from 36,000 to 26,000 men and the navy from 12,800 to 8,000 men. The air force is to retain its present strength of 10,000 men. The unkempt, politicised units of the Portuguese armed forces which in October, 1975, were giving the army chief of staff clenched-fist salutes on inspection, have been disbanded. The AFM general assembly—the soldiers" "parliament"—has been replaced by a more orthodox, hierarchical military command and the only political soldiers still openly around—those on the revolutionary council—were forced in August, 1976, to give up all their military commands. Conscription still exists in name, but the exemptions are many and the tour of duty is short. The authorities now seem to be using the draft chiefly as an instrument of educational policy, by applying it largely in areas where schooling is poor.

General Eanes hopes to dispense with the armed forces' occasional role as emergency policemen, and he plans to increase the number of ordinary police, which is now 13,700 men, and the number of paramilitary Republican National Guardsmen, now 9,700. The defence budget has been cut from 4.6 percent of Portugal's gnp in 1975 to 3.1 percent for 1977, which puts it below the average Nato percentage. In a moment of extravagance, the left-wing military governor of Lisbon, General Lourenco, remarked in February that Portugal would not be dictated to by Nato. If it wanted to, he said, Portugal could pick the *enfant terrible* of 1975, the far-left Major Otelo de Carvalho, to officer the new Nato brigade. Other officers hastily denied that this was being planned. It is much more likely that Portugal's right-wing army toughies will become Portugal's crack Nato troops—not least to keep their minds off domestic politics.

PLEASE BEHAVE YOURSELVES

Whether power in Portugal once again comes to rest in the hands of one man, the president, turns crucially on the question whether Portugal's three democratic parties behave responsibly enough. Portugal's earlier attempts at democratic rule all foundered on the reef of a multi-party system. During the 16 years of the Portuguese Republic, in 1910–26, the country averaged one revolution and three governments a year. In that time, no less than 500 people held cabinet office.

At first glance the party system for which Portuguese voted in 1975 and 1976 hardly looks a bedrock of stability. The Socialists emerged as the largest party, with 35% of the vote. They had been seen by many in Portugal as the last bulwark of democracy against the threat that the Communists and left-wing extremists in the army would install a dictatorship. So the Socialist party leader, Mr. Mario Soares, shunned a coalition with the Communist party, although this would have commanded a majority of the seats in parliament. The right-wing vote was divided betwen two parties, the Popular Democrats, who have now changed their name to Social Democrats, and the Centre Democrats. Although between them they won 42% of the vote, a coalition of the two would not produce a majority in parliament, and could be defeated if the Communists and Socialists voted together.

So the Socialists had to be in government, either alone, or in coalition with one or both of the right-wing parties. Bull-headedly, Mr. Soares made a pledge in the 1976 election campaign not to form a coalition with anyone. His own party loved him for saying it, not least because it gave the Socialists control over government patronage. That policy also helped to paper over dangerous cracks within the party, in which the left-wing members, led by a well-intentioned Socialist idealist, Mr. Lopes Cardoso, insisted that the party must be even-handed in its contempt for the dictatorial left and the reactionary right.

President Eanes swore in the Socialists, as the country's first democratic government in half a century, in July, 1976. It looked frail, but it would have needed at least the passive collusion of the opposite ends of the Portuguese political spectrum—Communists at one extreme, Social Democrats and Centre Democrats at the other—to bring it down. This, in the early days of the government, did not happen. The Communists were happy enough to wreck anything. But the right-wing parties were unwilling to behave with partisan irresponsibility. They were frightened on bringing the leaden hand of the Portuguese army back into politics again.

But responsibility in opposition can soon wear off, especially when a none-too-competent government is in power. Mr. Soares's party has always been a many-headed animal. The prime minister is arguably Portugal's most skillful politician. He is a deft conciliator, who can inspire his party with words bland enough not to provide. But by nature he will not fight until he is forced into a corner. Moreover, the Socialists did not want to take measures that might lose them votes in last December's local elections. So for six months Portugal drifted. The government's economic measures were ineffectual and unimaginative. The administrative machinery was so sadly deficient that many of the laws passed by the legislative assembly were never put into effect. Only feeble attempts were made to try to correct the worst excesses of Portugal's land reform, against the fierce opposition of the leftwing minister of agriculture, Mr. Cardoso. Only after an attempt by the Socialist left to challenge Mr. Soares's hold over the party was Mr. Cardoso at last dismissed in November. By that time, the opposition parties were chafing at the bit.

An open challenge then came from the Social Democrats, whose leader, Mr. Francisco Sa Carneiro, decided to bulldoze his way into a coalition. The government, he argued, represented only a third of the electorate, was making a mess of things and needed a partner with a sense of purpose. Mr. Sa Carneiro's political calculation was obvious. Should there be any clash between the coalition partners, he was banking on President Eanes to take his side against the Socialists, which would make his party the dominant partner in government.

Mr. Sa Carneiro's party, a mixture of liberal academics and writers, has always been one to seize opportunities as they arise. In 1975, the party paid lip service to left-wing sentiments and this enabled it to operate relatively freely in the April election. It then won a large part of the non-Socialist vote in the north, which it has held ever since. Its decision to launch an all-out attack on Mr. Soares's government coincided, not altogether accidentially, with the renewed grumblings against the Socialists by army officers, particularly, of course, by Colonels Neves and Carneiro.

But the rug was quickly pulled out from under Mr. Sa Carneiro's feet. Mr. Soares had made clear that he would rather resign than go into government with the Social Democrats. The two party leaders have an almost pathological dislike for each other. General Eanes was anxious to reduce the pressure being exerted by his army colleagues, but he disapproved of the frontal attack made by Mr. Sa Carneiro. Instead, the Socialists, reaching over Mr. Sa Carneiro's head, looked for support from the other right-wing party, the Centre Democrats. This is the party most closely associated with Europe's Christian Democratic parties and Britain's Conservative party. Under Portugal's left-wing army rulers the party had a rough birth because it did not profess socialist ideals; in the 1975 election campaign, its meetings were disrupted and it won just 7% of the vote. But after the dust of the revolution had settled, the Centre Democrats were able to campaign freely the following year, and more than doubled their vote. The party's leaders, Mr. Diogo Freitas do Amaral and Mr. Adelino Amaro da Costa, won themselves a reputation for being both consistently conservative and consistently democratic.

They lived up to that reputation in January this year, when they refused to join the Social Democrats' all-out attack on the government. "Democracy in Portugal is too frail to risk the fall of a government only six months after it has come to office", explained Mr. Freitas do Amaral. His policy of "civilised opposition"—abstaining when the government's majority in parliament is at risk—has made Mr. Sa Carneiro's attack a flop. It

has also brought a vigorous reaction from some Centre Democratic right-wingers who argue that their present leaders should be replaced by the more conservative figure of General Galvao de Melo, a former air force chief turned deputy, who is likely to run in the next presidential election. Three rival right-wing splinter parties have sprung up since the election—the Christian Democrats, Popular Alliance and the Movement for National Reconstruction—but none of them look like taking many votes from the Centre Democrats. But the Movement for National Reconstruction, which is led by a colonial hawk, General Kaulza de Arriaga, might one day serve as a civilian nucleus for a right-wing coup.

But Mr. Freitas do Amaral has been given a helping hand by President Eanes. He is shortly to be appointed president of a commission to reform the administration. The inefficiency of the Portuguese bureaucracy has always been one of the biggest stumbling blocks in the way of effective government in Portugal. Under the old regime there was no proper career structure: if you went in at the top, you stayed at the top; if you went in lower down, you stayed lower down. Salaries at the top were well below those being offered in industry, and, as a natural result, government service did not attract the right men. Administrative law was an uncodified maze. There was no proper training college, such as the British civil service college or the French Ecole Nationale d'Administration. Speed and efficiency within the bureaucracy were notable only by their absence. A large suburban development on the outskirts of Lisbon, for example, took five years to have telephones installed. The public services lagged well behind private enterprise in the boom in the 1960s. The building of roads, for example, fell way behind the expansion of the tourist trade in the Algarve region in southern Portugal.

All these failings were horribly compounded after April 1974. Although remarkably few of the old regime's civil servants lost their jobs, a whole new layer of politically active administrators was grafted on to the system. The number of staff employed by the ministry of social communication, to take one example, nearly doubled from 700 to 1,300 between 1974 and 1975. Politics began to govern what should have been purely administrative decisions. Worse still, with hostile governments succeeding each other, new ministers would add coteries of trusted confidants to the top administrative layers. And when Mr. Soares's government took office in July, the ministers, distrusting the bureaucracy, added yet another layer of junior ministers and personal advisers. "The result", as one senior civil servant put it, "is that politicians make administrative decisions and civil servants make political decisions".

If Mr. Freitas do Amaral manages to cut through this Gordian knot, he will have brought Portugal considerably closer to his own ideal of making it a modern European state. He wants to reduce the number of civil servants drastically, introduce a proper training, pay and career structure, reorganise administrative law and streamline bureaucratic procedures. He has agreed to serve only on the condition that his committee's recommendations are put into immediate effect. Here he will certainly have the president's backing.

But his role is likely to be wider still. He will have direct access to General Eanes, and as a constitutional expert is already being asked for his advice by a president who is anxious to know just how wide his powers are. The rightwing officers in the army have to some extent been appeased by his appearance as a counterbalance to Mr. Soares. Mr. Freitas do Amaral is widely respected for his statesmanlike mien and as a young, charismatic figure, he is seen as the colonels' first choice for prime minister. But he insists he would rather go into exile than come to power undemocratically. He calculates that his new role will strengthen his party's performance at the next election.

His impending appointment to his new post has had a calming effect. Mr. Sa Carneiro, at first incensed, has toned down his earlier demand to be brought into an immediate coalition with the Socialists. Instead, he now hopes that the president will appoint a government of technocrats drawn from all parties. And he still thinks that Portugal's economic ordeal will force the president to turn to his party for help this autumn. But for the first time he has also begun to take seriously private Centre Democratic overtures for a united front between the two conservative parties at the next election. Such an alliance would certainly produce Portugal's biggest party, and it might even be capable of winning a majority of the votes.

For the time being, however, Portugal will have a coalition government in all but name. Mr. Freitas do Amaral will be a kind of executive prime minister while Mr. Soares will be a kind of legislative one. The Centre Democrats will make sure the government survives in parliament. And neither party has incurred the obloquy, among its own members, of entering into a formal agreement with the other. How easy it will be for Mr. Soares to accept some of the tough measures likely to be recommended by Mr. Freitas do Amaral is a moot point. But General Eanes has the constitutional power, the popular legitimacy and, if need be, the support of the army to override Mr. Soares. The prime minister's only weapon is a threat to resign, which in the past he has been reluctant to use lightly. If Mr. Soares resigned there would be little alternative to the presidential system now being touted by Colonel Jaime Neves and his friends. It would not be the end of Portuguese democracy—for did not de Gaulle save democracy for France? But democracy would then depend even more completely than it does now on one man.

STALIN STILL LIVES

The first constitutional government since the revolution was sworn in last July. But effective government has taken longer to emerge. Mr. Soares has only recently begun to enforce the government's authority in two major areas: industrial relations and land reform. In both areas, the principal obstacle was hammer-and-sickle shaped. When the old regime fell in 1974, it left behind it one of the most predictable legacies of a right-wing dictatorship—a Communist party which had thrived in clandestinity and was eager to take over every rein of Portuguese power it could lay its hands on.

The old cardboard facade of Salazar's corporate state, the Intersindical labour organisation, was taken over by the Communists before Portugal's other parties could say "secret ballot". So were the local authorities and much of the media. In 1975, the Communists were the driving force behind workers' takeovers and the nationalisation of the banks, of insurance companies and of most of Portugal's biggest firms. South of the Tagus, in the Alentejo region, the party organised large gangs of farm labourers and unemployed urban workers to move into and to seize the large estates of absentee *latifundistas*. The Communists also tried to spread the land seizures to the northern and central provinces.

After the anti-Communist backlash in the summer of 1975, the Communists were gradually deprived of their hold on local government, on the media, on banking and on industry. But they clung on to the unions and the Alentejo farms. The Alentejo was easy to defend because of its geographical unity, and because the land takeovers had genuinely benefited many of the landless peasants of the area. The Communist grip on the unions was tightened when the Socialists landed themselves in the driving seat of government and had to take measures which were unpopular with industrial workers. Increases in indirect taxes in the autumn of 1976 cut the workers' real wages, and legislation was passed in October limiting absenteeism and giving employers the right to fire workers for "an unjustified refusal to carry out orders, repeated absences with grave results for a firm, or causing financial or physical harm to a company or those who work in it". And then in March an attempt was made to control Portugal's soaring cost of labour by restricting wage increases to 15% for 1977, officially estimated at half the likely increase in prices. The Communists have not been slow in trying to exploit the workers' new grievances.

At the same time, the Socialist party has launched a frontal attack on the Communist union monopoly. A law was passed in October permitting other union groups to form as rivals to Intersindical. The Socialists, however, were themselves divided about what form the attack should take. One faction, which included two parliamentary deputies, argued that the party should work to change Intersindical from within. But in November they were kicked out of their seats on the Socialist party's labour committee, and in January they were expelled from the party as "Trotskyists". Another group, led by another deputy, Mr. Kalidas Barreto, believed in a dialogue between Socialist and Communist trade unions. Mr. Barreto joined the executive of Intersindical although he stayed a member of the Socialist party. The majority of Socialist trade unionists, however, joined a group called Carta Aberta—"open letter"—named after a manifesto defying Intersindical they had published in the press in the summer of 1975. About 80 of Portugal's 340 trades unions are affiliated to Carta Aberta, a handful to the two right-wing political parties and the rest to Intersindical.

The war between Carta Aberta and Intersindical really got rough when the government passed a law in January cutting off the union dues employers have to pay to Intersindical, a legacy from the days of Salazar. In retaliation, union officials disrupted production by collecting union dues from their members during working hours, and employers were often only too glad to pay the old dues voluntarily. The Communist counter-offensive began in the first four days of February, when Intersindical staged a grandly named "Congress of All the Trade Unions". The Socialists were generously offered four or five seats on Intersindical's 32-man executive. The Socialists refused, claiming that the general elections had shown their working class support to be much greater than that of the Communists. The congress went ahead without the Socialists, and Intersindical was given the more resonantly European name of "Portuguese General Confederation of Workers-Intersindical". After the congress, the Communist leader, Mr. Alvaro Cunhal, cockily asked to see President Eanes. The president was then told by Mr. Cunhal he had two choices: to bow to the wishes of the workers or to shoot them. "I can quite see that there are two alternatives," General Eanes is said to have replied coolly.

The choice is not as stark as Mr. Cunhal would have it. His party remains the most rigidly Stalinist one in western Europe. He denied heatedly, on his return from a meeting with Italy's Communist leader, Mr. Enrico Berlinguer, in February that his party was becoming committed to the democratic methods of "Eurocommunism," like the Italian one. "We believe in the principle that

every party must base its activities on the realities of its own country. Portugal is different from other western European countries because in Italy, France, West Germany and Britain there exist capitalist state monopolies. In Portugal, after the April 25th revolution, capitalist state monopolies were liquidated, all monopolies were liquidated." Both the analysis and logic are baffling. But as another party leader remarked of Mr. Cunhal: "He has been in prison too long (eight years under the old regime) to change his spots now."

But the fervour with which Mr. Cunhal upholds the idea of the dictatorship of the proletariat does not mean he is entirely lacking in tactical sense. Even for a Communist party which thrived on clandestinity, there is not much attraction in having the lid slammed down again by a right-wing coup. That is what Mr. Cunhal fears might happen if he puts too much pressure on the present government. Instead, he can calculate that his party could gain considerable support in the next three years among industrial workers hit by the austerity measures of Mr. Soares' government. After only five months of Socialist government, the Communists' support in December's local elections rose from 14% at the general election to 18%. Support for the Socialists fell by two percentage points.

But Mr. Cunhal has also to consider the hard-line argument for having no truck with democracy in Portugal. The Communists made themselves extremely unpopular by their overt grab for power in 1975, but thanks to their friends in the army they achieved their primary objectives of getting Mozambique and Angola relinquished by Portugal when Marxists in those countries were poised to take power. The Communists would now like to scupper Portugal's chances of entering the EEC. They also want to upset Spain's peaceful transition to democracy. An army coup in Portugal would serve both those ends very well. Even so, Mr. Cunhal is probably prepared to wait a little longer before sacrificing the pleasures of a Lisbon summer for the cold grey winter of exile in Moscow.

If he does decide to play the democratic game to his advantage for a while, he will have to be very careful not to let himself be identified too closely with the government, or he will risk losing disgruntled working class support to the country's profusion of far-left parties. The main far-left alliance, Popular Unity, got a dismal 2% in December's local elections. But its potential attractions were vividly displayed when its presidential candidate in June, Major Otelo de Carvalho, came second, with 16% of the vote. Most of his support was personal. The major was the army's strongman of the previous two years, an attractive personality with a flair for his own special brand of far-left populism. Major de Carvalho, now awaiting one of Portugal's rarely held conspiracy trials, will still be around in three years' time for the next presidential election.

That prospect is enough at least to worry Mr. Cunhal and it helps to explain the apparent contradictions of present Communist tactics. There have been, for example, sabre-rattling strikes in the fishing, textile and electrical industries. But significantly in key industries, such as ship-building and ship-repairing where the Communists have almost total control over the workforce, union leaders have co-operated with management, and refrained from striking or demanding excessive wage increases.

Mr. Cunhal has to give the appearance of leading an indignant revolt against the "anti-worker" policies of the present government, but at the same time he is trying not to provoke the army to take steps against his party. Many people wonder whether Mr. Cunhal, with his hard-line reputation, is the right man to perform this delicate balancing act. But nobody else in the party looks more able to do so. Mr. Cunhal is better known than the party's parliamentary leader, Mr. Octavio Pato, who won just 7% of the vote when he stood for president last June. Or, indeed, than Mr. Aboim Ingles, usually thought to be Mr. Brezhnev's favourite candidate for the succession.

Southern Soil Is Red

Mr. Cunhal may also have trouble in keeping his farmworking supporters in the Alentejo happy. Agriculturally, Portugal is two nations: the farms of southern Portugal are the loyal fiefs of the Communist party, but the farmers in the north are its bitterest opponents. The north is the old heart of Portugal, where the writ of the church traditionally ran and still runs deepest. The landholdings there are a patchwork of minifundias, tiny plots parcelled out between the children of each generation. In the south, where the land was slowly conquered from the Moors in the thirteenth century, territory was handed out to the Portuguese nobility in large estates, latifundias.

Portugal's northern farmers are hard-working, independent and contented. Very few landholdings are more than 20 acres in size, and few farmers there envy their neighbours. Portugal's southern peasants were mostly agricultural labourers on huge estates, often run by absentee landlords living in Lisbon. In the north 90% of the agricultural land is farmed by people with 50 acres or less, and about half of the farms are less than 10 acres each. In the central region of the country, the figures are 60% and 26% respectively. In the south, 64% of the land belongs to farms which are more than 250 acres in size. Just one hundredth of Portugal's farms occupy more than half the country's agricultural land while nearly three-fifths of Portugal's farms occupy a tenth of the argricultural land.

Thus the disparities between northern and southern landholdings are total. About the only thing they have in common is their inefficiency. Portuguese agriculture has the lowest productivity per head in western Europe. In the south this was because, until the late 1960s, the latifundistas could draw on a plentiful supply of cheap labour, without bothering to invest in farm machinery or land improvements. Over a third of Portuguese farmland lay fallow, because southern farmers could not be bothered to speed up the natural processes of soil renewal by using fertilisers. Pasture areas were not expanded, and such irrigation projects as there were, affecting about 15% of the land, were paid for by the government.

In the north, the farms were too small to make any large scale investment possible. Even in Portugal's boom years, agricultural investment stayed stiflingly low. In 1972, for example, agricultural investment as a proportion of gross agricultural product was no more than 7½%, compared to about 12% in Spain and about 17% in Greece. Industrial investment at the time represented 20% of gnp. As a result, agricultural production remained stagnant—rising by an average of only 0.1% a year from the late 1960s, when the gnp as a whole was growing at a rate of about 7%. The northern farmers, as it happened, worked their land more efficiently than the southern latifundistas. But with a large family living on just a few acres, productivity per head was lower than in the wide open spaces of the south.

The southern latifundias were ripe plums for the picking by the Portuguese Communist party. Low agricultural wages had driven many workers from the land, either abroad to earn their living as migrant workers in western Europe or into Portugal's expanding industries. Between 1960 and 1970, the number of people employed in Portuguese agriculture fell from 42% to 30%, with about three-quarters of the migrants going abroad. But with the onset of the economic recession in 1974, many workers lost their jobs in Europe. Some returned home. Because of the political crisis in Portugal, many of them stopped sending remittances to their families. In the south, the Algarve tourist and construction boom faded out and many workers lost their jobs. In Lisbon new work was hard to come by as firms, unable to lay off workers by law, stopped taking on newcomers. This rootless and discontented mass of unemployed men was the natural ally of the Communists, who urged groups of them to take over the southern latifundias, and in the summer of 1975, groups of Communist-led workers marched into most of the Alentejo estates and took control, often expelling the old owners at the point of a gun.

But the Communists and their allies did not know where to stop. They tried to extend their takeover of the farms north of the Tagus. They then found that they had plunged their hand into a wasp's nest. The smallholders of the north did not want to be collectivised. They reacted angrily when the Communists began to move into some of the medium-sized holdings in central Portugal. And an especially inept law, passed when the Communists' ally General Vasco Gonçalves, was prime minister, sent a shudder of alarm through the north. A Lei Gonçalvisa—the Gonçalves law—was an attempt by the Communists to win the support of northern tenant farmers. Most agreements between landlords and tenants in the north were not set out in writing and were settled in kind. A typical deal might be for the tenant to give his landlord half his production of wine and about 15 carros (6,000 kilos) of grain a year. The landlord was responsible for improving the property and for investments in farm machinery. But under the new law, all contracts had to be written and absurdly low money rents were set. In one typical case, in the hard-hit town of Penafiel, near Oporto, one landlord had the $570 worth of wine he used to get cut to just $5 a year in rent.

But passing a law is one thing, and enforcing it another. With the nation's local magistrates and police unwilling to touch anything that had political overtones, a Communist-run body, the Movement for Northern Agricultural Tenants (Marn), set out to try to persuade tenants to claim their new rights under the Gonçalves law. They soon discovered that many of the tenants who they thought they were helping were also landlords. Because the pattern of northern landholdings is so fragmented, most farmers owned fields in several different places. In order to make farming easier, the farmers tended to rent from a neighbour the fields adjoining one of their own. In turn, the farmers would let other fields farther away to their neighbours. Those landlords who were not also small farmers were usually small fry, depending on rents for all their income. When the new law was passed, many of the landlords stopped improving their properties. And the tenants were reluctant to spend money improving properties that were not theirs. Some landlords let their land lie fallow.

Relatively few tenants took advantage of the law, but the ones who did helped to provoke the anti-Communist reaction in the north that eventually found its outlet in the sackings of Communist party headquarters in northern provincial towns. Militant farmers also joined a new organisation, the Confederation of Portuguese Farmers (Cap). It showed its muscle on the night of November 24, 1975, when its members blocked the main road to Lisbon at the confederation's headquarters in Rio Maior, 25 miles north of the capital. The demonstration played a major part in forcing the government to move against the left-wing uprising that took place the following day. Since then, the farmers have threatened to impose food

blockades on Lisbon so as to get the government to restore order on the farms.

Mr. Soares's government has yet to come to any decision about amending the new law. But, after much humming and hawing last autumn, it has got around to regulating the excesses of the southern land seizures. The joker in the pack until last November was the left-wing minister of agriculture, Mr. Lopes Cardoso, who believed that all agricultural land should eventually be expropriated. Even after the full fury of the revolution had spent itself, only about a fifth—2.5m acres—of all Portuguese farmland had been taken over. Mr. Cardoso accepted the fact that there was little chance of making headway among the smallholdings of the north. Under the revised Socialist agrarian law, only farms larger than 75 acres, or, under a complex valuation system, worth more than 50,000 "points" are liable to expropriation. But Mr. Cardoso argued that the government should go ahead and take over the 1,250,000 "excess" acres still in private hands before handing back the areas illegally expropriated in 1975.

The prime minister, Mr. Soares, did not agree, and prodded Mr. Cardoso into forcing the illegal occupiers of some 100 smallholdings off the farms they had taken over, sometimes at the end of a truncheon. Mr. Cardoso's left-wing scruples finally cost him his job in November. He was replaced by one of the few unqualified successes of the present government, Mr. Antonio Barreto.

Under Mr. Cardoso, the Communist-run co-operatives had threatened to harass small farmers who returned to their land. Mr. Barreto put a stop to that by sending in police and soldiers. He has also set about trying to enforce the system of reservas, under which all former landowners, even the biggest absentee latifundistas, have the right to retain an area of 75 acres, provided they farm it themselves. The ousted Mr. Cardoso argues vehemently that the reservas of the land seized in 1975 should be carved out of the land that is still due for expropriation, not the land on which co-operatives are already settled. But Mr. Barreto does not agree with him. And the land being earmarked for return to private hands is likely to be in compact lots, so as to prevent any further intimidation by the co-operatives.

Mr. Barreto has hit upon an effective instrument for bending the co-operatives to his will. With all Portuguese banks and financial institutions nationalised, he is using selective control of credit to force the co-operatives to put their house in order. This credit weapon is being used to compel the Alentejo's 400-odd co-operatives to break up into smaller units, to reduce their labour force and to abandon poor lands which in a fit of optimism they had been trying to cultivate. The ministry of agriculture has been appointing administrative management committees to supervise the more profligate co-operative spendthrifts.

Mr. Barreto also wants to introduce some element of private ownership into the co-operatives and he is anxious to break the Communist grip on them. Workers guilty of publicly criticising the Communist party have been expelled on occasion from the co-operatives. Mr. Barreto would like to put a stop to this "new landlordism". The wrestling match between Mr. Barreto and the Communists is likely to go on for some while yet. Mr. Cardoso's liberal distribution of largesse last autumn gave most co-operatives enough money to keep going for a while and to replace some of the herds of cattle slaughtered in the first flush of the land seizures, when the occupying workers could see no other way of producing enough to feed themselves. In April, Mr. Barreto accused the Communist-run institutes of agrarian reform of fiddling agricultural credits to the tune of over $2m. Thanks to the politicisation and inefficiency of the co-operatives, he said, Portugal's wheat and barley crops were likely to be down by a half, and oats by a third, on last year.

Even if Mr. Barreto finally brings the co-operatives to heel, his problems will be just beginning. In only two major farm products—wine and tomato concentrate—does Portugal undersell its European competitors. If Portugal joins the Common Market, the country's inefficient farming methods and fragmented land holdings will face stiff competition. The government hopes to invest a lot of money to improve Portuguese farming techniques, machinery and fertilisers. The government also plans to irrigate a much larger area of the south, and it may get around soon to developing the country's enormous—and largely unexploited—timber potential.

But the biggest improvement will come only when the northern small-holdings are brought together, and a lot of people there leave the land. "Each farmer has his cereal patch, his little plot for wine, his few animals", one Cap official in the northern town of Braga told your correspondent, "but northern produced cereals are uncompetitive. Only mass produced cereals in the Alentejo are economic. Wine needs to be cultivated in an area of at least two hectares [five acres], and fruit in an area of eight hectares [20 acres] to be economic".

Yet there are few northern farms large enough to fit his definition of economic production. The answer, as the confederation sees it, lies in voluntary co-operatives, which are beginning to take root in northern Portugal. The town of Famalicao, for example, provides common machinery and marketing for 120 farms producing 2,500 tons of fruit annually and 300 farms producing 1½m litres of wine a year. But the process of extending co-operatives is a slow one, and any rationalization of land use that demands a smaller labour force will have to wait for the regeneration of industry, for only well-paid new jobs in the cities will really attract peasants off the land.

MAYBE TOMORROW

The regeneration of Portuguese industry can only be achieved by a government with clear economic objectives. Until recently, as a top official at the ministry of planning cheerfully admitted to your correspondent, "these objectives here have contradictory." One of the first things needed for example, to get agriculture moving again is an end to the price controls which were originally imposed by Salazar to help the poor. These were maintained by post-1974 governments, who tried to cushion the Portuguese people against the worst effects of their own economic incompetence.

Low food prices helped to keep agricultural investment and production down and have boosted foreign imports to a level that the economy simply cannot afford. In 1972 agricultural imports exceeded agricultural exports by $77m. In 1973, the deficit rose to $99m. After the coup of 1974, wages rocketed and the Portuguese went on a spending spree on foreign food, so that the deficit that year rose to $439m, and in 1975 to $451m. Portugal is now importing well over half its food requirements, which represent 20% of its total imports. Only if farmers are offered realistic prices for their products are they likely to increase cereal production—which now accounts for a third of all food imports—and the production of the wine, fruit and vegetable crops which are Portugal's most competitive agricultural exports abroad.

But higher food prices will hurt everyone and the Socialist government is naturally reluctant to enforce them. So far austerity measures have been wrung from the government's heart in agonized sobs. A tax of between 30% and 60% has been imposed on "nonessential" imports. Importers have to put down an interest-free deposit for six months on the value of the goods they import. Vat on most goods was raised to 12% in February and is payable at 20% on luxuries. Petrol now costs over $3 a gallon. All these measures are supposed to reduce the import bill: Portugal's balance-of-payments deficit rose from $800m in 1975 to $1,100m in 1976, but the government hopes to get it down to $800m again this year. That will be none too soon. Since 1974, Portugal has used up $1 billion of its foreign exchange reserves, so painstakingly built up by the tight monetary policies of Antonio Salazar, and has borrowed more than $3 billion. The deficit can hardly be laid at the door of the increased cost of oil, for altogether oil adds only $300m to Portugal's import bill.

Mr. Soares argues with some justification that he needs time to get to grips with an economy which has been messed about by economically illiterate soldiers. Time means money from international bankers. In February a grateful Portugal received an emergency American loan of $300m. To see the economy through until the end of the year, the Portuguese would have liked an IMF loan of $1.5 billion. But there were conditions attached to such a loan. Mr. Soares resisted the main IMF condition of an escudo devaluation until the Americans indicated that their share of the loan had not been included in their budget for this year. The prime minister caved in, and on February 25th announced a 15 percent devaluation of the escudo. The devaluation is 10 percent less than what the IMF wanted, but it means that the ecudo has depreciated since 1975 by about 35 percent. In April President Carter accordingly wrote to the other main IMF members to persuade them to agree to the loan to Portugal. In May, the Americans and the West Germans agreed to lend Portugal $500m off their own bat, but the Portuguese government still hopes to be lent the remaining $1 billion over the next 15 months.

Devaluation, as Portugal's ministers of economics never tire of repeating, solves nothing. It increases the cost of servicing Portugal's foreign debt and the price of the capital imports which Portugal needs to get its heavy industry off the ground again. Worst of all, it gives the rise in prices, already expected to be about 30 percent this year, another horrible twist. But to foreign bankers, the real purpose of the Portuguese devaluation was to offset the rise in labour costs that has made so many of Portugal's exports less competitive. Labour costs in Portugal have almost doubled since 1974. If the government can hold to the linch-pin of its economic policy—a limit of 15 percent on wage increases in a year in which prices will rise by not less than 30 percent and perhaps by as much as 40 percent—the way should have been cleared for smaller inflationary pressures next year.

But there is another if. Investment must revive. The resources released by the greater competitiveness of Portuguese goods abroad and the fall in real wages must be directed into improving productivity. Last year investment as a percentage of gnp was down to 10 percent, compared with 22 percent the year before. The government hopes to get it up to 16 percent this year (compared to an average of 25 percent for OECD countries). How? Partly by strong-arm methods. Government investment is to be financed by an increase in national insurance contributions and by the introduction of a forced savings sheme, which is expected to raise about $250m. But the government proposes to spend, on both current and capital account, a total of $4 billion this year, which will amount to 31 percent of the expected gnp. So where is the money for new capital investment to come from?

Here the sparks start to fly. The Centre Democratic party's economic spokesman, its deputy leader Mr. Amaro da Costa, says that the money will be all but impossible to

raise voluntarily in savings from a people squeezed by inflation on the one hand and by a forced savings scheme on the other. He suspects the missing millions will come out of the banking system, which since 1975 has been controlled by the state. And that means if the government keeps to last year's modest rate of expansion in the money supply—M2 rose by 17 percent—that credit for private industry will be harder to come by. The leader of the Social Democratic party, Mr. Sa Carneiro, has weighed in with an attack on the proposals for public investment. According to the government's plan for 1977, private investment at a dismal $745m will lag well behind the state's investment plans. And that, the government's conservative critics are agreed is ludicrous in an economy where the private sector accounts for some 90 percent of exports and some 70 percent of all employment. Even the Socialist minister of agriculture, Mr. Barreto, seems critical of his own government's plan: "I don't think the public sector is going to be the most dynamic. We must promote small and medium-sized industries, most of them privately owned, which together employ many more workers than the nationalised industries".

The minister of planning, Mr. Eugenio Sousa Gomes, argues, on the other hand, that with private investment, both foreign and domestic, in the doldrums last year, large investments by the state are the only way to get the economy moving again. The IMF is worried about the size of the budgetary deficit—which is expected to rise from $770m to about $1.3 billion (9 percent of gnp) this year. But the ministers say that it makes no sense to adopt orthodox monetary policies, such as balanced budgets and credit restrictions, at a time when Portugal has idle industrial capacity and when a quarter of the workforce is unemployed. The state, both Mr. Sousa Gomes and Mr. Medina Carreira, the finance minister, insist, must lead a dash for growth.

Taken to extremes, that could be a recipe for disaster. The arguments for growth come what may would be convincing if the government gave the impression that it knew quite how to spend the money. At this moment the government spends on public services and administration proportionately more than twice as much as the Swedes do. Its spending on "economic services", largely in the industries that the government has run at a loss since nationalisation in 1975, is equally lavish. Portugal's public investment programme is concentrated on three main areas: some 20 percent will go into housing, construction and public works projects; some 40 percent will go into the nationalised industries; and a further 40 percent will go into key industrial investments, the bulk of it on the project for a massive petrochemical complex and deep water port at Sines in southern Portugal. Other projects include the renovation of Portugal's railways and Lisbon's underground system and the irrigation and mechanisation of farms in the Alentejo.

The plan is heavily biased towards big industrial projects which will involve substantial imports of capital goods and which are not especially labour intensive. This is not entirely the government's fault. The fastest growing part of Portugal's economy in the 1960s was the heavy industrial sector, such as shipbuilding and repairing, cranemaking and cement manufacture. This was because Salazar's nursemaid state only allowed a few large, banking-based groups to expand—such as Cuf and the Champalimaud groups. The Sines complex, which has already cost a lot, was begun under Mr. Caetano. The present government found Portugal so deeply committed to it that "returning were as tedious as go o'er".

The Sines complex will, when finished, cost about $3 billion. The main idea behind it is to create a deep-water port for large vessels, particularly tankers, where oil and other products will be transhipped to smaller vessels which can enter other European ports. A large refinery there will more than double Portugal's existing refining facilities, to a total of about 20m tons of crude oil a year. The refinery's chief products will be petrochemicals and fertilisers, not liquid fuels. Next door to the refinery is a petrochemical plant and, farther south, a plant to process pyrites from deposits in the Alentejo. There will also be a large engineering plant. The Sines project has been severely criticised on the grounds that the world oil crisis and the diminishing size of tankers after the reopening of the Suez canal will deprive it of its main purpose. Sensibly, the Gabinete do Area de Sines which runs the project is concentrating much of its investment over the next year into building up the infrastructure around the port. The Gabinete wants to attract light industry into the area so that it will become an industrial centre in its own right. Tax incentives for private industry to move into the area are being considered, and many firms are said to be interested in the area's possibilities. The project already employs 7,000 people, and the hope is that a change of direction for Sines towards smaller-scale industry will result in more labour-intensive firms being attracted to the south.

Sines locks up a lot of money at a time when Portugal has little to spend, and at the best it will be slow to yield a profitable return. Not all of Portugal's once booming heavy industrial sector is suffering, however. The Portuguese crane-makers, Mague, are doing a fine trade in the Middle East, and ship-repairing and shipbuilding, although suffering from the world recession in the industry, are still highly competitive. The two biggest yards are the Lisnave ship-repairers on the opposite bank of the Tagus to Lisbon, and the Setenave yard, which was originally intended for tanker construction but which has now moved into the repairing field. The Setenave yard, built out into the huge estuary of the Sado river south of Lisbon, is still being completed. It is working at 70% of its capacity, because of the contraction in world demand. But its ship-repairing facilities are still making a profit. This year, 100 vessels are expected to use the yard, compared with 50 or so in 1976. Its shipbuilding yards have the capacity to make three or four supertankers every two years, and will eventually be expanded to a capacity of five every two years. At the moment, the profits from ship-repairing largely offset Setenave's shipbuilding losses.

As a ship-repairer, Lisnave is suffering less than Setenave from the crisis in shipbuilding and from Japanese competition. But its chairman, Mr. Alvaro Barreto, is frank about the problems Lisnave faces. "There are", he says, "now three dry docks in western Europe with a capacity of more than 200,000 tons. Within a few years there will be between nine and eleven of them competing for a smaller market". Political uncertainty, he adds, has not helped: "Ship-repairing takes time. Our customers, as when they go on holiday, want to be sure their ships are going to have a peaceful time". In the quieter atmosphere of 1976, production at Lisnave was 30 percent higher than in 1975, and back to its 1974 level. Although labour costs have risen steeply and have blunted both Lisnave's and Setenave's competitive edge over their European rivals, wages are still not higher than those in other countries.

Shipbuilding and ship-repairing are the second largest item, after cork, in Portugal's export account. But world conditions are unlikely to pick up soon enough to help them generate the kind of economic revival which the government hopes for. Agricultural investment is important for Portugal's balance of payments, but is also going to be slow in yielding results. The main hope for quick recovery seems to be in Portugal's traditional sectors, such as textiles and foodstuffs, which are almost all still in private hands. Under Salazar's restrictive credit policies, small firms stayed small; and the textile industry, although fairly inefficient, was based on extremely cheap labour in Portugal's country areas. This industry clearly needs to be shaken up, but it is still competitive. Light industry is another possible area for expansion.

So too is tourism. Tourism earnings slumped in 1975, with the number of visiting Americans falling by half from the 1974 figure, the number of Britons by a quarter and the number of Germans by a seventh. Tourist receipts fell from a high of $320m in 1973 to a low of $167m in 1975. With the calming of the political waters and this year's devaluation, tourism has shown encouraging signs of revival. But one thing Portugal will have to do is to spend more money on promoting tourism: only 1.5 percent of tourist investment now goes on promotion, compared with a promotion budget of up to 15 percent in Spain.

FAG-ENDS

Economic confidence must be restored if Portugal's small and medium-sized enterprises are to pick themselves up from the floor. Businessmen and private investors still break out in a cold sweat when they remember what happened in 1975. They can be reasonably certain that the country is unlikely to swing back towards the extreme left. But they still suspect that Mr. Soares and his team of socialist economists do not really know what they are up to. In particular, they dislike the fag-ends left lying around after the revolutionary excesses. They are concerned specifically with:

Government control of the banking sector. Even under the old dictatorship, Portuguese banks were closely linked to the bigger industrial interests and sparing in their credit to smaller firms. Now private investors are frightened that the government's ambitious spending plans are going to suck up the credit that might have gone to them. Banking liquidity is in short supply, and banking procedures for processing loans are bureaucratic and inefficient. Sometimes it takes as long as a year for a loan to be arranged. The banks are still suffering from making credit too freely available to their friends in industry in the boom years before 1974. And many entrepreneurs are still recovering from the shock of having their accounts in different banks compared by the workers who took them over briefly in 1975. The banks also suffer from a lack of specialisation, which the government is trying to put right by getting different nationalised industries to go to different banks.

The Confederation of Portuguese Industry (Cip) thinks that a private banking sector in competition with the state banks is essential. Cip hopes that if Portugal enters the common market European banks will be allowed to set up branches in Portugal.

A firm promise of an end to nationalisation. The state now controls industries producing 24 percent of total value added in Portugal and accounting for 45.5 percent of total investment. The government has already pledged itself to a law setting out the limits of the public sector, and proposes to relinquish control of 400 companies, most of which are losing money. Foreigners have been compensated for any of their property that has been nationalised, but the government is still vague about its intentions towards the Portuguese who have been expropriated.

Nationalisation had a traumatic effect in 1975, when many firms were taken over by unqualified workers. But now that management committees and financial control committees have been set up, the running of nationalised firms has become more formal and more efficient. At Setenave, for example the

chief shareholder was removed from the board, and another member of the old board, Mr. Hugo de Jesus, appointed chairman in his place. The government looks at Setenave's books and expects to be consulted when the company tries to raise money abroad, but it plays no part in the day-to-day running of the enterprise. Nor has the government tried to push the directors into making the company's operations more labour-intensive. The firm, almost untouched in structure, is still expected to make a profit. Private capitalism has, in effect, become state capitalism.

A law setting the limits to workers' control. The forms of workers' control are as varied as the firms in which they operate. About 5 percent of Portuguese industry is run by workers' co-operatives. Most of them lose money. Workers usually have representatives on the financial control commissions of nationalised industries, and have a say in the membership of the management councils.

In most firms, the workers' councils have been prepared to co-operate with the management. At Setenave, for example, the workers themselves came up with the idea of an extra night shift so as to compensate for nightly power cuts due to an energy shortage last summer. In Lisnave, the managing director meets workers' representatives once a week, but he has flatly rejected any suggestion that they should have a day-to-day say in business decisions. Nevertheless, some businessmen are still afraid that the government will cook up a cumbersome procedure of prior consultation with workers' committees on all business decisions. As Mr. Barreto of Lisnave puts it: "Modern business requires fast decisions. I completely reject prior consultation. I am perfectly prepared to explain to, and be criticised by, workers' committees afterwards, as already happens with our shareholders".

Revision of the foreign investment code. The government has already agreed to this. The last foreign investment code was pushed through by its predecessor in April, 1976, and it restricts the repatriation of profits more than most European countries do.

In one area at least, private businessmen have little to complain about. Because Portugal's middle class is so small, the redistribution of wealth through direct taxation is simply not on—not even as a political slogan of the extreme left. Direct taxation is among the lowest in Europe, and has actually declined since 1974 as a percentage of budget receipts—from 21% to 18%, compared to a fall in indirect tax receipts from 48% to 45%. In almost all other countries in western Europe, direct taxes are a larger source of revenue than indirect ones. Not surprisingly, the burden of tax in Portugal is appreciably lower than that in the rest of western Europe, with enterprises such as Lisnave exempt from any form of company taxation.

Even an idealistic socialist government, as the present one was when it took office in July, has found there is little that can be done to redistribute incomes. Social spending this year will be lower, as a proportion of the budget, than that of other western European countries, and the government's principal attempt to better the lot of the poor has centered on the introduction of a minimum wage of about $115 a month. But Portugal's "dual labour market", in which workers living in Portugal's coastal belts earn much more than their impoverished brothers in the interior, makes it almost impossible to enforce the minimum wage throughout the country. Women textile workers—about four-fifths of all those employed in the industry in the interior—earn an average of about $50 a month. About 400,000 Portuguese work in cottage industries of this kind. Of the 1m people employed in agriculture, the minimum wage has only affected farm-workers in the south, not the much greater number of farmers who are their own bosses in the north. Among the 2.6m salaried workers, there is a yawning gap between minimum wage earners and workers in modern, highly industrialised sectors in the Lisbon-Setubal belt and the Oporto—Braga area, who earn an average of $180 a month.

THE IDLE QUARTER

Portugal's economy must be revived if the unemployed are to be rescued from poverty. Under the old dictatorship there was a high rate of under-employment, but a low rate of wholly unemployed. Most people had a job of sorts, if only helping seasonally on the land, or selling lottery tickets in the streets, or as bootblacks, or knitting at home in the underpaid textile industry, or as domestic servants. Wages were low, but most families got enough to live on by putting two or three part-time employments together.

Immediately after the coup in April, 1974, the rise in industrial wages actually pushed up employment in these fringe jobs temporarily. But, as the economic recession deepened, Portugal's under-employed became Portugal's unemployed. It was extremely difficult in the revolutionary climate of 1975 to lay off industrial workers, but the ranks of the unemployed were swollen by a large number of young people coming on to the labour market, by Portuguese emigrant-workers who returned home and by soldiers demobbed from the army. And to those ranks were added the retornados: the nearly 1m settlers who had gone to build a new life for themselves in Portugal's colonies, and who had fled from the conflicts in Angola and Timor and the Marxist takeover in Mozambique. They returned broken-spirited to the country whose horizons they had found too narrow years earlier. Officially, unemployment is now at about 18 percent, representing over 500,000 of the country's workforce of 3m people. In fact it is probably as high as 25 percent.

About two-fifths of the newly unemployed are industrial workers, among whom Communist influence is strong, and the authorities fear that sparks of violent protect could be kindled into flame. Many of them live in the Lisbon area. The retornados, on the other hand, are the stuff from which counter-revolutions are made. Bitterly critical of the coup in 1974 which sent Portugal packing its colonial bags, the retornados are an understandably angry lot. They support Portugal's conservative parties. Many would welcome a return to right-wing dictatorship. Some still cherish the unrealistic hope that one day they will be able to go back to Africa. Some of the retornados have worked closely with anti-communist black leaders—such as the exiled Mr. Domingos Arouca from Mozambique or Mr. Jonas Savimbi in Angola. Some have protested violently. They did so once in 1975, when Lisbon banks refused to cash the Angolan money they held, and again in February this year, when the government offices in the Algarve fell behind in their social security payments to the refugees. In March, the retornados demonstrated outside parliament in support of their new champion, the independent deputy, General Galvao de Melo, who was expelled in April from the Centre Democratic party. Even so, the government, which had long been worried about the use right-wingers might make of the grievances of the retornados, now feels it is getting on top of the problem.

Money has, of course, provided part of the answer. The government has introduced a "social pension", roughly equivalent to Britain's social security payments, which gives the urban unemployed worker $26 a month, and the rural unemployed worker, who lives more cheaply and is less of a political worry to the government, $13 a month. The retornados have also been given a lot by a country which has little to give. When the biggest flow of refugees came from Angola, in the winter of 1975–76, the retornados were housed in camps outside Lisbon and, at the expense of the state, in Lisbon's hotels. Altogether, the Institute for Assistance to National Refugees (IARN) spent $308m in 1976, of which $108m went on housing. The rest went on schools, medical care, clothing and other essential services. Single refugees are entitled to $65, married couples to $130, and each child to $13 a month. The refugees do not receive the "social pension" as well.

IARN is run with military efficiency by a high commissioner for the refugees, a senior army man, Lieutenant-Colonel Gonçalves Ribeiro. His aim is to get the refugees off his books and into jobs as soon as possible. "We need to create 100,000–120,000 jobs and as many houses in the next few years", he says. But the social background of many of the retornados makes job-hunting doubly difficult. More than half of the retornados are under 16, which has put a burden on schooling. Two-thirds of the retornados worked in service industries, while only 20 percent were industrial workers and 4 percent were farmers. By last year jobs had been found for about 33,000 of them, leaving 112,000 still looking for work. IARN at the end of 1976 was still paying the board and lodgings of 24,000 families out of the 147,000 on its books, most of them housed in small pensions and hotels. The rest had found somewhere else to live, usually with the families they had left behind when they set out on their short-lived African adventure.

Lieutenant-Colonel Ribeiro's idea is to give the retornados generous credits to start their own small businesses. The Portuguese budget earmarks only $117m in direct assistance to the retornados in 1977, but offers credits of $170m for the setting up of new businesses by the refugees. Most of the money already borrowed by them has been invested in small farms, at the high average cost of about $4,820 for each new job created. "By the end of 1980 the words retornado and refugee should have disappeared from the daily vocabulary", says Colonel Ribeiro optimistically.

But that may well be easier said than done. Some of the retornados are living relatively comfortably on their monthly allowances. Others are not. Inevitably, there have been scandals. Crooked hotel keepers, for example, have overcharged IARN at the *retornados'* expense. In some boarding houses, large numbers of *retornados* have been jammed into one room, while the landlord picked up the bill for lodging them separately. Many other Portuguese view the retornados as scroungers living off state subsidies. Many other refugees feel themselves exploited by the natives, and gather in idle, frustrated groups to grumble in Lisbon's central streets and squares. The retornados have brought a drug problem with them back from Africa, and most Portuguese hold them responsible for the recent upsurge in violent crime. There were 43 murders in 1975, compared with only 29 the year before. Antipathy between the two communities should not be exaggerated, for the Portuguese are a temperate people—but the social strains are already apparent.

Nor has the flow from Portugal's ex-colonies ended. The government, its kitty empty, announced that refugees returning after November 30, 1976, would not qualify for assistance. But the Portuguese embassies in Timor (now occupied by Indonesia) and Mozambique do not seem to have got the message. Permits are still being issued in large quantities to families fleeing from both countries. "We were afraid our possessions would be confiscated and we would be herded into concentration camps", a young woman refugee explained to your correspondent. The

flow of refugees increased after the Mozambique government in March gave people who retained Portuguese nationality two months to leave the country.

The problem created by these new arrivals was dumped on the doorstep of the Portuguese Red Cross, whose tiny staff was being worked to the bone coping with a weekly influx of up to 150 people. Destitute families arriving at Lisbon airport had to wait days on end while Red Cross officials chide the ministries into providing them with food and lodgings on an ad hoc basis.

The government grudgingly agreed to reimburse the Red Cross for the cost of housing and looking after new arrivals—most of whom got a paltry allowance of less than $1.50 a person a day. In May the government announced that the latest refugees would qualify for assistance from IARN. Nearly half the new arrivals are black. This could sow the seeds of racial tension, although the Portuguese are, with some reservations, an attractively colour-blind people. Portugal's government has at least made a better start than France did after the Algerian war even though it has been faced with a problem that, in relative terms, is at least ten times as great.

HEALTH AND STRENGTH

Under Salazar, the unemployed were hardly given benefits at all. About 1½m of them were, in effect, simply exported abroad as migrants to a booming Europe. Old people were looked after by their families, not by the state. The poor were given alms by the church. Only Lisboners, the rich and the very sick went to good hospitals. Schools were socially selective, and the poorer ones were understaffed and under-equipped.

A Socialist government with social ambitions and very little money to spare has just begun to cover the first few miles of the marathon it has to run to put matters right. Retirement pensions have been doubled since 1974, to about $30 a month, and the government has started spending money on old people's homes, and on day-centres and medical assistance for the elderly. The health service is being reorganised and expanded: treatment will be free to all living on "social pensions" and to children, but others will have to pay between 25 percent and 40 percent of the cost of treatment, depending on income.

Portugal has no shortage of doctors—there is one for every 900 people now, and by 1982 this is expected to narrow to one for every 500. But the minister for social affairs, Mr. Armando Bacelar, believes that they are too heavily concentrated in the big cities of Portugal, particularly Lisbon. Medical facilities in the provinces are rudimentary in the extreme. The minister intends to make tours of duty in the provinces a compulsory part of medical training. He wants to attract young doctors to the regional health centres and mobile clinics he hopes will increase in numbers over the next few years. The district hospitals, now the Meccas for general health care in Portugal's provinces, should, in his view, deal only with serious cases. The central hospitals in Lisbon and Oporto will become more specialised than they are now. Mr. Bacelar hopes optimistically that private medicine, which flourished before 1974, will quietly die out in competition with an efficient state system.

Education also has a high priority in the government's welfare plans. Educational reform is almost as hot a political potato as agrarian reform. The old educational system under Mr. Caetano had two major faults. It was political: children were indoctrinated from an early age in the virtues of the "greater Portugal"—the mainland and its African colonies. And it was selective. At 12, most children left school. The ones who stayed were streamed either into superior lyceums to go on with academic work or into inferior schools to learn industrial skills. The technical courses lasted four years, at the end of which bright pupils went on to technical institutes. Lyceum courses lasted three years, followed by two optional years of further education, which could take pupils to the universities. Oddly enough, because the technical schools were mostly concentrated in towns and the lyceums in the country, the universities drew a disproportionate number of entrants from the country. As a result many top Portuguese come from poor families in remote country areas.

Just before the fall of the old order, a progressive minister of education, Mr. Veiga Simao, announced plans to replace the old system by a comprehensive scheme. All children would go through the same mill—a single teacher at primary level for the first four years, and different teachers for different subjects at preparatory and secondary levels up to the age of 16. Two years' further education would produce students for the universities and technical colleges. Even students on technical courses would, after three years, get the chance of going on to gain a doctorate at university. Four new universities—at Evora, Braga, Aveiro and Lisbon—were planned to complement the four already existing at Coimbra, Oporto and Lisbon (where there were two). But Mr. Simao was swept out on the revolutionary tide before he had completed his reform. As a result, the educational system is now a chaotic muddle of comprehensives, lyceums, technical schools and private schools. (Mr. Mario Soares, the prime minister, is a part-owner of one of Portugal's most famous private schools.) Most Portuguese educationalists still hope the Simao reforms will be implemented. Not all was stagnant under the old regime, it seems.

Nor were Mr. Simao's reforms the only things to suffer after 1974. In 1975, left-wing teachers took over the ministry of education and substituted Marxist textbooks for the old Salazarist ones. Schools were taken over by committees of management, elected by teachers, pupils and domestic staff alike. Parents, those embodiments of bourgeois values, were firmly deprived of any say in the new system. The old Portuguese marking system—all work was given marks of between 0 and 20—was abandoned. Classes were examined on their collective work and pupils were given a say in marking. Most of the universities and many of the schools were closed by strikes for long periods in 1975.

This mess was dumped on the plate of Mr. Sottomayor Cardia, a mild-looking ex-Communist who became the Socialist minister of education when Mr. Soares took office. Mr. Cardia's actions were anything but mild. He fired 300 left-wingers from the ministry of education and then successfully defied a series of protest strikes. The textbooks were changed once again this time away from politics and towards academic work. Mr. Cardia proposed a law to regulate the management committees. Under pressure from the Socialists' unofficial coalition partner, the Centre Democrats, he introduced a parental say into the system. And the old 0–20 marking system came back with a vengeance—over the protests of even conservative teachers, who found it too inflexible.

Mr. Cardia has shown himself good at wielding a cane. He has taken the tough disciplinary action needed to restore order in the schools. Portugese educationists are waiting for him to show he can modernise a system which is now almost back to where it was in 1974. But he will need a lot of money to do it.

FROM AFRICA TO EUROPE

Today Europe is the be-all and end-all of Portugal's foreign policy. Mr. Soares has staked his government's existence and his personal reputation on Portugal's entry into the EEC. In March he presented Portugal's formal application to join the community. Both the other democratic party leaders, Mr. Sa Carneiro and Mr. Freitas do Amaral, have pledged their full support to the prime minister's efforts to gain entry. Two of Portugal's political parties—the Socialists and the Centre Democrats—are closely linked to socialist and conservative parties elsewhere in western Europe. Europe is seen by all the democratic leaders as a political and economic lifeline which will enable democratic Portugal to survive.

Members of the European club may wonder what all the fuss is about. The answer is that Portugal wants to be accepted. It is a small country whose impact on the world, since the days when Henry the Navigator sent his ships down the coast of Africa in the fourteenth century, has far exceeded its size. Portugal's ex-colony in South America, Brazil, has become the most powerful country in that continent; and Portuguese traders and administrators have left their mark on Angola, Mozambique, Sao Tomé and Guinea-Bissau in Africa, on Goa in India, Macao in China and Timor in the East Indies. Largely ignored by Europe, Portugal has looked to other continents for the power it has usually wielded through trade, and not by force of arms. The empire dominated Portugal's political aims to a much greater extent than the empire ever dominated British politics. Geographically and culturally in Europe, the backwardness of Portugal's economic and political system made it something of an adjunct to its African colonies.

Economically, EEC membership may not make much difference to the Portuguese, although private industrialists hope that competition from EEC countries will make Portuguese governments more economicallly realistic. Under a 1973 trading agreement, signed when three of Portugal's old Efta trading partners joined the common market, the community still maintains tariff barriers against many Portuguese goods, particularly textiles and agricultural products such as canned fish and sardines. There are also quotas on the amount of Portuguese wines and cork that can be brought into the community. On the other hand the EEC has been benefiting from the gradual abolition of Portuguese tariffs on the goods of its member countries. Most of Portugal's tariffs will be phased out this year, although duties of up to 20 percent can still be levied on EEC goods that compete with new Portuguese manufacturing industries. But even these are due to lapse by 1985. Paradoxically, because of Portugal's current economic weakness, the deadlines for the ending of tariffs may actually be extended if a transitional period for EEC entry is negotiated. The Portuguese as well as members of the EEC are now talking in terms of a transitional period of as long as 15 years. But, however long this period, Portugal's immediate political aims would be satisfied by membership of the EEC's political institutions in the near future.

Portugal's accession to the EEC is unlikely to cost the community much in the short term, although its economic backwardness could act as a drag on the community's policies in the longer one. Mr. Vitor Constancio, the able young economist in charge of Portugal's economic negotiations with the EEC, says that the agricultural policy will have to be modified, "because as it stands, Portugal will be a net contributor to the agricultural fund, which is clearly ridiculous". Only in such areas as wines, tomato concentrate and textiles are Portuguese goods likely to be competitive within the EEC. Portugal will add a new burden to the EEC's overworked social and regional funds, and will make the EEC's council of ministers, in which each country has a veto, larger and more unwieldy still. But Portugal is a small enough country for the richer EEC countries to carry without too great a strain.

The real problem is that Portugal's ap-

plication follows hard on that made by Greece and will, presumably, be followed by one from Spain. If the community accepts one of these, it probably will have to accept all three. Not surprisingly, the members least happy about this state of affairs are those southern European countries with large agricultural interests—France and Italy—that will face the greatest competition from the new members. But with Germany and Britain (which, after all, is already Portugal's largest customer and faces stiff competition from Portugal in textiles and footwear) pressing hard for Portuguese membership on purely political grounds, France and Italy will probably fall in line with them.

Some EEC members have been known to argue that Portugal's democracy is not yet secure, adding that an army coup in a common market country would be a great embarrassment to the community. The Germans and British reply that the best way to ensure that Portugal stays democratic will be to open the EEC's doors. Because Portuguese membership of the community will provide little immediate economic benefit to either party, the decision to let Portugal in will require the community to exercise its political will. Its member countries are being asked in effect to show that they can live up to the faith that Portugal's democrats have put in them over the past three years. So far at least, for all the private grumbles, none of the EEC prime ministers whom Mr. Soares met in his whirl around the community's capitals in February and March seems to be willing to be branded as the man who shut the door in Portugal's face. But they may still keep Portugal talking in the doorway for a little while yet.

Portugal could one day have a more important role to play in Europe than it currently exercises. Its unique geographical position and ports make it a gateway to the central Atlantic. Its links with the emerging superpower of Latin America, Brazil, and two of the potentially richer countries in Africa, Angola and Mozambique, could make it a useful ambassador for the community in some parts of the wider world. The trading skills of its people could make the country, as one Portuguese industrialist put it, the "Singapore of Europe." That may sound optimistic but the Portuguese are a hardworking, able people whose misfortune it has been to have been badly governed for too long.

The modernisation of Portuguese society has much farther to go than that of Spanish society. That is another reason why western Europe should go out of its way to help Portugal. Portugal's politicians have succeeded in pulling democracy out of the barrel of a gun in a country whose social organisation makes democracy anything but the natural form of government. The country's rulers are now wrestling with problems that would shake even a rock-solid democracy to its foundations—an appalling economic crisis, massive unemployment, the integration of refugees and a revolutionary Communist party. Unless democracy gets on top of these problems—all of them, incidentally, the legacies of dictatorship—a new set of army rulers could come to power. But Portugal's luck may still hold. In General Eanes it probably has the only leader capable of withstanding the pressures from the right. Both he and the democratic parties will need all the help from western powers that they can get.

One of the hoariest clichés of Iberian political gossip, designed to show the moderation of the Portuguese temperament, is to point out that in Spain they kill the bull in a bullfight, and in Portugal they do not. True, but the Portuguese lead it away, bleeding, to the abattoir afterwards. Portugal's revolution has been tamed (not easily) and is now an almost docile democratic animal. It will be a tragedy for Portugal and the western world if it is allowed to be led away to provide for the colonels' plates.

THE 3M CO. IS 75 YEARS OLD

Mr. HUMPHREY. Mr. President, some 75 years ago, on June 23, 1902, articles of incorporation were filed for what has become a worldwide, diversified manufacturing organization of 80,000 people. I refer to Minnesota Mining and Manufacturing, commonly known as the 3M Co.

A butcher, a doctor, a lawyer, and two railroad men were the five original incorporators of 3M at Two Harbors, Minn., on the north shore of Lake Superior in the center of North America. Their plans to mine a useful abrasive mineral never were realized. Consequently, the word "Mining" as part of the 3M name is a misnomer. But they turned to manufacturing, and their small firm grew by converting the needs of society into business opportunities.

First it was a sandpaper, a pervasive tool of industry, to help smooth the world's rough edges. Then, Scotch brand tapes and adhesives to help hold an expanding world together. Today—through privately financed industrial research and development, through careful customer service, through quality control and truth in marketing—the list of 3M products and services has grown to include office systems and electrical products for better human communications, reflective signing for safer roads and bridges, new health care products for patient comfort, and packaging materials for fresher food—some 40 major product lines in all.

Too often in our interdependent civilization, we forget the relevance of sandpaper to pipes and plowshares, of tapes and other packaging materials to food and shelter, of all the behind-the-scenes technology that goes into the fabrication of wheels and wings and bridges to bring people together. Just as we tend to take for granted the marvels of magnetic recording tape—one of many 3M developments—we also tend to take for granted water at the push of the tap, light at the flick of switch, mobility at the turn of key, and a helpful human voice at the other end of a telephone line. As a trusted supplier of essential tools, materials, and equipment to others in industry and commerce, 3M is a partner in filling all of these and other categories of human need.

On this anniversary of 3M Co.'s founding, I salute the people who have made possible such a fruitful, efficient, and productive socio-economic mechanism, mindful not only of the firm's good record as a taxpayer and of its thousands of industrious employees, but also of its more than 100,000 shareholders who reinvest some of each year's earnings, as seed money, in new and often risky ventures.

From HHH to MMM, my friends and neighbors in Minnesota and elsewhere, I say Godspeed in pursuing your stated anniversary objective: to perpetuate the vitality of an organization which provides not only jobs and careers for many people, but also useful goods and services for others in society while exercising a prudent regard for all the resources entrusted to your use.

SENATOR McINTYRE RECEIVES PUBLIC SERVICE AWARD

Mr. NELSON. Mr. President, as chairman of the Senate Small Business Committee, I am pleased to report that during Small Business Week, the Senator from New Hampshire (Mr. McINTYRE) was honored with a presentation of an Outstanding Public Service Award at the 10th annual meeting of the Small Business Service Bureau in Worcester, Mass.

Senator McINTYRE ranks next to the chairman on the majority side of the Small Business Committee on which he has served as a distinguished member since 1969.

The senior Senator from New Hampshire has been conducting a variety of investigations over the years with impressive results. As chairman of the Senate Small Business Committee's Subcommittee on Government Regulation, his public hearings commencing in 1972 made the burdens of paperwork a national issue. His on-going hearings in this field laid the foundation for the creation of the Commission on Federal Paperwork, and he was appointed co-chairman of that body.

When the Small Business Committee joined with the Private Pension Plans Subcommittee of the Senate Finance Committee to hold hearings on the burdens of compliance under the Pension Reform Act of 1974—ERISA—Senator McINTYRE undertook to co-chair two of the sessions in an effort to gain implementation of the recommendations of the Paperwork Commission in its special report on ERISA paperwork published December 3, 1976. As a consequence, we have prepared legislation to implement all of these recommendations as well as the testimony of other witnesses in the hearings.

Because of the diligence of such men as Senator McINTYRE, it has been possible for the Senate Small Business Committee to hold 107 days of public hearings during the 94th Congress, 1975–76, and 38 days so far in 1977.

In accepting the award, Senator McINTYRE pointed out that about 100 of the 300 recommendations of the Paperwork Commission have already been adopted with an estimated saving to American citizens and the Government of approximately $1 billion. The Senator also commented on recent activities and accomplishments of the Senate Small Business Committee.

Accordingly, I ask unanimous consent that excerpts of Senator McINTYRE's Small Business Week address be printed in the RECORD for the information of all concerned.

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

REMARKS BY SENATOR McINTYRE BEFORE THE SMALL BUSINESS SERVICE BUREAU, WORCESTER, MASS.

Senator Humphrey, ladies and gentlemen: I want all of you to know how proud I am of the award your organization has given me.

To be designated for "Outstanding Public Service" is a most appreciated honor, I assure you. But I must confess I'm somewhat embarrassed by being honored for simply following my conscience and doing my duty.

You see, I believe in small business.

I know what small business means to America.

To honor me for doing whatever I can to enhance the viability of small business, to bolster its capacity to compete, and to free it from crippling over-regulation and smothering paperwork is to reward me for carrying on a labor of love.

I want you to know that there is no man in public life today with whom I would rather share a platform than this truly great American, the Honorable Hubert H. Humphrey.

I'm sure what he has to say today will be eminently worth while, so my own remarks will be brief.

They say that each of us is the sum of our genes and our personal experience. And maybe that explains why I have always felt the way I do about small business.

You see, my father was a small businessman. I knew what it meant to him. And I knew what it meant to the community where I grew up.

I didn't know then what I know is true today—that there are thirteen million members in the small business constituency, that small business employs half of the nongovernment work people in this country, provides a third of the actual production and almost half of the Gross National Product.

But even so, by the time I first arrived in the Senate in 1962 I had some pretty solid convictions about small business, its worth to the economy and to society, and I was determined to do whatever I could to respond to its legitimate complaints and relieve its genuine problems.

Now I use the words "legitimate" and "genuine" deliberately, for you know as well as I that small businessmen are no different than any other group of Americans, that sometimes their complaints are not so legitimate and sometimes the problems are more imagined than real.

The challenge for me has been to concentrate on the legitimate and the genuine. And I hope I've had some success in accomplishing what I set out to do.

Now one of the most legitimate complaints voiced by small business is the complaint about government paperwork compliance.

So I was pleased to accept the co-chairmanship of the Commission on Federal Paperwork when that Commission was appointed to find ways and means to reduce the paperwork burden.

The Commission is now winding up its two year assignment and I think its accomplishments to date are quite impressive. More than 100 of the 300 recommendations it has made have been adopted, and the resulting reduction in paperwork is saving citizen and government an estimated billion-plus dollars.

One significant item of legislation coming out of a Commission recommendation will save small business some $360 million next year. I refer to the switch in wage reporting to the Social Security Administration that goes into effect in January. From that time on, employers will be required to file such reports only once a year—instead of quarterly.

Commission staff members are about to submit additional reports on housing, public works, Title XX, paperwork clearance processes in the government, paperwork impact on labor unions, welfare reform and doing business with the government, for consideration by the Commission at its June 10 meeting.

Included in the new reports is a recommendation that small businesses be allowed to sell the Federal government up to $10,000 in goods and services and submit only a simple invoice in order to get paid. Right now a sale of more than $2,000 requires the seller to complete reams of paperwork before he gets his money.

But while I have been pleased to co-chair the Paperwork Commission and though I am gratified by the Commission's accomplishments to date, my major efforts in behalf of small business are made through the Small Business Committee and the subcommittees I chair on Government Regulation and Small Business Advocacy.

Now I have no intention of recapping those efforts through the years but let me just give you a quick run-down on some current activities.

Last Thursday, for instance, the Senate passed the Small Business Administration authorization bill.

The Committee asked for $906.5 million, with $150 million earmarked for direct government loans to small businesses $40 million for loans for the handicapped businessman $60 million under the economic opportunity program $40 million for local development companies, and $200 million in direct and guaranteed loans to small business investment companies which provide capital for businesses to create jobs.

The bill also would provide money for loans affected by the energy crisis, dislocated by Federal and State programs, and for water pollution control.

One of the programs we were determined to make sure gets enough money to operate properly is the Advocacy Office at SBA. The Advocacy Office is designated to work with other agencies to cut down government red tape and over-regulation and to provide a place in the government where a small businessman can go when he is faced with a specific regulatory problem that he feels is adversely and unfairly affecting his business.

We also hope to expand SBA's management assistance program. Under our bill, SBA would be directed to develop effective training programs for businessmen and women.

The SBA authorization bill also provides that the SBA can allow some loan repayments to be deferred when it appears that a company will be able to repay its loan in the future.

Still another feature of the bill would give the SBA final authority to oversee the certificate of competency program in order to end discrimination between big and small business. A certificate of competency, as you know, declares that a company is able to meet the performance requirements of a government contract.

And I'm happy to report that the Senate also increased the level of assistance under the SBA's disaster relief programs.

So now all we can do is hope the House will go along with us.

Let me close now with but a brief mention of one other area where I've been deeply involved in recent years—small business's role in developing alternative sources of energy.

As some of you know, I've been an enthusiastic backer of solar energy. Tomorrow I'll be chairing hearings on small business and energy research in Portland to explore New England's potential for alternative energy development.

On May 25 in Washington I'll be chairing hearings on S. 807, my bill to provide a loan fund for small business to get money to market, merchandise and install solar energy and energy conservation equipment on buildings and homes. The total amount of the loan fund is $75 million and that could result in bank guaranteed loans to small businesses totaling as much as $500 million.

Well, I've gone on too long, but sometimes I get carried away when I talk about small business, its contributions, its potential, its problems and the help it needs.

To me this is as clearly evident today as it was when I first came to the Senate fifteen years ago: A strong small business community means greater employment, a better development of our resources, more stable communities, healthy climate for competition, and a better break for the nation's consumers.

It's been a privilege and a pleasure to meet with you during National Small Business Week, and in closing I want you to know that the honor you have paid me is deeply appreciated and will be forever cherished.

THE NEEDS OF SENIOR CITIZENS

Mr. STEVENS. Mr. President, I submit for insertion into the RECORD today a speech which my respected colleague, Senator PETE DOMENICI, recently delivered before the American Health Association's Spring Congressional Conference.

The newly restructured Committee on Aging provides a much better forum for addressing the needs of our Nation's senior citizens. The major initiatives taken by the committee since reorganization was completed have gone a long way to enhance the physical comfort and financial security of older Americans. Senator DOMENICI's speech outlines some of the many areas in which the committee has met the challenge posed by our ever-growing community of senior citizens. Much more remains to be done, however, and I know that Senator DOMENICI and his colleagues will do even more in the months and years ahead to insure that the lives of our older Americans are made as productive and satisfying as possible. I applaud Senator DOMENICI for his efforts on behalf of our senior citizens and I am pleased to have this opportunity to share his speech with you, and ask unanimous consent that it be printed in the RECORD.

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

AMERICAN HEALTH ASSOCIATION'S SPRING CONGRESSIONAL CONFERENCE

Mr. Cacich, Mr. Brewer, Ladies and Gentlemen. I am pleased to have this opportunity to participate in the American Health Care Association's Congressional Conference. As the Ranking Minority Member on the Special Committee on Aging, and as a member of the Senate's Budget Committee, I have had an opportunity to shape legislation, appropriations, and public policies which directly affect the quality of life of our nation's 22 million senior citizens.

As many of you know, the Special Committee on Aging underwent a major restructuring earlier this year. The size of the Committee was reduced from 23 to 9—and the seven subcommittees were abolished. Since February, I have worked to focus the Committee's attention on those areas where we can have maximum impact on public policy. A non-legislative, 23-member committee can have such diversity within its ranks that it is unable to set realistic priorities. I believe that the new—smaller—committee, functioning without subcommittees, is more cohesive and better suited to fulfilling the role we were designed to play.

Since the first of the year, we have directed our attention to four areas:

First, we have continued our ongoing investigation into fraud and abuse in the Medicare/Medicaid programs. I believe that many of you have heard of this particular series of hearings. Over the past several years, we have exposed evidence of fraud, abuse, and corruption in certain nursing

homes, clinical laboratories, home health care providers, the so-called "Medicaid Mills" and some individual physicians. One tragic aspect of our findings is that hundreds of millions of dollars of Federal and State funds are being "ripped-off" instead of being used to provide much-needed medical services to our poor and elderly citizens. I would be remiss, however, if I did not state at this point that the overwhelming majority of nursing homes—both proprietary and non-profit—have done outstanding work; and the abuses in a few should not diminish our appreciation for those which have given dignity, hope, and comfort to many thousands of infirm individuals.

The second major area of Committee activity has centered on the rising cost of energy and its impact on middle and lower income elderly. The energy situation is a very serious and complex problem. For the last four years our nation has been confronted by a crisis situation in the field of energy and we have not really risen to the challenge. In spite of the oil embargo in 1973, the steady rise in energy prices, and the bitterly cold winter of 1976–77, our nation still lacks a true "Energy Policy". The Carter Administration has become the third Administration to offer a comprehensive energy program to the Congress. The choices we face are extremely difficult; I cannot stress that point too often or too strongly. The policies we shape are going to change the lifestyles of our people—and change is never an easy or painless process. I am working to see to it that, whatever energy policy emerges from the 95th Congress, takes into consideration the special needs of older persons who are living on fixed and limited incomes. I would note that only time will tell whether this President—and this Congress—have the courage to really come to grips with the energy problem and, in doing so, find meaningful short-range and long-range solutions to this dilemma.

The third area on which the Committee has focused its attention is the still somewhat nebulous concept of "alternatives to institutional care." Many people in the nursing home industry who have talked with me have expressed the fear that efforts to develop alternative services are really designed to depopulate existing institutions. This is not the case!

During her testimony before the Committee on May 17th, Dr. Marie Callender, formerly HEW's Special Assistant for Nursing Home Affairs, noted that originally ". . . nursing homes were seen to be alternatives to hospital care." She went on to express her belief that it may not be cost effective to encourage early discharges from nursing homes—but it certainly would be cost effective to seek ways to prevent unnecessary early admissions. As the size of our elderly population increases, there will be a continued, and even growing, demand for a wide range of supportive services—including institutional care. We need to develop a whole range of community-based services to supplement, not replace, existing long-term care facilities. I support the development of home health services, homemaker services, nutrition services, day care services, community mental health center outpatient services, foster home care, as well as long-term institutional service. There are tens of thousands of elderly persons across this nation who have the desire and the ability to remain in their own homes—in their own communities. In a free society such as ours, those individuals should have the right and the ability to exercise their freedom of choice. But for those individuals who are no longer able to sustain an independent lifestyle—quality institutional care must be available to help them meet their needs. I support the development of alternative services even though I recognize that they cannot fill all the needs of our elderly population. From my governmental experience on both the national and municipal levels, I can say to you in all candor that I am not even certain that the delivery of comprehensive in-home services would be less costly than institutional care.

The fourth area of Committee activity this year revolved around ongoing efforts to reform the Food Stamp Program. As you know, this program has grown very rapidly over the last decade and it now costs the Federal Government almost 5.5 billion dollars a year. While the Senate's Agriculture, Nutrition, and Forestry Committee was drafting a Food Stamp Reform bill—the Special Committee on Aging held two days of hearings designed to highlight the special needs of older persons vis-a-vis this program. A number of these suggestions, such as the elimination of the purchase requirement, were contained in the reform package that passed the Senate earlier this year. This kind of impact on the various authorizing committees is one of the important roles the Special Committee on Aging can fulfill. I strongly support this new activist role for our Committee and I hope to see its influence increase over the coming years so that we can be a more effective spokesman for the needs of our senior citizens.

These four areas, some more far reaching than others, have been the focal points of our Committee's activities so far this year. I believe the new—post-reorganization direction taken by the Committee is a healthy and productive one, and I intend to continue working to make the Senate Committee on Aging a truly effective advocate on Capitol Hill for the needs of Older Americans.

I would like to take a few minutes to explore in greater depth my own views on the delivery of health services to America's 22 million senior citizens.

Medical science has probably advanced more in the last 35 years than in all the previous history of mankind. Notwithstanding this progress, it is clear that we have not been able to deliver to all our citizens, wherever they may live and at a price they can afford, the quality medical care that we are capable of providing.

Nursing homes have been a relatively modern development. At the beginning of this century, nursing homes were virtually unknown in the United States and there was apparently no great demand for institutions providing specialized care for older citizens. In 1900, only about one out of every 35 Americans reached the age of 65. Those that did rarely experienced any change in their life styles or working arrangements. For the most part, older workers continued in their occupations without interruption until death or disability intervened. Concepts such as retirement and expanded leisure in old age had not developed at this point in our history. Changes during the last three decades, however, began to rapidly transform this picture.

The number of persons reaching old age began to increase dramatically and thus more families faced the prospect of caring for and supporting dependent parents or other relatives. At the same time, other factors such as industrialization, the growing mobility of our population, and other economic and social changes were combining to make it increasingly difficult for families to meet all of their traditional responsibilities to dependent older family members.

The nursing home industry developed as a response to these changes in our society and undoubtedly received its greatest impetus from the enactment of the Medicare and Medicaid programs in 1965. These programs greatly expanded the Federal Government's interest in and financial commitment to long-term institutional care.

During the 1960's, the number of nursing homes in the United States increased by 25%. Today, we have over 22,000 long-term care facilities and the resident population in nursing homes now exceeds one million people. This number is expected to double by the year 2000—which is less than 25 years away.

In recent years, Congress has begun to concern itself with non-financial matters such as nursing home standards, quality and appropriate levels of care, utilization, and alternatives to institutionalized care.

While there are many reasons for the rising cost in the health care area, there are also inefficiencies and waste in the system which must be eliminated. Every health facility cannot and should not do everything. There are numerous examples of needless duplication of services offered by hospitals. Some experts estimate that as many as 30% of the hospital admissions are unnecessary—and our goal must be to provide the appropriate level of care needed. The General Accounting Office in 1971 issued a report to the Congress which concluded that many patients in nursing homes do not require skilled care and should have been provided with less intensive services. Thus we can conclude that there are not necessarily too many nursing home beds—but a partial mismatching of existing resources with the truly infirm elderly population.

Of secondary concern is the fact that millions of Americans do not have access to quality care because of a lack of adequate insurance or adequate income. Again, we are making progress in the financing of medical cost. For example, in 1950, only 50% of our population had health insurance. Today, approximately 90% have some form of protection. Of course, such protection does not mean adequate coverage, and we are now engaged in a national debate as to what form a national health insurance program should take.

Today, one out of every 10 Americans is age 65 or older. Six million of our senior citizens are below the poverty level. Only 14% of our 20 million elderly citizens have no chronic conditions, diseases, or impairments. Individuals over 65 see a physician more often—and have more and longer hospital stays. In any one year, a person over 65 has one chance in 7 of requiring a short-term hospital stay and one chance in 25 of requiring long-term institutional care. The chances of needing some form of long-term care obviously increase with advancing age. I would note, for clarification, that—when I use the term long-term care without a qualifier, I am referring to a broad range of institutional and home delivered services.

I believe that this nation must develop a national policy on long-term care. As unbelievable as it may seem, no such policy exists today and the Congress has tended to respond to the challenge in a piecemeal fashion—leading to fragmentation and serious inequities. The absurdity of some of our policies may be seen in the case of a Florida man who was forced to divorce his wife of many years in an effort to qualify her under Medicaid so that she could secure the necessary medical treatment. A national policy that would produce this result is unbelievably inhumane—obviously such a system cries out for attention.

In shaping that new policy, we must keep in mind the fact that Medicare was never designed to provide long-term care benefits. Medicaid was designed to meet the medical needs of the general—low income—population, not those specifically related to the elderly. In addition, while the Medicaid law reflects the limited constraints of the traditional medical view of health services, it does, however, provide custodial care and other services not covered by Medicare. The Congress must recognize that the current long-term care delivery system is not

adequately meeting the needs of our older population.

Several approaches designed to correct this deplorable situation will soon be introduced in the 95th Congress.

Senator Heinz of Pennsylvania plans to introduce in the not too distant future, the long-term care amendments of 1977 that will seek to completely overhaul the way long-term care services are delivered to the elderly. This bill, which is similar to legislation he introduced in the House of Representatives in 1975, would establish a Long-Term Care Service Program within Title XVIII of the Social Security Act. Medicaid would be replaced as the funding vehicle for Long-Term Care Services and a comprehensive strategy would be developed that would strike a harmonious balance between medical services rendered in institutional and non-institutional settings. In short, the Long-Term Amendments of 1977 will completely overhaul our nation's long-term care delivery system. Senator Heinz advises me that he has structured this bill so that it can either be enacted on its own, thus reforming the way long-term care services are delivered in this country, or be incorporated into an overall national health insurance program; whichever comes first.

In addition, I am working on legislation that would streamline and strengthen the delivery of home health and supportive services within the framework of the existing Medicare/Medicaid/Title XX programs. This legislation which is now in the drafting stage, is a direct outgrowth of the recent hearings we held on "alternatives" to institutional care. My objective in drafting this legislation is to broaden and simplify the existing programs of home-delivered services. At the present time, Parts A and B of Title XVIII—Title XIX and Title XX all provide some home-delivered services. But the ability to provide these services is severely hampered by a confusing, intricate, and often inconsistent maze of regulations, guidelines, and directives. I would like to see, at the very least, greater uniformity in the funding mechanism and the Federal standards for home delivered services. Narrow constraints, such as the 3-day hospitalization requirement, the limit on allowable visits, the emphasis on acute or restorative care, etc., should be eliminated.

I would like to see a complete overhaul of our entire long-term care delivery system. I would like to see us replace the present system with one that would deliver services in a comprehensive, coordinated, and coherent fashion. Such a system, encompassing both medical and non-medical services delivered in institutional and non-institutional settings, could begin to meet the patient's needs—rather than the other way around.

Other legislation that could well see action in the 95th Congress includes a measure to combat fraud and abuse in the Medicare/Medicaid programs and a second bill designed to reform the administrative and reimbursement mechanisms of these programs. I was pleased to find that the latter bill, he Medicare-Medicaid Administrative and Reimbursement Reform Act, recognizes the need for a reasonable profit margin in providing institutional services. I believe a more responsive and realistic reimbursement procedure would aid both profit and non-profit long-term care facilities, and I hope it will be promptly enacted.

A proposal which I hope is not enacted—promptly or otherwise—is the President's Hospital Cost Containment Act. I am as deeply concerned as anyone about the spiralling cost of hospital care—but I do not believe that the Administration's approach is a sound or workable one. Arbitrary controls and ceilings have a way of distorting the market and impeding the delivery of services over the long run.

In closing, let me mention one other legislative area which just might receive favorable action in the 95th Congress. I am referring to efforts to strengthen the role of the Congress in reviewing Federal regulations. While I do not believe that Congress can effectively review every Federal regulation, rule, guideline, and/or directive—I do believe that the enactment of regulatory reform legislation would make the bureaucracy more sensitive and responsive to the needs of our people. I never cease to be amazed by the volume of Federal rulemaking and paperwork. The Federal Government employs 84,773 regulators—4% of all Federal employees, excluding the military. The direct cost to the Federal Treasury is approximately 3 billion dollars, and the indirect cost to all sectors of our economy is vastly greater. Last year alone there were 57,000 pages of regulations in the Federal Register, down slightly from the year before. There are 5,536 approved Federal forms that require an estimated 130 million man hours for businesses and individuals to complete each year. I often wonder how State and local governments, non-profit corporations, businesses, and individual service providers cope with the growing burden of governmental "redtape" that ensnares all of these programs.

I am pleased to have had this opportunity to address your Congressional Conference. Congress faces many difficult decisions in the coming months and I am glad to have been able to discuss some of them with you. I hope that together we will find ways to overcome the problems which exist in providing comprehensive Long-Term Care Services to Older Americans.

PUBLIC OPINION: CRUCIAL ELEMENT IN CONGRESSIONAL LEGISLATIVE DECISIONS

Mr. HUMPHREY. Mr. President, yesterday, the Joint Economic Committee employed a relatively new and, in my judgment, valuable technique to improve the scope of information available to committees of Congress in their consideration of proposed policies and programs.

The JEC's Subcommittee on Economic Growth and Stabilization, of which I am cochairman, held a hearing yesterday at which representatives of five nationally prominent polling organizations presented the results of surveys which indicated public opinion and attitudes on a range of subjects. These include inflation, unemployment, the level of esteem in which the administration and Congress are held, the issues which the public thinks Congress should give priority, the Nation's energy crisis, and the administration's energy program proposals.

Mr. President, I particularly wish to call the attention of my colleagues to the results of the polls dealing with our energy crisis. Among other things they reveal a concern and a willingness to sacrifice that I think exceeds the impressions generally held by the Congress and the administration. I would also indicate the critically important need, indicated by opinion surveys, for an ongoing education program in this area by the administration

This is the second such hearing held by the subcommittees. The first was scheduled in the fall of 1975. Both were highly rewarding in terms of providing members of the committee and congress with a comprehensive view of what the public thinks Congress is doing right and what it is doing wrong and where Congress and the administration should be headed.

Mr. President, public opinion and public attitudes are too often missing from congressional hearings and congressional consideration of proposals aimed at shaping significant policies and programs. The bulk of hearing testimony is frequently presented by agency officials and representatives of special interest groups. Decisions are subsequently made by committees and by the Congress in the absence of a firm understanding of how the public will react to these changes. Policies and programs are implemented without knowing to what degree they will be supported by the people.

As a result, Congress, in a very real and crucial sense, often finds itself legislating in the dark regarding knowledge of how successful its efforts will be in terms of public acceptance and public utilization.

The witnesses who participated in yesterday's hearing were:

Richard Baxter, vice president, the Roper Organization; Richard Curtin, director, Surveys of Consumer Attitudes, Institute of Social Research, University of Michigan; Louis Harris, president, Louis Harris & Associates; Jay Schmiedeskamp, vice president, the Gallup organization; and Arthur H. White, executive vice president, Yankelovich, Skelly & White.

Mr. President, in order to provide the Members of Congress with convenient access to the findings of these five public opinion polling experts, I will present their prepared statements in the RECORD in two installments today and tomorrow.

A summary of the remarks of Louis Harris and Arthur White together with their prepared statements follow:

SUMMARY OF STATEMENT BY MR. LOUIS HARRIS

With Democrats controlling both Congress and the White House, confidence in both the legislative and executive branches is rising.

The majority of the public is not yet convinced that the nation is clearly traveling the road to economic recovery. Widespread belief continues to exist that we are still in the throes of recession. Renewed pessimism about the future of the economy has taken place in the past few months. People are frightened by the prospect of heightened inflation.

At the same time apprehension about increasing unemployment is diminishing. The majority feels the nation is again poised on the brink of another period of relatively favorable employment conditions, but spiraling inflation will diminish benefits from rising incomes.

Consumer expectations in terms of purchases remain flat or down from June to June 1976–1977. Consumer demand could be riding into real trouble during the next six months.

The vast majority of the people believe the nation has a long term energy shortage caused for the most part by waste, dependence on foreign oil, the reluctance of oil companies to tap new reserves and presumed decisions by oil companies to withhold natural gas and oil from the marketplace.

People are deeply worried by the energy shortage and believe that drastic steps are necessary to adequately meet the situation. Above all else, people want leadership in Washington willing to risk unpopularity if necessary to articulate the "tough medicine" required to do the job. In this vein, the public is far more willing than the leadership

believes to make sacrifices if such sacrifices are equitable.

SUMMARY OF STATEMENT BY ARTHUR WHITE

American families are much happier and more optimistic than they were two years ago. There is a prevailing sense of an improving economy and rising standard of living. But a large majority continue to worry about the adequacy of their income.

The recession has taken its toll among young parents. Eighty percent of the young parents polled say that economic security and providing for the family dominates inclinations to achieve self-fulfillment.

Inflation is considered to be the country's primary problem. A majority places the blame for inflation on a combination of factors consisting of energy costs, labor demands, and government spending. Union leaders point to energy costs, inadequate competition and business profit levels. The Financial community includes excessive regulation in the factors it believes are responsible for inflation.

The public continues to overwhelmingly reject wage and price controls, under present circumstances, but controls are favored by a majority if inflation again rises to double digit levels.

The majority of the business leaders polled said inflation should be fought by elimination of anti-competitive regulations, vigorous antitrust enforcement, reduction of government spending and encouragement of capital formation to improve and increase productivity.

The energy crisis is viewed as an economic problem by a majority. The high cost of energy is seen as a major contributor to inflation.

A large majority accepts the President's judgment that significant effort must be made now to solve the energy problem if the nation is to avoid a catastrophe in the future. Paradoxically, 59 percent of the people polled believe the President's energy program proposals are fair to them, but 58 percent believe that people are not willing to make the sacrifices the President has called for.

A majority believe the energy program contains too little emphasis on public transportation and the development of new gas and oil reserves.

Large majorities believe that energy costs will have greatly increased during the next five to ten years but that Americans will nevertheless still be living as well as they are now. They expect gasoline may be rationed.

The public is not clear in its thinking regarding the energy crisis and much more "continuous communication" is required on the subject.

Mr. President, I ask unanimous consent to have the prepared statements of Mr. Harris and Mr. White printed in the RECORD.

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

TESTIMONY OF LOUIS HARRIS

Mr. Chairman, let me say it is a distinct pleasure to come back before your committee at a time when, for the first time in 10 years, I can report some rising confidence among the public in both the executive and legislative branches of the Federal Government. The Congress has gone up from 9 percent who felt they had a great deal of confidence in the people running Congress in 1976 to 18 percent this year. Comparable confidence in the people running the executive branch has risen from 11 percent to 32 percent. Thus, with the Democrats controlling both the legislative and executive branches of the Federal establishment for the first time in 8 years, there are rising hopes out there in the Nation.

Having reported this optimistic note, however, there are some other recent facts about the public's view of the economy that you will not find encouraging. One basic fact is that despite the pronouncements of economists that this country has been on the road to economic recovery for nearly two years now, despite the glowing and continuing rise of leading economic indicators, a 56–33 percent majority of the people of this country remain unconvinced. That majority believes the country is still in the throes of a recession. To be sure, a year ago this month, a higher 68–23 percent majority thought we were in a recession and a year earlier, a staggering 85–10 percent majority felt we were.

But, make no mistake about it, to a majority of the American people, times are still hard and troubled. They are still having a perfectly dreadful time making ends meet, and are deeply worried. We have to go back all the way to February of 1972 to find a time when a 51-33 percent majority felt we were not in a recession. Since early 1975, people have been convinced by sizable majorities that our economic state is that of a recession.

And in the past few months, pessimism about the future of the economy has begun to take hold again. Back in April, there were the first signs of real optimism. By a narrow 37–34 percent, a small plurality felt that a year from then, the country would not be in a recession. That was the first time since 1972 that more people expected a recovery instead of a recession ahead. But last month, expectations sagged again to the point where by 45–34 percent a plurality once again expected a recession 12 months from then. And our latest June survey, which has not been published, shows a discouraging 45–36 percent plurality who feel a year from now we will have a recession.

The reasons for this pessimism are not hard to find. The American people are once again deeply worried about a return of high levels of inflation. By 81–18 percent, most people feel that prices today are rising as fast or faster than they were a year ago. This has been the case since last February when the latest anguish over high prices took hold again. A year ago, a much lower 55–43 percent majority thought prices were rising as fast or faster than a year previously. The number who think prices are rising even faster has jumped from 31 to 56 percent just this past year alone. And in the next 12 months, a sizable 64–26 percent majority believes prices will be going up again at the same rate they have for the past five or six months of this year.

People are frightened by the spectre of inflation, Mr. Chairman, make no mistake about that. By contrast, there has been a rather sharp decline in apprehensions about unemployment. While 29 percent just this month estimated that joblessness in their own community was increasing, while 23 percent said it was going down and 41 percent remaining the same, only last February a much higher 46 percent said unemployment was on the increase and no more than 11 percent felt it was going down. So, unemployment awareness has declined dramatically in the past six months. So have expectations about unemployment in the next 12 months. While 21 percent think it will increase, a higher 25 percent believe it will decrease and 41 percent believe it will stay the same. Back in early 1975, 43 percent thought joblessness would go up and only 16 percent thought it would go down. On balance, the public is cautiously optimistic that some of the downward trends in the official unemployment statistics are reflective of more to come.

Indeed, if the public had to sum up what it feels the current economic situation is like, most would say that we seem to be poised on the brink of another and more classic period of relatively good employment, but with spiraling inflation that could well sap whatever benefits might be gained from rising income.

And people have not changed their views over the past 6 years on one fundamental lesson they feel they have learned from living with their economic troubles over that period of time, it is this: you can't beat inflation by yourself. When you try, you end up getting a pay increase and more money in your pockets one day and then having your pocket picked the next at the supermarket or nearly everywhere else you might go to pay your bills. Thus, when we have asked people if they would rather have a pay increase greater than the rise in the cost of living, but with no assurances that inflation would be brought under control, on the one hand, or a pay increase less than the rising in the cost of living, on the other, by 71–12 percent, the American people have come down on the side of opting for lower pay increases.

The immediate, near-term impact of this deep worry over inflation has been to discourage people from wanting to rush out to the marketplace to buy new products around Christmas time of this year. Let me cite you a few numbers of this trend, which our firm provides our private clients on an ongoing basis each month of the year. These are June 1977 consumer expectations by product type in expectations to purchase compared with June 1976. In the case of automobiles, the trend is flat; 10 percent thought they would buy a year ago and the same 10 percent today on travel by auto, the trend is down from 47 to 45%, on vacation by air, the trend is down from 22 to 16%; on vacations to Europe, down from 4 to 2%; on new home purchases, down from 8 to 7%; on new furniture, down from 29 to 25%; on major appliances, down from 19 to 16%; on small appliances, down from 28 to 24%; on new clothing, down from 84 to 82%; on new credit cards, down from 12 to 9%. On the purchase of stocks, down from 13 to 9%; on purchase of savings certificates, down from 21 to 15%; on purchase of mutual funds, down from 10 to 8%.

These estimates have proven to be quite accurate over the four year period during which we have been keeping them. We have called the turn on the revival of demand for automobiles as well as an increase in home purchasing, an upturn in individual stock purchases, among other important developments on the basis of this data. So I would not pass these latest results off lightly, Mr. Chairman. This current recovery, which has depended so much on consumer pull thrust, could be riding into some real trouble in the next six months—at least as far as consumer demand side is concerned.

One of the important concerns tending to discourage people from making more purchases is the tendency on the part of the public to worry about rising energy costs. By 67–25%, a sizable majority expects the President's energy program, if enacted, to increase their overall cost of living.

Having reported this on energy, however, I must also report that our findings consistently have shown that people take the long term shortage of energy much more seriously than many in Washington believe they do. For example, an 85–11 percent majority believe the shortage is serious and real, up from only a 67–30 percent majority who felt the same way back in 1974.

And, at the head of the list of culprits for the energy crisis, cited by a high 62 percent of the American people, more than any other single cause is "the wastefulness of most Americans in the use of energy." Other major causes are "too much dependence on foreign oil," cited by 56 percent; "oil companies withholding oil and natural gas from the market," 55 percent; "the fact that there is just so

much oil and gas in the world and we are using it up too quickly," 54 percent; "the high standard of living in this country," 53 percent; "a reluctance on the part of oil companies to drill for more gas and oil unless prices are raised," 53 percent; "the production of too many gas-guzzling cars," 51 percent; and the "fact that with only 6 percent of the world's population, the U.S. consumes 32 percent of the world's energy," an even 50 percent.

I have much, much more to report, Mr. Chairman, on energy and hope I will be given a chance to report it in the question period. The point, however, is that people are deeply worried by the energy shortage, are prepared to take drastic steps to meet that situation, but above all else, want leadership down here in Washington, D.C., which is willing to risk unpopularity to tell the people the tough medicine they have to take to do the job. They still have a notion that almost no one wants to bite the bullet on this energy business, and to tell people they have to sacrifice to make conservation work. Yet, they themselves are far more willing to step up and make the sacrifices, if made equitably, than our national leadership will believe.

STATEMENT OF ARTHUR H. WHITE

I will concentrate on three subjects in this statement:

1. The general mood of the country with particular reference to the economic situation;

2. Our findings among the general population and leaders with respect to inflation;

3. Energy.

1. THE STATE OF THE COUNTRY

The American family in 1977 is a lot happier and more optimistic than we found them in 1975 when you included our last report for General Mills in your hearings.

The following charts make clear the encouraging change in attitudes of most Americans in this 1975–1977 period.

The present outlook of American families stands in sharp contrast to the mood of pessimism which prevailed just two years ago. According to the results of The General Mills American Family Report 1974–75, only 18% of the families reported that they felt things were going well in the country. Today a sizable majority (60%) share this view.

Standards of living

Underlying the present more ebullient mood of parents is a sense of an improved economy and rising standards of living. In 1974–75, 37% of the parents reported that their standards of living were worse than a year ago and only 14% said better. Today there is a reversal, with 32% feeling that their living standards have improved and 17% reporting that they are no longer able to live as well as they did a year ago.

Ability to cope

A large majority of fathers and mothers indicate that they can manage most money problems that face them, but 21% say that they worry a lot about money. Among those who worry a lot, 55% are earning less than $12,000 a year and 72% have a high school education or less.

Satisfaction with family life—1975–77

Parents today are even more satisfied with family life than they were two years ago. There is among them a greater sense of optimism and confidence in their own futures. The large majority continue to feel good about the way the family works together, the amount of time they are spending with their children and the fun and pleasure they are getting from it.

While still sharply critical of the standards and values of society, they expressed less discontent than two years ago.

Parents' satisfactions with family life

	1975 %	1977 %
Way they are handling problems in their lives	78	79
Way the family works together	78	80
Amount of time spent with the family	72	73
Amount of fun and enjoyment derived from family life	69	73
Way they are getting ahead achieving success	54	63
Things they can afford for the children	54	69
Confidence they feel in the future, their sense of security	44	57
Standards and values of society	19	28

Optimism and the future

In terms of their own personal hopes and goals, almost all of the parents (88%) are very or fairly optimistic.

Yet for young parents who, as we will see, place a relatively low premium on money and a high premium on self-fulfillment as personal values, the years of the recession have left their mark. Asked to make a choice, 80% said that in thinking about the future, economic security and providing for the family will have to come first; only 19% take economic security for granted and are more concerned with doing things that will provide them with a sense of self-fulfillment.

2. INFLATION

How serious a problem?

When we turn to the subject of inflation, the findings are considerably less clear or pleasing.

We find first that inflation is considered the country's Number 1 problem and that for significant majorities of both the public and the leaders inflation is a more serious problem than is unemployment.

Causes?

But there is little agreement on the causes of inflation.

A majority of the public places the blame on a combination of energy costs, labor demands and government spending.

Union leaders point to energy costs and even more emphatically (almost 9 out of 10 of the union leaders) to inadequate competition and business profit levels.

In the financial community, 9 out of 10 fault government spending, and lesser majorities cite energy costs, labor demands, or excess regulation.

Solutions

Wage and price controls are overwhelmingly rejected by the general public and leaders under present circumstances. However, if inflation escalates to double digit levels, 57 per cent of the public and significant majorities of every leadership group except unions and financial executives favor such controls.

Elimination of anti-competitive regulation, vigorous antitrust enforcement, reductions in federal spending, and encouragement of capital formation (to allow increases in productive capacity) are solutions suggested by majorities (typically 50–60 percent) of the leaders with whom we talk. It is noteworthy that jawboning is supported by fewer than 1 out of 4 leaders and scaling down environmental goals by fewer than 1 out of 5 leaders.

3. ENERGY

The energy problem for most Americans is an economic problem. It is the high cost of energy which is the problem in their minds. It is a major contributor to their conclusion that "inflation is the country's Number 1 problem."

Some of our current findings with respect to the energy problem and President Carter's proposals are:

72 percent of the public accept President Carter's judgment that we must begin to solve the energy problem now or we will be faced with a national catastrophe in the future.

85 percent have confidence that President Carter is doing something constructive about it.

59 percent believe that President Carter's program is fair to "people like themselves."

Yet, 58 percent also agree that "people are not ready to make the kinds of sacrifices President Carter is talking about."

Only 23 percent favor increasing taxes on gasoline "to discourage people from using too much."

Only 43 percent favor imposing a special tax on gas guzzling cars "if this creates unemployment in the auto industry."

62 percent believe that the energy program gives too little emphasis to public transportation.

50 percent believe that the program doesn't do enough to encourage production of more oil and gas in the United States.

47% say that the program gives too little emphasis to encouraging conservation of energy among industry.

55% believe that "five to ten years from now people will still be driving big cars."

60% believe that five to ten years from now "Americans will still be living as well as they are today."

85% state that "Congress will still be arguing about what to do" five to ten years from now.

82% believe that utility rates will be doubled in five to ten years.

82% believe that five to ten years from now a gas tax will be instituted.

71% think that gasoline will cost at least $1.25 a gallon in five to ten years.

57% think we will have gas rationing in five to ten years.

Our conclusion is that the public is not yet clear in its thinking on the problem. There is growing recognition that we have a serious problem and less tendency to shrug it off as a "plot by the big oil companies to raise prices." The people are caught up in a confusing kind of double-think, a state of mind we associate with a problem that is only half thought through. They need a lot more continuous communication on the subject than they have received thus far from the President, the Congress and other leaders. Such communication—briefly stated—should: (a) report on progress to date, and (b) answer the many questions on this complex subject so clearly troubling the nation.

MILITARY UNIONIZATION

Mr. THURMOND. Mr. President, on March 18, 1977, the Armed Services Committee held its first hearing on the issue of military unionization. Appearing as witnesses at this hearing were Secretary of Defense, Harold Brown, and Secretary of the Navy, Graham Claytor. At the hearing, the committee learned that the current Department of Defense policy is as follows:

No member of the armed forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the armed forces, with any individual, organization or association which represents or purports to represent members of the armed forces; nor may any member of the armed forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

This policy clearly shows that mem-

bership in a military union is not prohibited. It further shows that solicitation for membership is not prohibited.

The American Federation of Government Employees, one union currently considering organizing the military, is presently conducting a referendum among its membership to determine if the members desire to allow the military to join their union. It has come to my attention that the union leadership is already planning how it will organize the military, thus assuming the success of the referendum.

In addition over 1,900 military members have signed a petition sent to the Congress requesting that legislation banning military unions not be passed.

There is also a pamphlet which is being distributed to servicemen by a group called Project Lamda, which urges them to strike until they have the right to negotiate a binding labor contract. Mr. President, I ask unanimous consent that a copy of this pamphlet be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. My point is that it is imperative for the Armed Services Committee to continue hearings on this issue very soon. It is very important that action be taken to stop the organization of the armed forces into labor unions. I urge my colleagues here in the Senate to continue to support my bill, S. 274, which now has 40 cosponsors.

I have received mail from my State and from all over the country supporting my bill to prohibit military unions. I have received resolutions adopted by highly respected organizations which support my proposed legislation and urge me to continue the fight to avoid the disastrous consequences of military unions. Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

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

(See exhibit 2.)

SOLDIERS, SAILORS & AIRMEN OF THE UNITED STATES—DO YOU KNOW SEVEN FACTS ABOUT YOUR JOB?

1. The U.S. Constitution & the Bill of Rights do not apply to the military. Congress can legislate for you in a manner "constitutionally impermissible" for civilians. *Greer* v. *Spock* 96 S. Ct. 1211 (1976), *Parker* v. *Levy* 94 S. Ct. 2547 (1974).

2. In order to prevent you from forming a union to defend your interests, Congress is preparing to amend the United States Code, Title 10, Section 975 so that it shall be "unlawful for any individual . . . to solicit or otherwise encourage any member of the armed forces to join any labor organization." (S-3079/HR 13608 94th Congress 2nd Session) Violators of this act may receive up to five years in prison.

3. Your enlistment contract is fraudulent. Its obligations are unenforceable in a United States Court. *Reamer* v. *United States* 532 F. 2nd 349 (1976), *Carini* v. *United States* 528 F. 2nd 738 (1975).

4. Only circumstances as seen by a jury, not any "lawful order" can justify the use of force or compulsion. Instructions from higher authority will not protect you from prosecution for "planning, preparation, initiation and waging of wars of aggression" or for any other "crimes against the peace." *Principles of International Law* International Law Commission of the United Nations (1950), *The Nuremberg Judgment*, International Military Tribunal (1946).

5. Oral sex is a crime in the military. If you do anything outside of the "missionary position" even with your own wife/husband, you may be charged with "unnatural carnal copulation" under United States Code, Title 10, Section 925 (Article 125 Uniform Code of Military Justice).

6. The Supreme Court has affirmed the decision of a Federal District Appellate Court citing the Hebrew Canon (Leviticus 18:22, the Holiness Code) as authority for upholding Sodomy Statutes in the United States. *Doe v. Commonwealth's Attorney*. 96 S. Ct. 1489 (1976) 403 F. Supp. 1199 (1975).

7. In order to bring you this information urging you to defend your professional interests through industrial action and collective bargaining, PROJECT LAMBDA (justice) organizers are risking imprisonment for up to ten years for violating Section 2387, United States Code, Title 18 (Treason and Subversive Activities).

Soldiers, Sailors & Airmen of the United States, project Lamdba urges you to:

1. Stand up to the politicians.
2. Stop being a government slave.
3. Withdraw your labor and refuse to perform your duty until your right to negotiate a binding contract and to receive equal treatment under the law is recognized by the United States courts.

JEFFREY VOWLES,
Director.

Project Lambda, 689 Tyrone, Apt. I, El Cajon, CA 92020.

EXHIBIT 2

GREATER COLUMBIA CHAMBER OF COMMERCE,
Columbia, S.C., May 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: It is our understanding that there has been activity regarding unions in the military recently.

We feel as though an effective defense force is built and maintained upon a foundation of discipline, patriotism, command authority, and quick responsiveness. It would be impossible for this foundation to exist with loyalty divided between the chain of command and a union. One of the oldest truths of war is divide and conquer. Enemies of freedom throughout the world would rejoice should unionization take place in the American Armed Services.

Recently the Board of Directors of the Greater Columbia Chamber of Commerce adopted policy opposing unionization of the Military. This policy adopted after careful study represents the input of many business and professional members. Your interest and support in this matter will be very much appreciated.

I enjoyed the pleasure of being with you recently at the Congressional Dinner in Washington.

Cordially yours,

S. D. GUTHRIE,
Executive Vice President.

CHARLESTON TRIDENT CHAMBER OF COMMERCE,
Charleston, S.C., March 29, 1977.

Hon. STROM THURMOND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: Enclosed is a resolution adopted by our Board of Directors on Thursday, March 24th. This resolution reflects the sentiment of our board members on the issue of union organization in the Armed Forces.

Yours very truly,

JAMES M. DEATON, CCE,
Executive Vice President.

RESOLUTION

Whereas, the Charleston Trident Chamber of Commerce recognizes that an effective defense force is built and maintained upon a foundation of discipline, patriotism, command authority and quick responsiveness; and

Whereas, unionization of the American armed forces will seriously threaten these time honored principles which have protected the United States throughout its history;

Now therefore be it resolved, that the Board of Directors of the Charleston Trident Chamber of Commerce, meeting in regular session on Thursday, March 24, 1977, do hereby support the adoption of Senate Bill S. 274 to prohibit union organization in the armed forces; and

Be it further resolved, that the Board of Directors commend Senators Thurmond and Hollings, and others who co-sponsored this much needed legislation.

ROBERT B. SCARBOROUGH,
President.

GREATER MYRTLE BEACH CHAMBER OF COMMERCE,
March 25, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: It is with pleasure that I inform you that our Chamber's Board of Directors has voted unanimously in support of your position on unionization of the military. We discussed the situation during our March meeting and wish to inform you officially of our support for your position.

Sincerely,

ASHBY WARD,
Executive Vice President.

STAFFORD GRAHAM POST 31,
Lancaster, S.C., May 8, 1977.

Hon. J. STROM THURMOND,
U.S. Senator,
Hon. ERNEST F. HOLLINGS,
U.S. Senator,
Hon. KENNETH HOLLAND,
Member of Congress,
Washington, D.C.

DEAR SIRS: The undersigned, as well as other members of the American Legion, is deeply concerned over the apparent movement to unionize the Armed Forces.

It is the opinion of those who have served in the Armed Forces that it is imperative that authority be maintained by those who have in the past proved that they are able to direct our men in combat. To have the Armed Forces controlled by unionization and the resulting political overtones would only lead to disaster.

It is urged that you use your influence to prevent this insidious movement.

Respectfully yours,

F. W. CANNON, *Past Commander.*

NORTHWEST FLORIDA RETIRED OFFICERS CLUB,
Fort Walton Beach, Fla., May 23, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: We are an organization composed of some 420 members, all of whom are retired commissioned and warrant officers of the Uniformed Services of the United States.

We are opposed to military unionism in any form.

Military command must establish discipline through training, foster esprit de corps, build morale, develop confidence, and inspire willingness for execution of the mission. Any organization that acts to diminish these attributes is calamitous. Undivided authority vested solely in the commander is essential to military leadership, and only leadership can bring about combat readiness, a prereq-

uisite to victory on the battlefield. If the chain-of-command is weakened and abridged by superimposing an alien organization upon it, the whole structure of the Armed Forces is in jeopardy. Witness the effects of an abortive attempt to democratize the Armed Forces following World War II. Several years later, in battle, the results were disastrous. Casualties were abnormally high during the initial phases of the Korean Affairs. As a result, and with a price, democratization was dropped and proven methods of command were re-established. Tampering ceased, until now.

Unionism in the military system will create divisiveness between a commander and the people in his command, with predictable results. Union issues, whether they are right or wrong, must be divisive. Union leaders, if they are to be effective, must impose themselves between the commander and his unit at some level in the chain-of-command. Finally, the ultimate weapon of a union is the strike to break an impasse in negotiations, irrespective of its legality. How could the people of our Nation expect to have National security under such circumstances? Moreover, are the members of our Armed Forces being subjected to such onerous, inexorable conditions that they must resort to representation by a union to seek justice? We think not. Are time-tested grievance procedures, that have been successful for over 200 years, now invalid? We think not.

Union proponents claim that someone has to halt the erosion of military benefits, to improve grievance procedures, to represent military men and women against further inequities in their pay, promotion standards, customs and rights, and so forth. But, are these sufficient reasons to recognize a demand for unionization of the Armed Services? We think not. Although some of our benefits have been eroded, and attempts are being made to reduce or eliminate others, do members of the Armed Forces need to be represented by a union, or unions, for the protection of their rights and benefits? We think not. We still support our Constitutional Government.

Article I, Section 8, of the Constitution for the United States, in part, charges the Congress with the power . . . "To raise and support Armies, . . .; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining the Militia; and for governing such Part of them as may be employed in the Service of the United States, . . .".

We believe that the advocate for members of the Armed Forces is the Congress. To permit Military unionism is a denegation of Congressional function and responsibility. Continued indifference by the Congress to act constructively on matters which would erode command authority and degrade Military rights and benefits is not only inequitable treatment of the Armed Forces, but it gives union organizers validity and strength.

To represent Armed Services personnel, the presence of a union would alter the Constitutional relationship between the Congress and the Armed Forces, and the Constitutional chain-of-command between the President and the Armed Forces. Moreover, union demands and negotiations ultimately would have to be acted upon by the Congress; legislation probably would be required to rectify alleged inequities. If Congress does deny its function and responsibility, will the presence of a third party, which would be responsible and accountable to no one but itself, be a more fruitful approach than that which is set forth in the Constitution? We think not.

We urge you to drive for immediate enactment of legislation that would prohibit any union from representing any part of the Armed Forces—be it the active duty forces, the Reserve forces, or the National Guard. Further, the legislation should provide severe, mandatory penalties for any member of the Armed Forces, either on active or inactive duty, who actively supports or advocates unionization of the Armed Forces, or who joins a union whose purpose it is to represent Military Service Members.

Sincerely,

HENRY B. KUCHEMAN, Jr.,
Major General, USAF, Retired, President, Northwest Florida Retired Officers Club.

TAMPA, FLA.,
March 9, 1977.

Senator STROM THURMOND,
Senate Office Building,
Washington, D.C.

DEAR STROM: The National Guard Officers Association, of which I am a member, is holding its annual convention March 24, 1977 in Orlando, Flarida. You will find enclosed herewith copy of Resolution which I have prepared for introduction on the convention floor.

I know that you are opposed to this unionization and I want to congratulate you on the stand you have taken. If I can do anything to help you in the fight let me know.

I would appreciate your reading this resolution and giving me your opinion of its contents.

With warm personal regards, I am

Sincerely,

SUMTER L. LOWRY

RESOLUTION SUBMITTED TO NATIONAL GUARD OFFICERS ASSOCIATION OF FLORIDA

Whereas, There is a movement on foot to unionize the Armed Forces of the United States of America; and

Whereas, This movement has the support of some influential liberal members of Congress; and

Whereas, It also has the support of powerful labor leaders; and

Whereas, We believe that to unionize any segment of the Armed Forces would have a profound effect on the morale, discipline and efficiency of our Armed Forces; and

Whereas, The theory of unionization of the Army, if once adopted even to a small degree, could not be stopped and that eventually the Armed Forces would be completely unionized.

Now, therefore, be it resolved, That the National Guard Officers Association of Florida, in convention assembled at Orlando, Florida, this 25th day of March, 1977, hereby goes on record that we are unalterably opposed to unionization of the Armed Forces in part or in whole;

Be it further resolved, That it is of extreme importance to stop the effort to unionize the Armed Forces before this idea takes hold.

Be it further resolved, That we urge the President of the United States to make a strong public statement opposing the unionization of the Armed Forces.

Be it further resolved, That the Secretary of Defense and the Chiefs of all departments of our Armed Forces be alerted to the dangers from the efforts to unionize our Armed Forces.

Be it further resolved, That copies of this Resolution be furnished to:

President of the United States, Secretary of Defense, Chiefs of the Various Armed Services, Governor of Florida, Members of Congress from Florida and that it be given wide circulation to the news media both state and national.

CONNECTICUT STATE
FEDERATION OF WOMEN'S CLUBS, INC.,
May 10, 1977.

Hon. STROM THURMOND,
Senate Building
Washington, D.C.

Dear SENATOR THURMOND: The Connecticut State Federation of Women's Clubs, at their Convention May 3rd, passed the attached Resolution regarding Proposed Unionization of the Armed Forces.

I will be attending the General Federation of Women's Clubs Convention in Seattle, Washington June 4–9, 1977 and will be presenting this as an emergency resolution for vote at that time.

For your information there are 11 million members in the General Federation of Women's Clubs representing all states including Puerto Rico, Alaska and International Clubs and there are 15,000 members of the Connecticut Federation of Women's Clubs alone.

We are wholeheartedly against the unionization of the Armed Forces and hope that this information will be of some assistance to you in the Senate when you fight to head off this deadly prospect.

Sincerely,

URSULA KOLB,
(Mrs. Francis J.),
President.

PROPOSED STATE RESOLUTION

Re proposed unionization of the Armed Forces.

Whereas, there has been increased pressure placed on Congress to unionize the Armed Forces, and plans are being made to bring this matter to fruition under the new Administration; and

Whereas, unionization of the military—

(1) Would be a serious breach of national security,

(2) Would impair our ability to maintain continuity and discipline within the military,

(3) Would impair our ability to preserve the standards necessary for our defense,

(4) Would put control of our defenses in the hands of a few union leaders, and

(5) Would give an overwhelming advantage to any power wishing to assault our defenses and security;

Now, therefore, be it resolved that the Connecticut State Federation of Women's Clubs go on record as opposing unionization of the Armed Forces of the United States, and take the following appropriate steps:

(A) Notify President Carter, Senators Ribicoff and Weicker, and our Representatives of our position on this issue, asking that they actively work to oppose military unionization;

(B) Notify all State Clubs of the passage of this resolution and ask them to pass similar resolutions and notify their elected representatives as described in (A) above; and

(C) Notify the General Federation of Women's Clubs of the passage of this resolution and ask them to—

(i) Pass a similiar resolution,

(ii) Notify our elected representatives,

(iii) Notify all national Clubs of the passage of the GFWC resolution,

(iv) Ask that all Clubs pass similar resolutions, and notify their elected representatives (President, Senators and Representatives) of their opposition to unionization of the Armed Forces.

DISCHARGE UPGRADING: S. 1307 AS AMENDED—AN EQUITABLE ALTERNATIVE TO THE BEARD AMENDMENT ON H.R. 7554

Mr. CRANSTON. Mr. President, on June 14 I submitted, with the cosponsorship of the Senator from South Carolina (Mr. THURMOND), Amendment No. 414, proposing amendments to S. 1307, a bill

which the Senator from South Carolina (Mr. THURMOND) introduced on April 19, 1977, to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions. S. 1307 as so amended was ordered reported today by the Committee on Veterans' Affairs, with the cosponsorship of the full membership of the committee.

This bill as reported provides clarification of the effect of S. 1307 in such a way as to assure a fair and equitable basis—in keeping with sound, fundamental principles regarding the conferring of veterans' benefits—for granting such benefits to former military personnel whose undesirable discharges received during the Vietnam era are upgraded under the Defense Department's special discharge review program. It also is designed to insure that no individual who responded to the President's offer of assistance under the special discharge review program would be prejudiced, by having done so, in terms of having lost opportunities for obtaining eligibility for veterans' benefits that would have been available had the special discharge review program never been established.

The amendment would also provide the Administrator of Veterans' Affairs with discretionary authority to furnish health care for the service-connected illnesses or injuries of former military personnel with undesirable discharges, and would preclude the U.S. Government from seeking reimbursement for any benefits actually provided pursuant to a special discharge review program upgrading prior to enactment of this legislation.

Mr. President, I want to express publicly my appreciation for the cooperative efforts of the Senator from South Carolina (Mr. THURMOND) in developing these amendments with me. His openmindedness and fairness enabled us to produce amendments to his bill which, I believe, warrant the support of the entire Congress.

BACKGROUND

On January 21, 1977, President Carter announced his pardon of those who had violated the draft laws during the Vietnam conflict, which he described as the period August 4, 1964, to March 28, 1973. At that time, I felt that moral and equitable considerations required that he also extend a comparable measure of forgiveness and compassion to individuals who entered and served in military service during that same period, but who failed to complete military service successfully. In fact, in announcing the pardon, the President stated that he was referring to the Department of Defense the question of how, in light of the pardon, to deal equitably with the problems of former military personnel from the Vietnam era who had received less-than-honorable discharges during that time.

On March 29, 1977, Secretary of Defense Harold Brown announced that the President had approved a program for the review of certain administrative discharges—other than honorable discharges—received during the Vietnam era.

I have, and have had, a number of major concerns regarding the program which was announced on March 29 and implemented on April 5, 1977—the special discharge review program. First, as a program that is supposed to help bind up the divisions of the Vietnam era, I do not believe that it fully effectuates a measure of compassion for those with unsatisfactory military experiences similar to the forgiveness extended to those who had violated the selective service laws. In my mind, forgiveness for former GI's—comparable to the pardon—should mean wiping the slate clean in every case where it is reasonable to do so in the spirit of forgiveness and compassion, through the issuance of honorable discharges to those who received general or undesirable administrative discharges.

In my mind, the special discharge review program fails to accomplish that objective in several important respects. For example, unlike the pardon, whereby forgiveness was extended with respect to draft law violations which occurred during the period of the Vietnam conflict, as the President defined it, the scope of the special discharge review program is tied to an administrative step taken by the military services—the issuance of an administrative discharge—rather than tied to the individual's conduct during that period. For the programs to be truly parallel, I believe that all administrative discharges based in whole or in part upon the individual's behavior during the period defined as the Vietnam conflict should have been encompassed within this program.

I also believe that this program should extend to individuals who served in Vietnam after the involvement of regular military personnel in armed conflict in Vietnam but prior to the August 4, 1964, Gulf of Tonkin Resolution.

Moreover, I think that the special program will fall far short as an act of forgiveness, in that it seems to favor the upgrading of undesirable discharges to general discharges, which have a serious stigmatizing impact, rather than favoring upgrading to fully honorable discharges.

However, beginning with my March 2, 1977, letter to President Carter regarding the possible formulation of a special discharge review program, I have held and expressed a deep concern regarding the need to distinguish between the compassionate upgrading of certain "bad paper" discharges to remove their stigmatizing effects, on the one hand, and the conferring of veterans' benefits as a consequence of such upgrading, on the other hand. Compassion and forgiveness under these circumstances properly call for the cleaning up of a bad record so that the individual can resume his or her normal civilian pursuits without the disadvantage of a stigmatizing discharge; but compassion and forgiveness should not, in my view, automatically entail financial rewards in all cases. The decision regarding entitlement to benefits should be made on the basis of a careful case-by-case review in accordance with standards applicable to all veterans and taking into account the full record in each case. I believe that the broad and sweeping conferring of such benefits without regard to the whole record, on grounds of compassion, does substantial damage to the fundamental principle that veterans' benefits are entitlements to be earned through honorable military service to the Nation.

Moreover, such a system might impair our ability to assure fully adequate benefits and services for veterans in clear need of them whose claim to such benefits and services is undisputed.

I have expressed these various concerns about the special discharge review program in correspondence with the President and the Secretaries of Defense and of the Army. Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks copies of my March 2 letter to the President, my April 27 letter to the Secretary of Defense, the June 2 response from the Secretary of the Army, my June 14 reply to him, and his June 22 further response, preceded by copies of S. 1307 as reported and a description of the reported bill.

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

LEGISLATION INTRODUCED

Mr. CRANSTON. Mr. President, shortly after the announcement of the special discharge review program, several bills were introduced in the House of Representatives reflecting that same basic concern regarding any special standards for conferring benefits; and, in the Senate, my distinguished colleague and fellow member of this committee, the Senator from South Carolina (Mr. THURMOND), introduced a similar measure, S. 1307, on April 19. While supporting the position reflected in such bills that veterans' benefits should not be awarded solely on the basis of revised standards not applicable to all veterans, I believed that those measures needed certain important revisions in order to assure that they would deal fairly and equitably with persons who responded to the President's invitation to seek an upgrading of their discharges.

Senator THURMOND and I met several times to discuss my reservations concerning the measure he had introduced and, after extensive discussions, we were able to produce amendment No. 414 to his bill, which I believe should be deserving of wide support. I want again to express my sincere appreciation to Senator THURMOND for his openmindedness, his cooperative spirit, and the fairness with which he has approached these discussions involving these amendments to legislation which he had sponsored. I am similarly grateful to his staff for their cooperation and contributions.

SUMMARY OF S. 1307 AS REPORTED

To summarize the provisions of S. 1307 as reported, it provides clarification of the effect of S. 1307 as introduced in such a way as to assure a fair and equitable basis—in keeping with sound, fundamental principles regarding the conferring of veterans' benefits—for granting such benefits to former military personnel

whose undesirable discharges received during the Vietnam era are upgraded under the Defense Department's special discharge review program. It also is designed to insure that no individual who responded to the President's offer of assistance under the special discharge review program would be prejudiced, by having done so, in terms of opportunities for obtaining eligibility for veterans' benefits that would have been granted if the special program had never been established.

It would do this, Mr. President, by giving persons who receive such an upgrading the right to a second discharge review board determination as to whether they would have been granted an upgrading under generally applicable standards. If a review board determines that it would ordinarily have upgraded the veteran's discharge, the veteran would become eligible for veterans' benefits just as he or she would have under normal circumstances. The amendment would also assure that, if the initial indication is that upgrading would not have been granted under generally applicable standards, the individual would be afforded the procedural due process normally involved in discharge review proceedings—notice and an opportunity for personal appearance, even though the individual may already have appeared personally under the special discharge review program.

I also wish to stress that the bill as reported places the obligation on the Government—where it belongs—to avoid prejudice to the full opportunity of an individual under generally applicable standards to obtain a discharge upgrading by virtue of having applied or applying under the special discharge review program. Thus, the committee bill requires the discharge review board, on its own motion—unless the individual, after being notified, objects—to proceed to make the second review of the case for upgrading under generally applicable standards.

Mr. President, nothing in the bill as reported would alter the nature of the discharge paper which would be granted the individual under the special discharge review program—only the entitlement to benefits thereby.

The committee bill deletes one potentially troublesome provision included in S. 1307 as originally introduced and similar bills in the House of Representatives. While that provision would have preserved the existing right of an individual, whose undesirable discharge had been upgraded under the special program, to apply to the Veterans' Administration for a determination that he or she was discharged "under conditions other than dishonorable"—which determination carries with it an entitlement to veterans' benefits—it would have required the VA to consider such applications for these so-called "character-of-discharge" determinations only under those regulations in existence on April 1, 1977. Such a "freezing" of VA "character-of-discharge" determination regulations for purposes of consideration only of the application of those who have received an upgrading under the special discharge review program would, in my mind, have unfairly discriminated against these individuals. These regulations are in need of revisions and clarification, and are currently under review by the VA. If they are revised, it would not be fair to require that one class of applicants be dealt with under the present regulations. Thus, the bill as reported drops the "freezing" provision. Instead, the committee bill contains a section requiring that any new or revised VA regulations in this area should not create a unique or special class of persons to be treated differently from all others.

The basic concept embodied in the Committee bill is that benefits should be awarded as a result of discharge upgrading or a VA "character-of-discharge" determination only under standards of general applicability, not under standards made specially applicable only to individuals whose service was during a certain period.

Our bill would also provide the Administrator of Veterans' Affairs with authority to furnish health care for the service-connected illnesses or injuries incurred in line of duty by former military personnel who may not otherwise be entitled to such care because they have undesirable discharges, and would prohibit the U.S. Government from seeking reimbursement for any benefits actually provided pursuant to a special discharge review program upgrading prior to enactment of this legislation.

BIPARTISAN APPROACH

As I indicated earlier, the committee bill is now cosponsored by each member of the Veterans' Affairs Committee and supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans of America. Moreover, it is noteworthy that this approach has commanded the same bipartisan approach in the House of Representatives. On Monday, June 20, the ranking minority member of the House Veterans' Affairs Committee, JOHN PAUL HAMMERSCHMIDT, introduced H.R. 7885, legislation identical to amendment No. 414. On Tuesday, this legislation was endorsed by Congressman TOM DOWNEY of New York, a leader in the field of discharge review board reform legislation.

INEQUITABLE BEARD AMENDMENT ON APPROPRIATIONS ACT

On the other hand, Mr. President, it is quite disturbing that on June 14, 1977, the House passed by a vote of 273 to 136, the so-called Beard amendment to H.R. 7554, the House-passed version of the HUD-Independent Agencies Appropriations Act for fiscal year 1978.

That amendment, on its face, would absolutely prohibit the expenditure of funds for veterans benefits from fiscal year 1978 appropriations for any individual whose undesirable discharge is upgraded under the special program, even though that individual might have been entitled to an ungrading under generally applicable discharge review standards, or to a favorable "character-of-discharge" determination from the VA. Thus, an individual—with an undesirable discharge—who responded to the President's invitation in the spirit of compassion and forgiveness to seek a discharge upgrading would be penalized if he received such an upgrading, by being automatically denied thereafter any benefits out of fiscal year 1978 appropriations. In contrast, another individual with identical circumstances who did not apply for upgrading in the special program would be fully eligible to apply under the regular discharge review process and, if successful, obtain benefits which the Beard amendment would deny to the former individual.

Mr. President, I believe such a provision has no business in an appropriations bill, and I urge that no such amendment be offered in the Senate when H.R. 7554 is taken up. Today, Senator THURMOND and I wrote to each Senator urging that the Senate not adopt the Beard amendment, or, if it is offered, that it be tabled.

Mr. President, I ask unanimous consent that the text of our "Dear Colleague" letter be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 23, 1977.

DEAR COLLEAGUE: We are writing regarding the so-called Beard Amendment, added in the House of Representatives, to H.R. 7554, the HUD-Independent Agencies Appropriations Act of FY 1978.

The Beard Amendment provides: "No part of the foregoing appropriation shall be used for the adjudication of claims or the payment of benefits for any individual who was discharged from the military under less than honorable conditions, and who received an honorable or general discharge as the result of revised standards for review of discharges as implemented April 5, 1977, by the Department of Defense's special discharge review program."

The Beard Amendment on its face denies veterans' benefits out of FY 1978 appropriations to any individual whose undesirable discharge is upgraded under the Carter program, even though that individual might have been entitled to an upgrading under the generally applicable discharge review standards, or to a favorable character-of-discharge determination from the VA. Thus, an individual with an undesirable discharge who responded to the President's invitation to seek a discharge upgrading under the Special Discharge Review Program would be penalized if he received such an upgrading, by being automatically denied thereafter any benefits out of FY 1978 appropriations. In contrast, another individual with identical circumstances who did not apply for upgrading in the Special Program would be fully eligible to apply under the regular discharge review process and, if successful, obtain benefits which the Beard Amendment would deny to the former individual.

The Committee on Veterans' Affairs today, after due consideration, ordered reported S. 1307, as amended by the text of Amendment No. 414 which we submitted for printing on June 14, with two minor amendments. The bill as reported is cosponsored by all members of the Committee on Veterans' Affairs, and is supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans of America.

It is our intention to report the bill next Tuesday, June 28; the leadership has agreed to seek floor action next week. Enclosed is

the text of S. 1307 as reported and a description of the reported bill.

We believe that the approach embodied in S. 1307, as reported from Committee, is far preferable to the Beard Amendment. For the reasons set forth below, we urge that no action be taken in the Senate on the Beard Amendment in contemplation of rapid Congressional action on S. 1307 as reported.

In S. 1307 as reported, we have sought to vindicate the principle that veterans' benefits should be afforded to persons with less than honorable discharges only under standards applicable to all such persons, and at the same time to ensure that the enactment of legislation denying benefits to individuals whose undesirable discharges are upgraded under the special standards in the Carter program does not take away any rights of those individuals to obtain benefits under the regular military Discharge Review Board standards or through the regular VA character-of-discharge process.

The Committee bill, in addition to protecting these rights, makes clear how an individual would obtain a determination regarding benefits eligibility—through a determination by the military Discharge Review Board as to whether an upgrading would have been granted under the generally applicable standards. Full recourse to the VA process is also preserved, and the amendment would authorize the VA to provide health care for the service-connected conditions incurred in line of duty by persons with undesirable discharges.

We think that the overall legislative approach in S. 1307, as reported, is a fair and honorable one, preserving, as it does, historical principles governing the award of veterans' benefits and applying appropriate standards of equity and even-handed treatment. Meanwhile, we again urge that the Beard Amendment not be offered in the Senate, or, if it is offered, that it be tabled.

If you have questions on this matter, please feel free to contact either of us, or have your staff contact Jon Steinberg or Ed Scott at ext. 49126 or Gary Crawford at ext. 49132.

Sincerely,

ALAN CRANSTON,
Chairman.
STROM THURMOND,

Enclosures.

CONCLUSION

Mr. CRANSTON. Mr. President, enactment of S. 1307, as we propose to amend it, would remove the cloud of doubt surrounding this program cast by this pending legislation, which may be discouraging many who are eligible for the special discharge review program from submitting their applications out of fear that they might be adversely affected as a result of having participated.

Mr. President, I believe that we owe it to all those who have applied or who are eligible to apply for upgrading to resolve these doubts promptly.

Again, Mr. President, I urge that no action be taken on the Beard amendment tomorrow and that it be dropped in conference, in contemplation of rapid congressional action on S. 1307 as reported.

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3103 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of law, no benefits under laws administered by the Veterans' Administration shall be provided on the basis of an award of an honorable or general discharge under revised standards for the review of discharges (A) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (B) as implemented after January 1, 1977, and not made generally applicable.

"(2) With respect to any person who was discharged from active military, naval, or air service under less than honorable conditions and, under the revised standards described in paragraph (1) of this subsection, has been awarded a general or honorable discharge, the board of review concerned under section 1553 of title 10, United States Code, subject to review by the Secretary concerned, shall, on its own initiative and in the absence of objection by such person after being duly notified of its intention to do so, make a separate determination whether such person would have been awarded an upgraded discharge under generally applicable standards for the review of discharges under such section 1553. Any such determination that a person would have been awarded an upgraded discharge shall entitle such person to benefits under laws administered by the Veterans' Administration just as though the upgraded discharge had been awarded under generally applicable standards. In the event that such board determines that such person would not have been awarded an upgraded discharge under such generally applicable standards, such person shall be entitled to notice thereof and appearance before the board as provided in section 1553(c) of such title.".

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs, may, in the Administrator's discretion pursuant to such regulations as the Administrator shall prescribe, provide health care pursuant to chapter 17 of title 38, United States Code, for any disability incurred during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103 of such title, but not, pursuant to this section, for any disability incurred during a period of service from which person was discharged by reason of a bad conduct discharge.

SEC. 3. The Administrator of Veterans' Affairs, in promulgating, or in making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, providing any unique or special advantage to veterans who have received upgraded discharges under the Department of Defense's special discharge review program or otherwise making any special distinction between such veterans and other veterans.

SEC. 4. Section 1 of this Act shall apply retroactively to deny entitlement to benefits, but the United States shall not make any claim to recover the value of any benefits provided prior to the date of enactment of this Act.

Amend the title so as to read: "A bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.".

DESCRIPTION OF S. 1307 AS REPORTED BY THE COMMITTEE ON VETERANS' AFFAIRS

S. 1307, as reported with the cosponsorship of all members of the Committee, is summarized as follows:

1. The bill, as reported, would preclude the granting of veterans' benefits solely by virtue of an upgrading of an undesirable discharge under the Defense Department's Special Discharge Review Program. This is the same result as provided for in S. 1307, as introduced, which is redrafted to clarify and tighten its effect. It also is refined to preclude such granting of benefit eligibility under any special review program standards thereafter adopted which are not of general applicability, that is, single out a particular service period for special treatment.

2. S. 1307, as introduced, had left unclear whether and how an individual who receives an upgrading of an undesirable discharge under the Special Program could receive a determination of his case under the generally applicable standards of the relevant Discharge Review Board (each Service has its own DRB). It thus left open the possibility that a person who received an upgrading of an undesirable discharge under the Special Program would have lost the opportunity which others have of becoming entitled to veterans' benefits via the ordinary discharge-review route. The effect of the amendment is that no individual would be worse off under the combination of the "Carter" program and this legislation than if the Carter program had never been established. Thus, the reported bill specifies that unless the individual objected, a determination would be made as to whether the DRB would have granted an upgrading under its generally applicable standards. (The initiative would be taken by the Government rather than placing the onus on the individual veteran to reapply.) A favorable determination would entitle the individual to veterans' benefits, retaining whatever upgraded discharge (general or honorable) has been given under the Special Program. In addition, the reported bill provides that, in connection with such a determination, the individual would have the same procedural protections as are currently available to persons applying for discharge upgrading under ordinary circumstances, such as the right to personal appearance.

3. Under current law, persons with undesirable discharges also have the right (whether they applied to a DRB or not) to apply to the VA for a determination whether the discharge was "under conditions other than dishonorable", a favorable determination carrying with it entitlement to veterans' benefits. In the cases of persons receiving an upgrading of an undesirable discharge under the Special Program, S. 1307 as introduced would have required the VA to consider their applications for such determinations under its regulations as they existed on April 1, 1977. The reported bill would delete this "freezing" of VA regulations pertaining to these "character of discharge" determinations. In addition, the reported bill contains a provision expressing the sense of the Congress that any new or revised VA regulations on this subject should not create any unique or special class of persons to be treated differently from others.

4. The bill, as reported, would also add a new provision giving the VA discretionary authority to provide health care for the treatment of the service-connected injuries or illnesses of persons not otherwise eligible for veterans' benefits—but not including persons automatically barred from benefits under section 3103 of title 38 (for example, persons discharged by order of a general court-martial or as a deserter) and persons with bad conduct discharges imposed by special courts-martial. This provision restores some eligibility that might have been provided under the Special Program to veterans wounded in service.

5. The bill, as reported, specifies that the provision denying veterans' benefits applies retroactively but precludes the Federal Gov-

ernment from recovering the value of any benefits provided prior to the date of enactment.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., March 2, 1977.

Hon. JIMMY CARTER,
President,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing concerning the formulation of guidelines for policies in regard to Vietnam-era veterans with less than honorable discharges.

It is my understanding that various executive branch officials and advisors to you will be meeting in order to present options and recommendations to you concerning review and upgrading of the discharges of Vietnam-era veterans released from service under conditions other than honorable. Apparently, the group of executive branch officials does not include representation from the Veterans' Administration.

The failure to include a representative from the VA, the agency responsible for overseeing and implementing veterans' benefits legislation and programs, seems to me to be a serious omission.

As you know, eligibility for veterans' benefits is contingent upon the character of a veteran's discharge from military service. In those instances where the veteran has other than an honorable or general discharge, the VA must determine whether, and to what extent, the discharge has been granted under conditions other than dishonorable.

For example, section 1652 of title 38 in defining eligibility for GI bill benefits specifies that:

The term eligible veterans means any veteran who (A) served on active duty for a period of more than 180 days . . . and who was discharged or released therefrom under conditions other than dishonorable.

Eligibility for other veterans' benefits are similarly contingent upon a determination by the VA that the conditions under which the veteran was released from active duty were other than dishonorable.

It is important to distinguish between the character of discharge and subsequent eligibility for veterans' benefits. Generally, upgrading of a discharge to the status of "general" would confer entitlement for veterans' benefits upon veterans otherwise eligible. In contrast, approximately 90 percent of applications for veterans' benefits eligibility who have a bad conduct or undesirable discharge are found by the VA not to have left the service under conditions other than dishonorable and thus are denied eligibility. It is not clear whether the Administration intends to extend eligibility for veterans' benefits at the same time that the stigma of a bad discharge is removed.

The recent report by The Vietnam Offenders Study, entitled "Reconciliation After Vietnam, A Program of Relief for Vietnam Era Draft and Military Offenders", found that wholesale granting of general discharges would "ordinarily confer automatic eligibility for veterans' benefits to all recipients who served 6 months or more on active duty." The study delineated the ramifications of such a determination as follows:

A uniform policy of this type would treat veterans' benefits as a social welfare program, not a form of compensation for service to the country. However, this would be contrary to the traditional justification for veterans' benefits. Vietnam military offenders should be relieved of enduring stigmas, but that does not mean that they should be rewarded with full veterans' benefits for service they did not, in fact, perform.

The VA is in the very best position to contribute to an understanding of these very subtle and complex issues. Thus, I feel strongly that any discussion concerning the formulation of policies in regard to Vietnam-era veterans with less than honorable discharges should include full representation from the VA, and I respectfully urge you to direct that this be done.

Thank you for your attention to this matter.

With warm regards.

Sincerely,

ALAN CRANSTON,
Chairman.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., April 27, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: I am writing in connection with your recently announced program for the review and upgrading of certain administrative discharges issued during the period August 4, 1964, through March 28, 1973.

Previously, in a March 2, 1977, letter to President Carter (a copy of which I sent to you), I expressed my concern regarding the need to distinguish between the upgrading of "bad paper" discharges to remove their stigmatizing effects and the extending of veterans' benefits as a consequence of discharge-upgrading. Careful review of the March 29, 1977, press release announcing the Special Discharge Review program and the April 5, 1977, Department of the Army document entitled "Information for Members of Congress" and discussions between my staff and a representative of your office have not allayed this concern.

I fully appreciate the President's basic intention to extend compassion and forgiveness to Vietnam era military personnel who received discharges other than honorable. Indeed, given the President's recent pardon of those who avoided military service during the Vietnam War through Selective Service violations, I believe that moral and equitable considerations compel some measure of forgiveness for those who entered and served in the military during that same period but failed to complete their service satisfactorily. In addition to avoiding unjustifiably disparate treatment of those who failed to complete it, on the other, such an act of forgiveness contributes substantially to the President's efforts to bind up the divisions of the Vietnam era.

If, however, the means for extending forgiveness entail broad gage, indiscriminate granting of eligibility for veterans benefits, I fear that needless damage will be done to historic notions regarding the integrity of military service and to the fundamental principle that veterans benefits are entitlements to be earned through honorable service to the nation. At present, I am very apprehensive that the Special Discharge Review Program will have these regrettable consequences because it fails to distinguish adequately between compassion and the conferring of valuable entitlements.

At the same time, I am equally concerned that the program be well designed to implement its compassionate purposes in an equitable, evenhanded fashion. Any program of this nature should be carefully fashioned to extend forgiveness to all those who would come within its compassionate purposes, should provide for a careful case-by-case review, and should set forth precise standards for the guidance of individualized reviews. On the basis of the information presently available to me, I have serious doubts that the program is adequate in any of these respects.

The following questions and comments reflect both my concern that the Special Discharge Review Program will needlessly compromise the integrity of military service and basic principles underlying veterans benefits, and my doubts that the program is so structured as to function in a just and equitable manner.

1. I believe that the present method for delimiting the program should be modified. The program covers only those persons who received general or undesirable discharges during the period August 4, 1964, to March 28, 1973, and those who are currently in a deserter status (except from a combat zone) which began during that same period. Many others are, in terms of equitable considerations, at least equally as deserving of consideration. They include, at a minimum, two groups of former military personnel who served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia while American regular Armed Forces were engaged in the conflict in Vietnam: (a) those who so served and were discharged prior to August 4, 1964; and (b) those who served there prior to March 28, 1973, as part of an enlistment which was administratively terminated after that date. I can discern no basis for totally withholding from these persons the compassion which the discharge-upgrading program will extend to many who never served in those areas. For example, I find it very difficult to accept the fact that a current deserter who, after very brief service, left his unit on March 27, 1973, and never returned will be covered under the special program, and thus possibly be treated more favorably than a veteran who served honorably in Vietnam and was given an undesirable discharge after March 27, 1973, for a stateside incident.

A similarly unjust disparity would appear to exist between two persons who left their units on March 27, 1973, one returning in June 1973 and receiving an undesirable discharge at that time and the other never returning until after the announcement of the special program. Only the latter, ostensibly the more egregious offender, is now eligible for a compassionate upgrading.

I think there are numerous similar inequities along these lines that would be ameliorated (to some extent at least) by extending the program to include (a) persons whose discharges resulted, in whole or in part, from events which occurred during the August 4, 1964, through March 28, 1973, period, including the commencement of unauthorized absences; (b) those who served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia prior to March 28, 1973, as part of an enlistment which was administratively terminated after that date; and (c) those who, after American regular Armed Forces became involved in the conflict in Vietnam, served in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia and were discharged prior to August 4, 1964. In all cases, discharges based on desertion from the combat zone could be excluded. Category (a) would seem to be the largest grouping; and the approach it reflects would be more consistent with the terms of the President's pardon of draft resisters inasmuch as it focuses more on individual's conduct during a particular time period rather than on particular dates of discharge issuance. The other categories, by focusing on service dates, not discharge dates, are more in keeping with the traditional method for measuring eligibility based on military service.

2. In view of the above, I would like to know what effect, if any, you intend or anticipate the Special Discharge Review Program criteria to have upon the applications of persons whose discharges occurred earlier or later than the prescribed period; and I urge you to clarify this matter in a directive. Your staff has suggested that this matter might best be left to the discretion of individual boards or panels of boards. Letting individual panels of the Discharge Review Boards decide on their own whether and when to ap-

ply those standards will create a situation fraught with opportunities for inequitable actions. I believe it is wrong for the government knowingly to encourage the uneven application of standards, particularly when the consequences are of such great personal significance and duration.

3. In light of the hundreds of thousands of potential applications under this program, what specific plans do you have for supplementing the membership of the existing Discharge Review Boards and for orienting new members to their responsibilities? What estimates do you have regarding the average or maximum number of cases per day which individual panels may be deciding?

4. Also, given the number of Discharge Review Board panels, possible expansion in the numbers of panels, and the enlarged caseloads with which they must now deal, do you plan to establish a monitoring system to detect diverging trends in the outcomes of similar cases and to correct any significant inequities which may occur? If so, please explain those monitoring and corrective systems and whether retroactive correction of inequitable results is planned.

5. With regard to the degree of upgrading in undesirable discharge cases, are you providing any standards for determining whether discharges should be upgraded to general or to honorable? In this connection, it would seem to me that an upgrading from undesirable to general would have a minimal impact on stigmatization, and would thus, ironically, accomplish little by way of simple forgiveness while still conferring full benefits under existing laws.

6. The press release announcing this program stated that it "will not apply to those who were separated for reasons involving violence, criminal intent, or the use of force". The April 5, 1977, "Information for Members of Congress" memorandum, however, does not contain this wording. Rather, the April 5 document states that, "providing there are no compelling reasons to the contrary", eligible persons will have their undesirable discharges upgraded if they meet certain criteria, such as having been wounded as a result of military action. In addition, an attachment to the April 5 document, entitled "Qs & As for Use by PAOs", states:

Compelling reasons for a service Discharge Review Board not to upgrade a discharge are:

(a) Discharge was for desertion or absence in or from the combat zone. An individual who departed the combat zone on leave, TDY, or other authorized absence basis and did not return is considered to have deserted or absented himself in or from the combat zone. Conversely, an individual who failed to report to an embarkation point for further assignment to the combat zone is not considered to have been absent in or from the combat zone.

(b) Discharge was based on an act of violence or violent conduct.

(c) Discharge was based on cowardice or misbehavior before the enemy.

(d) Discharge was based on an act or conduct that would be subject to criminal prosecution if it had taken place in a civilian environment.

The terms used in items "b", "c", and "d", in the above quotation, seem imprecise. If they accurately represent official policy, I would like to know what guidelines will be issued in order to assure fair and uniform interpretations of those standards.

Also, there appears to be a conflict between item "d", which indicates that "a compelling reason" for denial of upgrading exists when a discharge was based on "conduct that would be subject to criminal prosecution if it had taken place in a civilian environment", and item "h" on the first page of the "Qs & As for Use by PAOs", which suggests that "drug abuse", which generally involves criminal conduct in civilian life, might not be a "compelling reason" to deny an upgrading. Please let me know how you intend to resolve this apparent conflict.

7. Moreover, the March 29 press release and the April 5 materials are in conflict in a major respect. While the press release, which was widely quoted in the media, indicates that persons in three categories would not even be eligible for consideration, the April 5 materials suggest the contrary by leaving the decision to the individual board. If the April 5 materials are accurate in this regard, it would seem that a considerable effort should be made to correct the misunderstanding conveyed by the press release.

Also, assuming the April 5 materials prevail, an important question arises as to whether the "compelling reasons" for denial are intended to be absolute bars to upgrading. The information provided me seems to indicate that that may be the intent, and it is certainly a possible interpretation by members of the review boards. Such an absolute bar, however, would produce a substantial number of seriously inequitable results. For example, an individual who was seriously wounded in combat in Vietnam, or one who successfully completed a tour of duty there and was highly decorated for such service, may be considered ineligible for upgrading if he was later discharged for reasons involving a criminal offense, such as simple assualt, regardless of any mitigating or extenuating circumstances. I would strongly recommend clarification or modification of the "compelling reasons" standard to avoid such inequities by indicating that each case should be judged on its merits and that positive factors can outweigh negative factors.

Unless this is done, I believe that the inequities entailed in the coverage of individuals charged with desertion represents a gross injustice to those who tried and rendered valorous and honorable service for almost their entire tours.

8. This brings me to a concern that I highlighted at the onset of this letter—the need for judicious case-by-case determinations based on documentation and carefully developed guidelines. It appears to me that quite the opposite is planned in this program—as illustrated by the repetition of the word "automatically" in the April 5 materials. Automatic upgrading is one thing, but automatic conferring of a full range of veterans benefits on those who did not serve honorably is quite another. I think this kind of blanket approach demeans and diminishes honorable service in a major way.

9. Providing for careful, individualized determinations according to clear, detailed guidelines should be combined with strong, well-publicized encouragement—individualized to the maximum extent feasible—for all persons within the scope of the program to apply and obtain case-by-case determinations based on their particular circumstances. It would be most unfair for some eligible persons not to receive consideration through ignorance of their opportunities under the program.

10. A number of questions exist as to the intended meaning of several of the criteria for discharge upgrading: Are there guidelines for determining whether an individual was "wounded as a result of military action"? Will those persons who, at the end of service in Southeast Asia, submitted to urological tests which disclosed the presence of drugs be deemed to have "successfully completed an assignment" there? Is "discharge for abuse of drugs or alcohol" intended to be a negative factor as the use of the phrase "contributing or extenuating factors" suggests? If not, I believe that a clarifying directive to that effect is needed.

11. With regard to persons presently in deserter status which began after August 4, 1964, and before March 28, 1973, I would like to know what procedures are being established to give them reliable information as to whether there are other charges pending against them. Will those procedures give assurance that the making of an inquiry will involve no risk of being arrested? There is no mention of such assurance in any of the materials thus far issued.

12. What are your plans for providing counsel without charge to individuals whose applications for upgrading are initially denied? I believe all steps should be taken to arrange for private counsel (pro bono wherever possible) rather than to rely on military counsel. Will all persons whose applications are initially denied be advised of and granted the right of rehearing and the right to counsel? If not, what categories of applicants will not be so advised?

13. Will upgraded discharge papers bear any indication that the discharge has been upgraded, such as an issuance date reflecting the date of upgrading.

14. If a person is denied an upgrading of an undesirable discharge under this program, he might erroneously conclude that he is ineligible to seek a Veterans' Administration determination that he was discharged for reasons other than dishonorable and is, therefore, entitled to benefits. I suggest that persons refused upgrading of undesirable discharges be advised that they still have that opportunity to apply to the VA for benefits.

15. Among the persons who received bad conduct discharges as a result of offenses occurring during the period August 4, 1964, through March 28, 1973, how many were based on charges solely of desertion or prolonged absence?

16. I would like to know what statistical tabulations you plan to compile of Review Board decisions. It might be very useful for both monitoring and possible legislative purposes to develop, in all decided cases, profiles of key characteristics of the veteran, his or her service, and whether and to what extent an upgrading was granted. These characteristics would include the existence of a service-connected disability and the rating therefor, and the existence of one or more of the "compelling reasons" for denial of upgrading, together with specification of the conduct involved. It might also be useful to know as much objective data regarding the eight general considerations as could be made available. Such information might include, *e.g.*, age, length of service, education level, and whether substantial weight was given to a record of good citizenship since discharge.

17. Your staff advises that it is not possible to provide individualized notice to persons eligible for discharge upgrading. The reason apparently is that present recordkeeping practices do not make it possible for you to retrieve the military records involved according to date and type of discharge. Are you now establishing a procedure that would provide you with the capacity to notify individuals in the event of the establishment of any future discharge review program?

18. Consideration of the Special Discharge Review Program recalls longstanding criticisms of the administrative discharge process. Do you plan any overall review of alleged procedural shortcomings in that process and the various proposals for correcting them?

I would greatly appreciate a prompt response to this letter in order to assist us in evaluating various legislative proposals that have already been introduced in the Congress. If, for any reason, you encounter delays in providing complete answers, please provide periodic responses and have a member of your staff keep Jonathan R. Steinberg, Chief Counsel, or Edward P. Scott, General Counsel, of the Senate Committee on Veterans' Affairs, advised as to what informa-

tion is currently available and as to the progress in preparing a full response.

Sincerely,

ALAN CRANSTON,
Chairman.

SECRETARY OF THE ARMY,
Washington, D.C., June 2, 1977.

DEAR MR. CHAIRMAN: This is in reply to your letter of April 27, 1977 concerning the Department of Defense Special Discharge Review Program.

Due to the detailed nature of your questions, I have responded to each in the attached Inclosure. In addition, the following remarks are provided as a matter of background information and to address your general concerns regarding this progam.

The program is designed to achieve the President's basic objective to extend compassion and forgiveness to Vietnam era personnel who received administrative discharges other than honorable. In designing a program to achieve this objective, DOD considered but elected not to use any system of categorical upgrade which would bypass the normal system for discharge review. In our view such an approach would tend to detract from the character of the discharge of others who served honorably and would adversely impact on military morale and integrity. Rather, we designed a program which employs existing mechanisms for discharge review; provides for a case-by-case review; and provides for simplified application procedures.

The military departments are using the existing Discharge Review Boards for review of discharges under this Special Program. Due to the increased workload, the Boards have been augmented with additional officers and support personnel. All officers selected to augment the Boards must meet the same standards of maturity and professionalism required of those assigned permanently. Additionally, the same internal operating rules and procedures apply, thereby maintaining the integrity of the discharge review system.

Each case considered by the Boards is reviewed on its own merits. Neither indiscriminate nor categorical upgrading procedures will be used in this Special Program. The application procedures have been simplified (toll-free telephonic application) to facilitate entry into the review process. Evidence of successful and honorable service, somewhat similar to the "special considerations" announced in the Special Program, have traditionally been a part of the discharge review process. The principal difference in the Special Program is that if an applicant meets one of the "special considerations," upgrading will occur unless the Board finds there is a compelling reason to the contrary. This provision, coupled with the simplified application procedures, make this a Special Program. You will note that the "special considerations" are all related to honorable actions. The "mitigating factors" are included, in the spirit of compassion, as additional matters to be considered in this Special Program.

This program maintains the integrity of the Armed Services' discharge characterization system, and yet retains elements of compassion and fairness.

The last point concerns the eligibility parameters of the program. In designing the program, we sought to follow the President's desires that the program encompass the Vietnam era, 4 August 1964 through 28 March 1973, inclusive. These are the same dates that President Ford used in his Clemency Program. In any program with finite limits, there will be some "near misses." Therefore, you are correct in observing that some individuals who served during the period are not eligible to participate. However, to compensate for this, we provide to each applicant who is ineligible a letter explaining how to apply for discharge review under normal procedures and for convenience, enclose a copy of the appropriate application form.

I trust that this explanation of the program's implementation will allay your concerns and that the detailed answers to each of your questions will provide information which is helpful in your most important work.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

Inclosure.

QUESTION ONE

The period of the program, 4 August 1964–28 March 1973, coincides with the Vietnam-era as defined in former President Ford's clemency program and in President Carter's pardon of draft evaders. These dates correspond to the dates of United States direct involvement in the Vietnam conflict. Applicants who do not fall within the parameters of the SDRP are not ignored, however. Each is supplied information and appropriate application forms are provided, which may be used to request upgrade under the normal procedures. Experience has shown that successful and honorable service in combat weighs heavily in the applicant's favor during the review process.

QUESTION TWO

Special Discharge Review Program criteria and mitigating factors do not differ greatly from those normally considered by the board in reviewing discharges. All facts pertaining to combat service, awards, decorations, and prior honorable service are taken into consideration and any mitigating factors are inclusive in the consideration given to the whole man by the board. The principal differences between regular discharge review and this special program are that under the special program, if an applicant meets "special considerations", upgrading will occur unless the board determines that compelling reasons exist to the contrary.

QUESTION THREE

The existing discharge review boards of the three services are being augmented by additional members to enable each of these boards to increase the number of panels available to hear cases. The members augmenting the boards must meet the same standards and criteria as original members and the conditions under which they sit duplicate the conditions under which regular members sit.

QUESTION FOUR

The Presidents of the several boards have the responsibility of insuring uniformity between the various panels. Furthermore, there is no rigidity in panel configuration by membership. Members are rotated between panels daily as are presiding officers of the panels so that no single panel has the capability of establishing a single personality or philosophy differing from that of other panels. In addition, results of board reviews will be monitored by periodic reports to the Office of the Secretary of Defense.

QUESTION FIVE

The determination of whether or not to grant a general versus an honorable discharge is based on the overall conduct and efficiency of the individual during service, the nature and type of service performed (combat versus noncombat), the length of service, and conditions under which the cause for discharge occurred. These factors when considered with all other mitigating factors, are taken into account by the boards in making case-by-case determinations.

QUESTION SIX

In essence, the boards, in addition to determining whether or not the offense committed would have been punishable under civilian criminal law, will consider the evidence of calculated criminal intent, intent of grievous bodily harm to an individual, intent of substantial permanent loss to an individual of his possessions, offenses against minors, and the like. Further, the Special Discharge Review Program was developed in response to the President's desire that certain discharges be re-examined in a spirit of compassion. The Program is designed to provide extraordinary relief, but is not intended to restrict any favorable policies specified by competent authority to be followed by the Discharge Review Boards prior to the announcement of the Program. Accordingly, no change is anticipated because of the SDRP in regard to the disposition of cases involving drugs or alcohol.

QUESTION SEVEN

The press release was not all inclusive. The more complete materials that were published later in the Federal Register (Page 21308 through Page 21310 (26 Apr 77) are the basic documents of the Special Discharge Review Program. The determination of all factors in each individual's records will be used as the basis for the case-by-case review for possible upgrading of each applicant. Individual contact with one of the toll-free numbers and followup correspondence will serve to clarify specific eligibility questions.

QUESTION EIGHT

The boards are not conferring automatic upgrades, but instead are making decisions based on the presence or absence of supporting documentation in the military records or as provided by the applicants. While it is true that upgrading to a general discharge will occur in certain circumstances because of the special criteria, upgrade to an honorable discharge depends upon the entire record. Further, where special criteria are not present, upgrades will depend on the review of the entire file.

QUESTION NINE

Careful consideration has been given to thoroughly publicizing the Special Discharge Review Program to insure that maximum response will be obtained. In an effort to reduce the overall cost, the decision was made to rely to a great extent on the media to assist in providing the information to the public through news stories and public service announcements. Additionally, other government agencies have been requested to assist in this effort by providing their field agencies with information concerning the program and the application procedures.

Since the program was announced on 28 March 1977, the Department of Defense has made four news releases concerning the program and application procedures. These news releases were provided to the national media through the Pentagon press corps. Another major effort to publicize the program was to provide radio spot announcements to the program directors of 6,500 radio stations across the United States for use as public service announcements.

In addition to these news releases, the Department of the Army, acting as the Department of Defense executive agent for the program, is providing daily feeder reports to all military Public Affairs Offices with instructions on how to use this information to increase public awareness of the program through cooperation with local media representatives.

Initial data received from the Public Affairs Offices indicate that information about the program is receiving media coverage country-wide as well as some coverage in foreign countries. Cooperation of the media has been most encouraging.

QUESTION TEN

The term "wounded as a result of military action" generally refers to those individuals who received bonafide wounds, making them eligible for the award of the Purple Heart for service in Vietnam. The term "successfully

completed an assignment in Vietnam" encompasses those who were ordered to Vietnam, and were given credit for a completed assignment without having been recommended for discharge for improper conduct while in Vietnam.

QUESTION ELEVEN

Each service has one central office which maintains custody of deserter records. Each deserter will make contact with this central office for eligibility determination. During the process of determining eligibility each deserter record is thoroughly checked to see if there are charges pending other than for absence without official leave (AWOL) or desertion. If there are other charges pending, the individual at this point is so informed and is also informed of the decision made by the general court-martial convening authority as to whether the other charges will be dropped or retained for prosecution.

Instructions have been issued in the media and to all military agencies that deserter personnel are first to call or write their respective service for information on their status. Hopefully this will be done. In the event a deserter appears in person at an installation and inquires as to his or her status for participation in the program, he or she will not be placed in confinement or detained. If the deserter is determined to be eligible and the only charge pending is AWOL or desertion and he or she elects not to participate in the program, the deserter will be allowed to depart the installation. If other charges exist, he or she will be detained pending disposition of these charges.

In the course of determining eligibility, should the fact become known that a deserter has a civilian felony charge pending, the individual will be informed of such and also informed that the military service cannot be responsible for any civil warrants. The military services, in these instances, are obligated to disclose information regarding this individual to the agency holding the warrant. The fact that a deserter has civilian charges pending does not make him or her ineligible for the program.

QUESTION TWELVE

The Judge Advocate General of each of the armed services will arrange for counsel when requested by applicants who do not have a discharge under honorable conditions after initial review of their record and who request a de novo hearing. It is anticipated that the majority of counsel provided will be military lawyers. Each applicant who does not receive the relief requested is advised that he or she may request that his or her case be reviewed again and that he or she has the right to appear in person. However, only those who still have a discharge under other than honorable conditions after the initial review may request that the Government furnish counsel.

QUESTION THIRTEEN

In accordance with current procedures for preparation of associative discharge papers for those applicants receiving upgrading of their cases, individual copies of the DD Form 214 will not reflect that upgrading was accomplished pursuant to the Special Discharge Review Program.

QUESTION FOURTEEN

Advice will be given as you suggest.

QUESTION FIFTEEN

A precise answer to this question would be extremely difficult to obtain. The best estimate at this time is approximately 20,000.

QUESTION SIXTEEN

A number of items are being gathered from military records. These include normal service information such as personal data, tours, decorations, mitigating factors, review board action and finalization documents for discharge recharacterization.

QUESTION SEVENTEEN

Since 1972, information as to the type of discharges received by individual military personnel has been gathered and is on file. However, the problem is one of locating the individual once discharged from active service. Our experience in the Special Program thus far indicates relatively few of the applicants have the same address as the one indicated in their personnel records. Any attempt by the military services to maintain the current address would be in violation of the Privacy Act. Present experience with applicants reveals that most, upon moving, have not made provisions for forwarding their mail.

QUESTION EIGHTEEN

The following Department of Defense initiatives have occurred since the administrative discharge hearings were held in November 1975 before the Subcommittee on Military Personnel of the House Armed Services Committee. As you can see, the Department has been reviewing and adjusting its administrative discharge procedures to keep pace with legal developments and changes in policy and will continue to do so in the future. In addition, OSD personnel presently are working with the staffs of the Military Departments in developing joint service regulations covering the operation of the discharge review boards and the boards for correction of military records.

October 1975—Established Regional and Traveling Discharge Review Boards.

April 1976—Deleted term "unfitness" by incorporating subreasons into Unsuitability or Misconduct.

April 1976—Established specific category for discharge or personal abusers of drugs.

April 1976—Precluded offenses of misdemeanor type adding together to warrant discharge in lieu of court-martial.

April 1976—Directed that discharge authority cannot discharge if administrative board recommends retention.

April 1976—Provided for minority membership on administrative discharge board if member is of a minority group.

April 1976—Authorized invitational travel orders for important civilian witnesses for administrative boards.

April 1976—Added emphasis and provisions for discharge of marginal performers.

January 1977—Discontinued the term "Undesirable Discharge" in favor of the term "Discharge Under Other Than Honorable Conditions."

January 1977—Included inactive service with active service in determining eligibility of member for administrative board proceedings involving unsuitability.

January 1977—Authorized use of conditional waiver of administrative board proceedings at the discretion of the Military Departments, when initiated by the member.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 14, 1977.

Hon. CLIFFORD L. ALEXANDER, Jr.,
The Pentagon,
Washington, D.C.

DEAR CLIFF: Thank you for your June 2, 1977, letter, with enclosure, in response to my April 27, 1977, letter to Secretary Brown regarding the Special Discharge Review Program which he established on April 5, 1977.

There were several instances in which the information you provided was either incomplete or not fully responsive to the suggestions I had made and the questions I had asked. I would, therefore, appreciate it if you would provide me with specific answers to the following questions. (The numbering of these questions corresponds to the numerical designation I used in my April 27, 1977, letter to Secretary Brown.) In a few instances, I have added followup questions which are underlined.

Because this Committee will be conducting hearings on June 23, 1977, on a measure pertaining to the Special Discharge Review Program, it is important that I receive your response to this letter no later than June 20. I would appreciate your cooperation in expediting a response.

1. Your June 2 letter and enclosure did not respond to the suggestion I made that the Special Discharge Review Program include "persons whose discharges resulted, in whole or in part, from events which occurred during the period August 4, 1964, through March 28, 1973, including the commencement of unauthorized absences." It seems very clear to me that this approach would be more consistent with the terms of the President's pardon of draft resisters inasmuch as it, like the pardon, focuses on the individual's conduct during the period in question, not on the date of an administrative action such as the issuance of an administrative discharge.

What is the rationale for using the date of discharge issuance as the determinative factor rather than the individual's conduct, as I have suggested?

2. Your answer seems to indicate that the Special Discharge Review Program criteria are intended to have no effect on the review of cases not coming within the scope of that program. Is that the case? Have any directives been issued to that effect? If they have been issued, please provide me with copies.

3. Are there any orientation or training programs for new Discharge Review Board members? If such plans and programs exist, please describe them for me or provide me with copies of pertinent materials describing them.

What estimates do you have as to the average or maximum number of cases per day which individual panels may be deciding? What has been the experience to date in these respects?

Please describe the details of the processing of an average case.

4. and 16. Has a system been established by which the Secretary of Defense or the Secretaries of the Army, Navy, and Air Force can periodically monitor the results of the Program and detect diverging trends in the outcomes of similar cases, such as by statistical tabulations reflecting key data from decided cases? Are there any plans for the correction of inequities (rather than merely monitoring to ascertain them) which may develop, such as may be reflected by divergent trends among the services?

5. What written standards have been issued under the Special Discharge Review Program for determining when discharges should be upgraded to general as distinguished from honorable? If there are such standards, please provide me with copies of them. If no such standards have been specially developed for that Program, please provide me with copies of the general standards which are applied.

6. Have any guidelines been issued in order to assure fair and uniform interpretations of what are now clauses (b), (c), and (d) of section 4b(2) of the "Plan for Review of Discharges of Certain Vietnam Era Personnel", as published in the April 26, 1977, Federal Register at page 21309? If such guidelines have been issued, pleases provide me with copies of them.

Please provide me with copies of the "favorable policies" regarding cases involving drugs or alcohol.

7. Please provide me with any directives which require that "all factors in each individual's records . . . be used as the basis for the case-by-case review for possible upgrading of each applicant", including clarification of the position that "compelling reasons" will not be treated as absolute bars to upgrading.

8. Do I conclude correctly from your letter that you anticipate that the vast majority of upgradings of undesirable discharges under the Program will be to general rather than honorable?

10. Please provide me with copies of any directives which clarify the terms set forth at clauses b, c, and f of section 3 of the "Criteria for Discharge Review" set forth at page 21310 of the April 26, 1977, Federal Register.

Please answer specifically the question regarding those given urological tests.

11. If an individual currently in deserter status has been informed by telephone or in writing by the service concerned that there are no military charges other than AWOL or desertion pending, and that information is erroneous or the service concerned changes its position and decides to prosecute such a charge, what specific assurance has each individual been given (and is it in writing or oral) that he or she will not be detained and charged upon return to military control or that he or she will not be arrested prior to such return by virtue of having disclosed his or her current address?

12. How will it be determined whether military or private counsel will be provided? Are persons who still have a discharge under other than honorable conditions after a Special Discharge Review Program initial review fully advised of their right to counsel and the manner in which that right can be exercised? If they are so advised, please provide me with copies of any substantiating documentation and of any forms used in providing such advice in writing.

13. What discharge date will appear on a discharge upgraded in the Special Discharge Review Program?

17. Please advise whether you believe that a program under which persons with discharges under other than honorable conditions are encouraged to keep the Department of Defense advised of their current addresses would violate the Privacy Act. Please specify the provisions of the Act which may be violated by such a policy.

In closing I would again like to stress the importance of your providing me with responses to the foregoing questions by June 20. If you are unable to provide complete responses by that date, please let me have whatever answers and requested documents you can provide by that date.

Sincerely,

ALAN CRANSTON,
Chairman.

Enclosure.

SECRETARY OF THE ARMY,
Washington, June 22, 1977.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of June 14, 1977 concerning the Department of Defense Special Discharge Review Program. I apologize for the delay in responding, but this was necessary to insure you were furnished answers in the detail requested.

I hope the preliminary information provided your staff on June 20 was useful pending receipt of this formal reply. As with your letter of April 27 1977 concerning this program, I have responded to each question in the attached enclosure.

I trust this explanation of the program's implementation and additional clarification of existing procedures will assist you in your important work. We look forward to further discussions during the hearings of June 23, 1977.

Sincerely,

CLIFFORD L. ALEXANDER, Jr.

Inclosure.

QUESTION ONE

The intent during the conception of the program was to provide the relief desired by President Carter. Conceptually, it would have been desirable to make such a program available to all persons who were, in fact, adversely affected by the Vietnam war. However, when translating concept to practice it became obvious that this was not possible and that finite parameters had to be established. As noted previously, whatever limits were selected, would result in some "near miss" situations. For example, your suggestion of setting "date of conduct" vis-a-vis "date of discharge," within the window period as the determinative factor would have resulted in a vastly larger number of potential applicants. While there is no doubt that many of these additional applicants would have been adversely affected by the VN conflict, it is also true that most of these applicants would not have served in Vietnam and would have performed below standard for other than VN-Era related causes. If Congress concludes that the eligibility period for the program should be extended, the DoD would of course consider that carefully.

QUESTION TWO

The Department of Defense Special Discharge Review Program establishes criteria and conditions which are applicable only to individuals discharged between the dates of 4 August 1964 and 28 March 1973. Under the provisions of that plan, the Discharge Review Boards of the services are correct in interpreting that the specific procedures of the plan are not applicable to individuals who fall outside the dates mentioned above. However, it must be borne in mind that the criteria in use for the Special Program are duplicative of the criteria that are part and parcel of the discharge review, per se, since they deal with the totality of the individual and his service. To that extent, there is similarity in consideration of cases. The essential difference is, of course, that under the Special Program, there is a requirement to upgrade under certain circumstances and this requirement would not otherwise be present under normal review. The LOI for this program is attached as Inclosure 8.

QUESTION THREE

Each DRB received augmentation personnel to assist in conducting the Special review. These personnel were duplicative in grade, experience and length of service to normal board members. The function of discharge review is such that specified training, per se, is oriented almost exclusively on technique and procedures and not on the exercise of judgmental ability. These are assumed to be inherent in the type of officers (senior) who are assigned to duty. All newly assigned officers were familiarized with the standing operating procedures of the various boards and, as well, the specific procedures associated with the Special Discharge Review Program. Attached are the President's Guidance (Inclosure 2), and the various specific issue memoranda (A thru K) (Inclosure 3) issued by the President of the ADRB to the newly assigned members. With respect to the average number of cases per day that the panels are deciding, each DRB increased the normal panels to hear cases. As an example, the Army increased its operational capability from 4 to 10 panels. At the moment, the Army is processing a total of 300 Special Program cases per day and 50 regular cases per day.

QUESTION FOUR

Periodic reports are provided to the Executive Agent and, in turn, to the Department of Defense. Historically, there have been differences between the results of the panels because of the differing missions of the service, the differing methods by which discharges are granted and the conditions under which they are granted, and the differing standards that must necessarily apply. All boards meet periodically and compare procedures and results. It is through this process that the degree of similarity which is permissible under the statute is established.

QUESTION FIVE

There are no specific standards which would permit distinguishing between a discharge which should be upgraded to General, vis-a-vis one that should be upgraded to Honorable. This rests exclusively in the judgmental decision-making processes of the Board of the panel members, in which there are five. Based on their experience and past action, plus the standards for initial award of such discharges, these panel members decide relative cut-off points on a case by case basis. There is no arithmetic means by which this decision can be arrived at.

QUESTION SIX

Yes. With regard to acts of violence or violent conduct, the general guidance is contained in SFRB Memorandum of Instructions (Inclosure 2), paragraph 4b, page 16. This general guidance is intended to be broad in order to allow the exercise of mature, experienced judgment on the part of board members. In dealing with cases based on cowardice or misbehavior before the enemy, the brief, general guidance is also contained in Inclosure 2, paragraph 4c, page 16. The major detailed guidance is contained in the UCMJ, paragraph 178 (extracted at Inclosure 4). For an act or conduct that would be subject to criminal prosecution if it had taken place in a civilian environment, the general guidance is contained in: The President's Guidance (Inclosure 1), paragraph 17, page 20b; the SFRB Memorandum of Instructions (Inclosure 2), paragraph 4c, page 16; and in Special Program Memorandum K (Inclosure 3). It should be noted that all board decisions resulting in "no change", based on any of the above compelling reasons to the contrary for upgrade, are automatically reviewed by the legal advisor to the Army Council of Review Boards, a JAGC officer, who insures uniform compliance with the technical aspects of military and civilian law.

QUESTION SEVEN

It is inherent in discharge review and is applicable to this Special Program that the totality of the official military personnel file of the individual concerned be considered by the Board, and, in addition, any documentation which may be provided by the individual and/or his counsel. This requirement is inclusive in the regulations of the three services establishing the procedure for discharge review, and as an example, there is attached a copy of AR 15-180 (Inclosure 5) for the Army. As provided for in the plan and Letter of Instruction, a compelling reason to the contrary is treated as a bar to an upgrading under the special criteria of the Discharge Review Program. However, it would still not be impossible that upon consideration of the whole record and any mitigating circumstances it might contain, (the kind of consideration the Discharge Review Boards always have given) that an upgrade could be granted in a particular case.

QUESTION EIGHT

Yes. It is only in that category of cases in which normal discharge review would result in upgrading to Honorable that upgrading of applicants under the Special Program would be taken to Honorable. In this respect, there will be a percentage of applicants under the Special Program, who otherwise would have applied under regular procedures, whose discharge will be upgraded to Honorable and would have been, absent the Special Program.

QUESTION TEN

In clarification of these terms, the following guidance is provided:

(1) Wounded in action. A member of the armed services is considered to have been wounded in action, if the wound was incurred while the member was engaged in armed conflict or an operation or incident involving armed conflict, caused by an instrumentality of war, incurred in line of duty during a period of war as defined by law.

(2) Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations of Southeast Asia. Determination of fulfillment of this criteria is contained in AR 614-30, Table 1-1 and 1-2 (Inclosure 6).

(3) Had a record of satisfactory active military service for 24 months prior to discharge. Guidance for this criteria is contained in SFRB Special Program Memorandum B (Inclosure 3).

Those who were found to be "positive" on urological tests were treated and then returned to the U.S.

QUESTION ELEVEN

A precise review of each case is made by the respective service. A determination is made then as to whether the individual is eligible or not for the program. Subsequently, the individual is notified either by telephone or in writing concerning his status. Normally, phone notifications are followed up by written instructions. The services have no intention of prosecuting an individual who is eligible for the program in lieu of administrative discharge proceedings unless the individual should, upon return to military control, commit a subsequent act in violation of the Uniform Code of Military Justice. At any time an eligible individual who voluntarily returns to military control for program participation decides not to participate, processing will be suspended and he or she will be allowed to depart the military installation. An eligible participant is not confined or placed under guard unless he or she commits an act which so warrants, after return to military control. There is no specific guidance provided the individual which states that he or she will not be detained and charged upon return to military control. However, each service has been provided specific guidance which prohibits this action unless another act is committed. The services are not allowed to utilize information obtained from those individuals expressing a desire to participate in the program for any subsequent actions, to include arrest.

QUESTION TWELVE

a. Part One. "When the initial review by the Army Discharge Review Board results in no upgrading for holders of discharges under other than honorable conditions, the Army will notify the individual that military legal counsel will be provided for the de novo hearing, at no expense to the applicant upon his request. Applicants are advised that they may not request military legal counsel by name. The applicant is also advised that he may elect to be represented at the hearing by civilian legal counsel of his own choice at no expense to the Government. In that event, however, Government provided counsel will not be authorized."

b. Part Two. "Yes."

c. Part Three. Letters attached as requested (see Inclosure 7).

QUESTION THIRTEEN

The discharge date will be retrospective, that is, back to the original date of discharge.

QUESTION SEVENTEEN

The Department of Defense has established records keeping systems which would permit the recall and identification of individuals separated for various reasons and differing characterization of discharge. However, records would reflect only the last known address at the time of separation. Due to the transitory and dynamic nature of the typical American household, and based on recent experience with applicants, most last known addresses are no longer current. Any program that would require provision of current address could violate the provisions of the Privacy Act. However, since the Special Discharge Review Program provisions are voluntary, as the provisions of any conceivable future programs would be, no problem with the Privacy Act would be expected. The establishment of a requirement for the Services or the General Services Administration to continually update the records of individuals separated with discharges under other than honorable conditions would be administratively burdensome and unnecessary, since Discharge Review is based on individual application.

Mr. DURKIN. Mr. President, I have spent a good deal of time, over the years, thinking about the Vietnam war—its effect on our national pride; its effect on our foreign relations; but most important its effect on the men and women who fought in that war.

The tragedies of that war are well known and a continual burden to the citizens of this country who are trying hard to forget the horrors that often brought violent dissension at home in our then-polarized society. Much can be said in defense of putting the war behind us—not forgetting it, but learning from it so that we can pursue a more positive and productive role in pursuing our national goals. But there is no defense for those who would forget the veterans of that unforgettable tragedy.

The emotions wrought by Vietnam run deeply, but many of us, in our hearts, are aware that the Government sent our youth off to fight, and many to die, in the jungles of Southeast Asia. I am firmly convinced that for the good of the country we should do everything we can to heal the wounds that have remained long past our evacuation from that sad country. Once this is done we can leave the final analyses of Vietnam to the historians.

For these reasons, I support President Carter's proposal to upgrade less than honorable discharges. But because I am aware of the political realities of this body and because I know there is a real possibility that no upgrading program will be allowed, I have reluctantly decided to support the Cranston-Thurmond proposal only because my failure to do so might result in an even greater injustice to our Vietnam veterans.

Let me emphasize that I have never, and will never, condone desertion or the acts of many of those who were court-martialed. But I cannot turn my back on the lessons and realities of that tragic war. Whether we want to admit it or not, in Vietnam, young men were ordered to fight a war that was steeped in failure. It was fought by those who were poor or uneducated, and who were unable to find the same loopholes in the Selective Service laws that were found by the children of our wealthy. Poor and uneducated young men could not hire expensive lawyers and doctors that many employed to keep themselves out of the war. These are the children, the poor and the uneducated, that the Government sent to face the horrors of the Vietnam war.

These are the people we are talking about today. They are no longer children, but they are still suffering the adverse effects of the war. If we forget about these men by failing to clear the records of the deserving then we condemn them and ourselves to continue suffering the horrors of Vietnam.

We can all agree that the tragic story of Vietnam must be brought to a close. But it will be a tragic injustice not to end Vietnam for those who were young and forced to choose between fighting in an inconclusive war or of enduring the wrath of this Nation and the subsequent stigma of a restrictive discharge.

I pray that we can finally put an end to this suffering. I am of the firm conviction that this proposal represents the most that can possibly be attained at this time in the U.S. Senate. Although I would like to allow benefits, as well as clean paper to those found deserving after a case-by-case review under the compassionate discharge program, I am aware that the Cranston-Thurmond proposal is the best that can be attained. Because the book must now be closed for the benefit of the entire Nation, I reluctantly support Cranston-Thurmond. While I disagreed with the President's amnesty program because it was not on a case-by-case basis, to fail to upgrade meritorious cases would again result in discrimination against a class of people who have already paid such a high price in the conflict—namely, the sons and daughters of the working class families of America.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harold D. Hardin, of Tennessee, to be U.S. attorney for the middle district of Tennessee for the term of 4 years vice Charles H. Anderson, resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, June 30, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Emmett W. Fairfax, of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years vice John T. Pierpont.

George R. Grosse, of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years vice Mitchell A. Newberger.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, June 30, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

(This concludes additional statements submitted today.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of S. 208, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 208) to amend the Urban Mass Transportation Act of 1964 to extend the authorization for assistance under such act, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Massachusetts (Mr. BROOKE), with 1 hour on any amendment, except an amendment to be offered by the Senator from California (Mr. HAYAKAWA), on which there shall be 2 hours, and with 30 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. 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. WILLIAMS. Mr. President, I ask unanimous consent that the following people be granted permission to be on the floor during debate on S. 208: Howard Menell, Marcia Wolf, and Lisa Walker.

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

Mr. WILLIAMS. Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, would insure that the progress made in providing improved mass transportation over the past decade will be sustained in the years to come. Enactment of S. 208 will revitalize mass transit programs across the country while helping to save energy by promoting a solid alternative to the private automobile.

Just over 2 months ago, President Carter went before the American people to discuss the energy problem. The picture he painted was bleak indeed, a picture of the world's greatest power entering into perhaps the most difficult period in its glorious history without well-developed solutions to a problem of unprecedented magnitude. The President called the energy crisis "the greatest challenge that our country will face during our lifetime," outside of preventing war.

This is not overstating the case. Again, to use the President's words, "our decision about energy will test the character of the American people and the ability of the Congress to govern this Nation."

In his nationwide address on April 18, 1977, the President invoked some grim images to get his point across. And I thought he did it most effectively by stating that failure to take positive and effective action would mean that "our cars would continue to be too large and inefficient. Three quarters of them would carry only one person—the driver—while our public transportation system continues to decline." He concluded that action to prevent a "national catastrophe" must begin immediately with the formulation and implementation of national policy.

So along with millions of other Americans, I eagerly awaited the subsequent energy message which was to be a Presidential blueprint for our national energy policy.

On April 20, 1978, President Carter addressed a joint session of Congress to spell out in more detail the components of his energy policy.

The content of the President's speech is still being discussed and debated. And the Congress is now trying in all earnest to pass the enabling legislation. But I was more distressed over some of the omissions from the President's speech—omissions which I believe could prove fatal to any energy policy. Specifically, the President failed to include mass transportation in his program enunciated at that time.

Mr. President, this neglect has triggered a storm of protest. The President has made a point of communicating with the American people and, in this case, they were listening carefully. In fact, almost two thirds of the American people agree that President Carter has failed to put enough emphasis on public transportation, according to a survey commissioned by one prominent magazine.

Mr. President, the Congress has encouraged and promoted mass transportation since the early part of the last decade, but never has it been more important that we act to improve and assure continuity in this program.

It offers a strategic alternative to the Nation's growing dependence on petroleum inputs. If we are ever to develop a cogent, realistic energy policy, we must continue to promote mass transportation. If public transportation—mass transit—is to gear up as the viable alternative to commuter use of the automobile, Congress must fill the gap left in the President's energy program, and we have an opportunity to fill that gap, so far as we in the Senate are concerned, with the legislation that is before us.

The reasons are clear enough. If we are to reduce gasoline consumption and if the American people are to turn to public transportation to meet their commuting needs, this legislation is required to provide the necessary resources and facilities to accommodate new riders.

Nationwide statistics show that 53 percent of commuters drive to work alone in an automobile; another 21 percent are automobile passengers. A mere 8 percent commute on public transportation.

Transportation accounts for 25 percent of our Nation's total energy consumption and for 52.6 percent of our total petroleum use. Cars in cities alone consume 34.2 percent of the transportation total. The average commuter automobile carries 1.4 people and is one of the least efficient energy consuming modes of transportation. In sharp contrast, in terms of passenger miles per gallon of fuel, a bus with 30 passengers is six times as efficient to operate and a subway car with 35 passengers would be seven times as efficient.

Clearly, it is in the national interest—now more than ever—to continue and extend the ongoing mass transit program in order to meet our energy goals.

Mr. President, in plain terms, there can be no energy policy nor can our energy objectives be accomplished without increased reliance on our Federal mass transportation program. Congress should recognize this by promptly passing S. 208 and this is the route, in my opinion, which will revitalize mass transit programs across the country.

Mr. President, since this measure was introduced in January by Senators KENNEDY, HEINZ and myself, support has come from all regions of the United States. At the hearings held in February, the U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures, the American Association of State Highway and Transportation Officials, the American Public Transit Association, the Environmental Action, Highway Action Coalition, the Sierra Club, as well as individuals from every area of our Nation stressed the urgent need for the prompt enactment of this legislation.

S. 208 reflects the advice of the Secretary of Transportation and has been amended for the express purpose of according him sufficient time to review transportation policy. S. 208 would reconcile this request with the obvious, pressing need to adequately fund existing programs and provide funds for new starts.

The enactment of S. 208, the National Mass Transportation Assistance Act of 1977, is of the utmost necessity if we are to continue our progress in providing efficient urban mass transportation throughout our Nation. The Federal commitment contained in this proposed legislation will encourage development and further improvement of urban mass transportation. If we are to reach our goals of alleviating air pollution, traffic congestion, rebuilding our inner cities and resolving the energy crisis, the Congress must assume the responsibility and the initiative to prevent any interruption of the highly successful public transportation program. The Senate has the opportunity to start on the realistic path toward energy dependence today with the passage of S. 208.

Mr. President, I ask unanimous consent that a summary of the bill be reprinted at this point in my remarks.

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

SUMMARY OF THE BILL

S. 208, as reported by the Committee on Banking, Housing, and Urban Affairs, would amend the Urban Mass Transportation Act as follows: (Section references are to the present law)

1. UMTA Section 3—Capital Grant Program:

a. Add $5.3 billion in new grant authority for discretionary capital grants through fiscal year 1982.

b. Change mass transit funding from a contract authority basis to an authorization/appropriation basis (by providing a rolling 5 year authorization cycle in which appropriations can be provided one year in advance) to comply with Congressional Budget Act.

c. Formalize procedures used by UMTA in funding major capital grants.

d. Require a $400 million annual set aside for new bus equipment purchases.

e. Require the Secretary of Transportation to report to Congress periodically on detailed estimate of costs of capital assistance grants.

2. UMTA Section 5—Formula Grant Program:

a. Authorize areas other than urbanized areas (i.e., rural areas) to use $500 million set aside in 1974 in the capital grant program for operating assistance as well.

b. Restore $125 million for fiscal year 1980 borrowed for the fiscal 1977 transition quarter.

c. Create a new "second tier", $295 million fund to supplement the operating assistance provided under basic section 5 formula. The three year source of funding would be $145 million in "recycled" authority (e.g., unused operating funds now automatically returned to Treasury), plus $50 million in new authority for fiscal years 1978 through 1980. In developing a formula, the Secretary would have broad discretion guided by three factors—share of national total of revenue passengers, vehicle miles, and population weighted by density.

3. UMTA Section 10—Fellowship Assistance Grants for Managerial Training Program:

Remove present restrictions on Secretary's ability to make grants to provide fellowships for training of personnel employed in managerial, technical or professional positions in the urban mass transportation field.

4. UMTA Section 12(c)—A Definition of Preliminary Engineering:

Make clear that capital grant funds under sections 3 and 5 of the Act may be used for preliminary engineering of mass transportation capital projects.

5. UMTA Section 8—Loan Forgiveness:

Authorize the Secretary to convert prior loans to capital grants by forgiving principal and interest on previously made loans.

6. UMTA Section 16—Mass Transportation for Elderly and Handicapped Persons:

Revise and extend existing law by requiring that projects receiving assistance provide for the effective utilization of mass transportation services by elderly and handicapped persons, that a local advisory committee be established, that technical study grants include work elements necessary to produce a local plan, that the Secretary establish a National Advisory Council and that the Secretary shall prepare a report to Congress.

7. UMTA Section 17—Emergency Commuter Rail Operating Assistance:

Extend the termination date for commuter rail emergency operating assistance provided by the Rail Revitalization and Regulatory Reform Act of 1976 from March 15, 1978 to March 15, 1980 with a $30 million annual authorization for fiscal years 1979 and 1980.

8. Commuter Rail Operating Assistance:

Add a new section 18 to the Act to provide operating assistance funds to rail commuter services which are not eligible under section 17. $10 million is authorized in fiscal 1978 for formula distribution by the Secretary to cover operating deficits of eligible services.

Mr. WILLIAMS. Mr. President, this bill, as I indicated, has been developed and worked up, heard and reported by the Committee on Banking, Housing, and Urban Affairs. It comes to us—and if it is passed and if the program becomes law—at the best and most promising time, with a new administration, with a dynamic Secretary of Transportation, with the nomination of a most knowledgeable individual—Mr. Richard Page—about to be considered as the head of the Urban Mass Transit Administration, an individual who has a background, in transit policy and management, in one of our major cities. His nomination has not been confirmed as yet, but is to be considered in hearings and by the Committee on Banking, Housing, and Urban Affairs next week.

I emphasize the two individuals who will be in charge of transportation, as we are addressing the problem of urban mass transit. I feel certain that the best minds and the best talents will be applied to administering the legislation continued here, and considered today for continuation and significant improvements in the program.

We say "urban mass transit." We have learned over the years that all urban areas to be served are not giant cities. We have included in the past, and we have greatly improved this year, our attention to mass transportation in areas that are not the size of our giant metropolitan areas—cities, yes, but cities under 50,000 people. They are given new emphasis in this bill.

I was here in this position when urban mass transit was accepted as a national effort in 1961. There was at that time some fear that it was sort of an exclusive bill; it was called a big-city bill.

Certainly, our most densely populated areas present the greatest problems in transportation; and substantial moneys, capital money and operating money, go to the most dense metropolitan areas.

But we have learned, and we have delivered on what we have learned. We have made this a national program for all our States and for all our communities where people are gathered together and need a mass transportation opportunity.

I will say that in this matter of transportation, as with so many, the ranking minority member of our committee in this area, the Senator from Massachusetts, brings to us all the knowledge and experience of someone from that part of our country who has been a leader in mass transportation, and he has certainly brought his particular leadership to us as we develop this program.

I am happy he is my partner as we manage this bill today.

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

Mr. BROOKE. Mr. President, I first thank my distinguished colleague, the chairman of the subcommittee and floor manager of the bill, for his very kind and very generous words. However, as we all know, in the Senate, HARRISON WILLIAMS has really been sort of the father—though he is a young man—of mass transit; and he has done an exceptionally well and able job as chairman of this subcommittee in bringing important mass transit legislation to Congress.

I commend him and say for the RECORD how privileged and pleased I am to serve with him on this important committee, as we bring to the Senate, for deliberation and for passage, what I believe to be an important bill.

Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, provides important assistance to the development of our urban transportation systems. This bill provides an additional $5.318 billion in new authority for rapid transit and bus systems. Together with the available existing authority of more than $3.3 billion, we are providing for a 5-year funding level of $8.65 billion for mass transit.

Without this legislation, development of our transit systems will come to a standstill. Presently, needed additions are scheduled for Los Angeles, Boston, Philadelphia, and additional funding will be needed for Chicago, Honolulu, New York, and southern New Jersey. This legislation will provide the necessary funding to serve these and other systems.

Additionally, it provides that at least $400 million a year is to be reserved exclusively for bus purchases. Transportation in nonurban areas is all too often forgotten, but we provide at least $500 million for this purpose.

Until a few years ago, most communities gave little attention to the importance of public transportation. Most families were automobile-oriented and energy was cheap and plentiful. As we know, all too well, however, changes have occurred which have caused a renaissance in public transportation.

Not only in large cities, but in many small and medium-sized communities, people are realizing the benefits and convenience of public transportation. Greater interest by the public has spurred greater innovation by transit managers. This, in turn, has fostered increased use of mass transportation.

Today, public transportation must be thought of as being as important as any other public institution. A community should provide adequate transportation to its citizens, just as it must provide adequate police and fire protection, as well as other public services.

Mr. President, as the chairman and I very well know, mass transit systems are urgently needed to take people from the inner city to their place of employment, and many of our unemployment problems have come about because of a resulting dearth in rapid transit systems across the country.

All too often, we think of public transportation as being dominated by huge multimillion-dollar rapid transit or heavy rail systems. In fact, most communities rely on buses to provide public transportation. This legislation provides funds for many modes of transportation. It provides that at least $400 million a year will be available for bus purchases. Additionally, it recognizes the need for public transportation in smaller towns. It specifically sets aside $100 million a year for these communities, and they

can use the money either for capital or operating assistance.

We have received much testimony on the need to provide more authority as soon as possible. While there is over $3 billion in existing authority, the Department of Transportation has a moral commitment to obligate about $2.8 billion of this authority. This would leave only about $600 million for new commitments in future years. The problem with large-scale transit projects is that they need a commitment at the outset that sufficient funds will be available to insure the completion of the project.

They cannot start the project without full knowledge that they will be able to go forward to full completion. Otherwise, that money would have been wasted. Unless we provide the additional funds in this legislation, in future years, very few, if any, major rapid transit projects can be approved.

At a time when we are concerned about conserving energy, and at a time when more people are using public transportation, this is not the moment to cut back and reverse an established trend in funding new transit proposals. While the cost of some of these projects seems large, they are small compared to the alternate costs associated with large gasoline consumption by cars, congestion of our city streets, delays in moving about the city, and increased pollution in our urban areas.

Mr. President, many times when we go to our major cities, we get caught in traffic jams and we wonder whether we ever will be able to get out. We wonder what is going to happen if more and more cars continue to get on roads, and all of a sudden we say we are going to come to a standstill in this country.

We have the same feeling here in Washington, D.C., in New Jersey, and in California, certainly in my city of Boston, and elsewhere across the country.

If we do not have rapid transit systems to move the people, there will be no recourse.

Some people will say, "Well, they will not ride rapid transit systems." But the facts are to the contrary. Testimony before our committee indicated strongly that people do and will ride rapid transit systems if they are provided. Even in the small towns, when you cannot get from town to town because there is no bus system to take, it is obvious that there is a great need for buses as well.

So, Mr. President, I submit that this legislation is necessary for us to continue the assistance we have made in the past, and to provide adequate levels of public transportation to the cities of this country. I would urge my colleagues to support its passage.

Mr. JAVITS. Mr. President, I commend the committee for its efforts on this bill and I would like to comment on two excellent features.

I consider to be particularly important the introduction of a second formula for allocation of section 5 moneys for operating assistance that would expand such aid to cities most in need. As the committee report notes, smaller urban areas often have unobligated balances while major urban areas are greatly in need of additional assistance. New York has consistently utilized all assistance available under this program. Under the present formula the largest urban areas receive less than one-quarter the assistance per passenger that the small urban areas receive. Even using a per vehicle mile comparison, the largest areas receive only about 40 percent of the amount obtained by the small urban areas. The new formula will not eliminate this imbalance, but it is an important first step in correcting the inequity and in focusing Federal funds on mass transit systems most in need.

A second feature of this bill that I consider also as important is the additional operating assistance for commuter rail systems not presently aided by the emergency assistance program. These systems carry 80 percent of the Nation's commuter rail passengers and so are vital to our overall mass transportation system. Although the funds are limited and the duration of the program only 1 year, I feel this measure is an important one. I commend the committee for recognizing the need for interim assistance while it studies the national commuter rail assistance program.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the committee amendment be agreed to and considered as original text for the purpose of further amendment.

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

UP AMENDMENT NO. 521

Mr. WILLIAMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 521.

Mr. WILLIAMS. Mr. President, I will explain the amendment. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 16, line 19, strike out "$5,318,000,000" and insert in lieu thereof "$4,750,000,000".

At the end of the bill add the following new section:

SEC. 13. Section 12(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated not to exceed $545,000,000 to carry out the functions under this Act. Any amount appropriated pursuant to this subsection shall remain available until expended. The aggregate amounts appropriated may not exceed $145,000,000 prior to October 1, 1978; $345,000,000 prior to October 1, 1979; and $545,000,000 prior to October 1, 1980.

Mr. WILLIAMS. Mr. President, this is an amendment to section 2 of the bill which provides the authorizations for the section 3 capital grant program. It is in the nature of a technical amendment, the need for which was not discovered until after the committee reported the bill.

Section 2 of the bill would add $5.318 billion to the section 3 program through fiscal year 1982. The committee arrived at this figure based upon the assumption that there was $3.332 billion in remaining contract authority. The committee's intent was to provide a total of $8.65 billion.

According to the Congressional Budget Office, $3.912 billion of old contract authority will be available in fiscal 1978 or some $580 million more than estimated by the committee, and reflected in S. 208. Unless adjustments are made, the bill would authorize $580 million more than the maximum appropriation allowed under the bill. Accordingly, the amendment would reduce the authorization in section 2 of the bill from $5.318 billion to $4.750 billion to realize the committee's intent.

The amendments made by the bill to section 4(c) of the act require another perfecting amendment. Previously, budget authority for section 12(d) programs, such as technical studies planning, research and development, managerial training, university research and administrative expenses was derived from section 3 contract authority. However, the bill would provide that all available contract authority must be used exclusively for section 3 grants and loans. Thus, it is necessary to provide separate authorizations for section 12(d) programs.

The second part of the amendment would therefore provide a separate authorization for functions funded under section 12(d) of the act. Specifically, the amendment would authorize $545 million to allow for continued, steady expansion in these vital programs.

These technical amendments will not increase the total level of mass transit budget authority involved in the bill. As a matter of fact, these amendments would necessitate a $12 million reduction in the total authorization approved in committee. But they will make certain that all programs under the Urban Mass Transportation Act are adequately funded.

This is a correction of the placement of those figures because of information received by us from the Congressional Budget Office after the committee had reported S. 208, and it conforms the bill to the figures that we received at that time.

Mr. BROOKE. Mr. President, I have no objection to the amendment.

The ACTING PRESIDENT pro tempore. Is all time on the amendment yielded back?

Mr. BROOKE. I yield back my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

UP AMENDMENT NO. 522

Mr. BROOKE. Mr. President, I send to the desk an amendment, for myself and the Senator from Texas (Mr. TOWER), and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. BROOKE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 17, beginning with "Such" on line 21, strike out all through the period on line 23 and insert the following: "At the time of such an announcement, the Secretary shall set aside, from the amount authorized under section 4(c), an amount not to exceed the amount stipulated as the Secretary's financial participation.".

Mr. BROOKE. Mr. President, I offer this amendment because there seems to be some confusion as to the meaning of section 3 of this bill. I interpret it to mean one thing, while others may interpret it to mean something else. But I think we are all agreed as to what it should say.

I think that the report language is clearer, and I would take the language of the report, which is what the committee really intends, but which is somewhat different from the legislative language as drafted. This amendment would do no more than make absolutely clear what we intend.

The report language is on page 7 of the report of the Committee on Banking, Housing, and Urban Affairs, and reads as follows:

The issuance of the letter would not constitute an obligation or an administrative reservation; it would constitute a representation from UMTA to obligate from future available budget authority and would also create a "set aside" of section 3 budget authority. Funds to see the project through each year of construction would be considered "set aside" from funds authorized for each future year and would be obligated as appropriations are made.

The amendment which I have offered merely states:

On page 17, beginning with "Such" on line 21, strike out all through the period on line 23 and insert the following: "At the time of such an announcement, the Secretary shall set aside, from the amounts authorized under section 4 (c), an amount not to exceed the amount stipulated as the Secretary's financial participation.".

In other words, Mr. President, what I am trying to do here is to use the report language as the bill language, because I think it is more representative and more clearly indicates the intent of the subcommittee than the language presently contained in the bill, and for no other reason.

Mr. WILLIAMS. Mr. President, I wish to express my personal gratitude to the Senator from Massachusetts for bringing this clarification to what I think anyone reading the provisions would recognize as a complex and sometimes confused procedure—authorization, commitment, intention, getting ready for later obligation and appropriation, and so forth.

Speaking as one member of the Banking, Housing, and Urban Affairs Committee, there is a deep gratitude running to the Senator from Massachusetts, who knows the appropriations process from his membership on the Appropriations Committee and recognizes the need for clarification in the procedures. They are complex as reported by the committee; any way we can find to clarify and make this better understood, I certainly favor. This clearly does. I know there has been confusion with the language of set-aside and what follows.

I am grateful to the Senator and happy to accept this amendment.

Mr. BROOKE. I thank my distinguished chairman. He is absolutely correct, that there is some confusion. We hope, through the substitution of this language, we now have clarification. Mr. President, I yield back the remainder of my time.

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

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 523

Mr. WILLIAMS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment No. 523.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning with page 24, line 5, strike out all through page 30, line 4.

On page 30, line 5, strike out "Sec. 11." and insert in lieu thereof "Sec. 10.".

On page 30, line 24, strike out "Sec. 12." and insert in lieu thereof "Sec. 11.".

Mr. WILLIAMS. Mr. President, I offer a committee amendment which has been agreed to on both sides—to strike section 10 of the committee reported bill. This amendment is offered because the committee language is no longer necessary.

Section 10 of S. 208 is comparable language to that passed by the Senate in 1975 in S. 662 which clarified and reinforced the intent of Congress that all mass transit programs assisted under the Urban Mass Transportation Act were to be accessible to elderly and handicapped individuals. I had introduced this legislation because no significant efforts had been made by the Department of Transportation or UMTA in previous years to carry out the intent of Congress and implement the accessibility mandate. During consideration of S. 662 in the previous Congress, the UMTA Administrator had testified that the language of S. 662, requiring the Secretary to take steps to assure that all mass transit facilities—including stations and facilities, trains and buses—could be utilized by the elderly and handicapped, was not necessary because standards and specifications for the conventional-size bus of the future, Transbus, would soon be available and that the Transbus would assure full accessibility to the handicapped and elderly. In the summer of 1976, UMTA announced that the Transbus project was being shelved.

However, section 10 of S. 208 has been made unnecessary by the announcement by Secretary Adams on May 19 of his decision to require all new public buses purchased with DOT grants to be designed for easy access by elderly and handicapped persons. This decision makes possible the implementation of the congressional mandate for full accessibility without new legislation. To carry out this decision, the Secretary has directed the use of the Transbus specifications, requiring all buses offered for bid after September 30, 1979, to have a floor height of not more than 22 inches, to be capable of kneeling to 18 inches above the ground and to be equipped with a ramp for boarding. Between now and October 1979, Secretary Adams has left in place an interim policy on accessibility for the elderly and the handicapped which requires manufacturers to continue to offer optional wheelchair lifts and requires local transit authorities to either purchase buses with lifts or provide special services for elderly and handicapped passengers. This action by the Secretary means that elderly and handicapped persons will no longer be excluded from adequate transit service because of its inaccessibility. It also makes unnecessary our enacting amendments to section 16 to force PMTA and DOT to take action on the accessibility mandate and to clarify that the term handicapped includes persons in wheelchairs. Thus, I am offering this amendment to delete section 10 of the committee bill.

Mr. President, I yield to the senior Senator from Florida (Mr. CHILES).

Mr. CHILES. I thank the distinguished Senator from New Jersey. I am fully in accord with the action. Section 10 is no longer required in view of Secretary Adams' decision of May 19, 1977, mandating that all standard-size transit buses purchased with Federal assistance after September 30, 1979, be accessible to elderly and handicapped individuals. At hearings before the Special Committee on Aging we have been told many times that the lack of accessible public transportation is one of the greatest problems facing older Americans. The Secretary's decision will allow millions of the Nation's elderly to live with independence and dignity, and will prevent many thousands from being forced into unnecessary institutionalization, often at great expense to local and National Government.

However, I do wish to clarify the intent and effect of S. 208 following deletion of section 10. Am I correct in assuming that, even after September 1979, individual communities will be free to supplement accessible full-sized bus services with special services, to serve demands not met by the regular transit system, including the needs of the most severely handicapped individuals whose needs may not be able to be met by the regular transit system?

Mr. WILLIAMS. That is correct. S. 208 and Secretary Adams' accessibility decision continue to leave planning and implementation of local public transportation to local officials. They continue to retain the authority to supplement regular fixed-route service with specialized services on smaller, so-called paratransit vehicles in order to meet the needs of the elderly and the handicapped in a comprehensive and comparable way. As

part of the comprehensive local plan for meeting these needs these specialized services may be offered on their own initiative or on a contractual basis to local social service agencies.

I point out in this regard that, following adoption of S. 208, section 16(b)(2) of the Urban Mass Transportation Act continues in full effect. As my colleague is aware, that section reserves up to 2 percent of UMTA capital grant moneys for grants and loans to private nonprofit corporations and associations in order to assist them in providing transportation meeting the special needs of elderly and handicapped individuals.

Funds for specialized transportation demonstration projects will also continue to be available under section 6 of the act.

Mr. CHILES. I thank the Senator. I am particularly aware of the enormous differences which the section 16(B)(2) program has worked in the lives of elderly persons in diverse communities, and I wanted to be sure that this valuable assistance would continue to be available. Accessible regular transit is required both by law and by our constitutional principle of equal protection. But regular transit generally serves the travel patterns of working commuters and is often inappropriate to the needs of retirees seeking to get to the doctor, the bank or the grocery, their senior centers or house of worship. And, of course, in many rural areas of my State the low population density and rough terrain makes the use of full-sized buses inappropriate or impossible. May I say, while on the subject of the needs of rural areas, that I am glad to see that S. 208 will finally allow nonurban locales the same freedom to use their UMTA funds for operating as well as capital expenses as has long been enjoyed by the cities. It makes little sense for we in Washington to deny to local decisionmakers the authority to decide how these moneys can result in the best transportation plan for their area, to provide vehicles and then deny the operating funds needed for safe and reliable service.

Mr. WILLIAMS. The Senator's observations are well taken. Accessible standard buses will certainly have to be supplemented by other services for the foreseeable future in order to assure the provision of comprehensive service to elderly and handicapped persons. Secretary Adams' estimated delivery of these accessible buses was January 1981 for all manufacturers. Given that their average life is 12 years and there is no speed up in the schedule, regular transit fleets may not be composed completely of accessible vehicles until sometime in the 1990's. However, at least one manufacturer expects to have the Transbus on the market before that and I would hope that pressure from Congress and the communities will speed up the schedule. Secretary Adams has rightfully indicated that he will consider sole source procurements to get Transbus on the streets before that.

Mr. CHILES. I thank the Senator for that valuable information. As I said earlier, I concur fully with the decision of section 10 of S. 208. The Secretary's May 19 decision will result in vehicles which can be utilized by nearly all citizens. They will be safer and more comfortable than present buses, and their attractiveness should increase ridership and contribute to the national effort to conserve energy. In combination with the section 16(B)(2) program as well as the other transportation resources, for example, as the title VII nutrition program of the Older Americans Act, I believe we are making great strides toward furnishing the type of mobility necessary for lives of dignity.

Mr. WILLIAMS. I could not agree more. And I would like to add here, that the Senate Subcommittee on the Handicapped, chaired by Senator RANDOLPH, has had a significant input as we developed a response to the needs of handicapped individuals in transportation.

When Secretary Adams announced this important decision, I commented that many additional steps would need to be taken to assure that this policy could be effectively planned for and carried out in all of our local communities which receive mass transit funding.

I think we must all be concerned that adequate steps be taken both by UMTA and the Department of Transportation, and also by local transit planners and operators, to assure that the accessibility mandate makes available to all persons transportation services which meets their everyday needs. Since section 504 of the Rehabilitation Act, prohibiting discrimination on the basis of handicap, also makes these required duties of DOT/UMTA grantees, leadership on the part of the Department and UMTA can ease the pressures and needed responses of local planners by putting thought into what is required on a step-by-step basis. Leadership in this area by the Department is a critical factor, I believe, in assuring full implementation and in promoting full understanding by grantees. And this advanced planning can help us meet head-on the likely resources, time and political constraints which will have to be overcome. These actions by the Department and UMTA can greatly assist localities in planning for cooperative planning and service delivery between grantees and other providers in local communities which assist elderly and handicapped persons. Certainly, much could be gained by giving thought to ways to more effectively utilize other transit services in these communities. And trouble shooting now on the part of the Department will solve many problems in the future.

Accordingly, I believe there are critical steps which must be taken now with respect to the establishment of mechanisms for public input and continuing sensitization of public officials to the needs of the elderly and handicapped, with respect to the establishment of an adequate planning apparatus, the monitoring of the progress of Transbus, and the accessibility steps taken by localities.

First, I believe steps must be taken by the Secretary and the Administrator to involve representatives of the elderly, and handicapped in all aspects of Federal transit activities, including all research and development activities, policy development, and training activities. As a broad response, both the Secretary and the Administrator should establish advisory groups to work with them on an ongoing basis, and they should make use of the valuable expertise which exists with the advisory board to the Architectural and Transportation Barriers Compliance Board.

These groups should be built into UMTA's and DOT's decisionmaking process so that input and advice is sought on the technological developments in other areas which may be helpful, on other service needs, and on other sources of expertise and suggestions for personnel training and sensitization. To be useful, I think meetings of this kind should occur on a frequent basis, say monthly, and efforts should be made to get broad representation of the elderly and handicapped utilizing persons who represent or can represent these groups and have applicable knowledge to UMTA's task. But beyond these formal advisory groups, UMTA should undertake new activities to open up all of its decisionmaking—to invite directed comment from interested publics and to seek the assistance of others involved in meeting similar public needs.

And, to facilitate this process, efforts should be made to publicize those persons in UMTA and other agencies who are responsible for various aspects of the implementation of the Transbus decision and the accessibility mandate.

Secondly, an effective plan must be set up to assure that all interim steps are accomplished.

This includes an effective monitoring system for the Transbus development and for local progress. Milestones must be established so we will know well in advance if there are problems in implementation and so we can take steps to counter them. Problems such as insurance, safety programs and public information should be examined well in advance. The specific needs of rural and outlying communities and other geographically distinguished areas should be examined. An expanded education program must be undertaken for the public, planners and operators and transit employees: and technical training programs, utilizing elderly and handicapped groups, must be made available to help facilitate the planning and implementation strategies of localities so they do not feel they must go it alone—and to acquaint them with their duties under section 504.

I also believe in this process UMTA must give greater attention to the issue of specialized service, both in terms of the quality of equipment available and the problems of these services in the field. Localities must be helped to plan for the interim—not to overbuy or buy inadequate equipment. Full examination should be given to coordinated strategies with other service providers.

Thirdly, I believe that localities must also undertake activities which involve elderly and handicapped persons in a meaningful way. S. 208 and its predecessor S. 662 mandated local advisory committees and I believe that these groups, representative of the elderly and handicapped community, should be set up as soon as possible and should meet on a frequent basis to advise well in advance

on all plans and action steps. I also believe that UMTA must ask the localities to develop other mechanisms for input and to provide documentation that they are undertaking these activities. The importance of these groups, I think, is in their public and formal nature, and as a contact point for other members of the elderly and handicapped population. They should be used fully and on an ongoing basis to assist in planning and problem solving. Other steps that should be taken to facilitate involvement by these constituent communities should be: ongoing informal contact with elderly and handicapped organizations, including special notice to these groups of all public hearings, advisory group meetings and other important meetings where plans will be discussed and decided on; advance, broad public notice of all such meetings; publication, in newspapers, journals or separately, on a timely and periodic basis, data and research results; surveys of user needs including travelers, interest groups and the general citizenry; examination of all activities from the viewpoint of their impact on the elderly or handicapped population; and review and approval of plans by this population. Localities should also plan for employment of handicapped and elderly professionals and for removal of barriers from all aspects of their activities. UMTA would obviously, in this way, be taking great steps toward its obligations under section 504 if it undertook advance steps such as these.

Finally, all technical study grants to be undertaken after October 1, 1977, should include work elements to address the phased implementation of the Transbus and full accessibility mandate. While UMTA may undertake some technical study grants which are not directly applicable, UMTA should adopt a clear priority that implementation of this mandate and technical study grants necessary to implementation should be made first before funding other studies, and that all studies should examine impact or applicability to the elderly and handicapped population.

I am today writing to Secretary Adams to request that he provide me with detailed information about plans for implementation of Transbus and to suggest that he fully implement these interim-planning requirements. I intend to forward to him also a list of persons who can be helpful in advising him in this area. I ask unanimous consent that my letter be printed at this point in the RECORD.

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

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., June 22, 1977.

Hon. BROCK ADAMS,
Secretary, U.S. Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: As a result of your landmark decision on Transbus, I have concluded that the provisions of S. 208, the National Mass Transportation Assistance Act of 1977 relating to transit accessibility for the elderly and handicapped are no longer necessary. Accordingly, when the Senate considers S. 208, I will move to have section 10 deleted from the bill.

I want to reaffirm my support for your May 19, 1977 decision which I believe will finally achieve the full intent of section 16 of the Urban Mass Transportation Act.

However, the need remains for the Department and UMTA to undertake several further steps to assure the successful implementation of the Transbus decision and to achieve full accessibility. As noted in the Transbus decision document, DOT and UMTA have a clear obligation to assure adequate and equal transportation services to elderly and handicapped persons. The statutes administered by the Department and section 504 of the Rehabilitation Act of 1973 leave no room for any other interpretation. In view of these substantial responsibilities, I believe the Department must make every effort and take every opportunity during the interim period and for the long term to facilitate the successful and orderly implementation of its Transbus decision.

Accordingly, I would like to recommend the following steps for your consideration. First, formal and informal mechanisms should be established to assure that the elderly and handicapped communities are involved in the decision making processes of the Department and its grantees. As one part of this effort, I believe a new advisory group should be appointed to work with UMTA and the Department during this interim period. In addition, the Architectural and Transportation Barriers Compliance Board, already in existence, has expertise and resources which can be drawn upon. In this connection, I will soon be forwarding to you the names of individuals knowledgeable about and active in the field of transit for the elderly and the handicapped for your consideration and appointment.

As a second step, I believe it is both necessary and desirable to establish a monitoring system to make certain that Transbus is available on a timely basis and that localities are well-informed as to their obligations under the accessibility mandate. A combination of monitoring and planning at the Federal and local levels will permit the smooth implementation of your previous decision. The Department has at its disposal all of its technical assistance and technical study grants to make effective planning and monitoring mandatory. And it has the ability to encourage the formation of local advisory councils to provide for consultation and cooperation with the elderly and handicapped populations. This is by no means an exclusive list of methods available to the Department, but I believe that these represent useful points of departure.

Finally, given the interest of the Congress on all matters affecting elderly and handicapped citizens, the Department should anticipate active oversight of Transbus progress by the Committee. In preparation for such oversight, the Department should immediately make the necessary budget and staff resources available to assist localities and implement the monitoring system. In addition, the Department should prepare and submit to the Committee periodic progress reports. In terms of content, these reports should include information concerning timetables for Transbus, specialized services and other planning at the local level, and the Department's plan for program changes and other activities directed towards the implementation of the Transbus decision. A preliminary work plan should be submitted to the committee within the near future, to be updated within a year by a more detailed progress report.

Implementation of the Transbus decision will require cooperation from many people. I know that it will be important for all of us to work together in the coming months and I believe that we need to lay out plans now. I would, of course, welcome your comments on ways the Committee and our staff could be helpful to you and look forward to your response to my recommendations.

With best wishes,
Sincerely,
HARRISON A. WILLIAMS, JR.,
Chairman.

Mr. WILLIAMS. I also ask unanimous consent that the Secretary's decision document on Transbus and some background information on this new bus design be printed in the RECORD for the information of my colleagues.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 19, 1977.

DECISION OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, TO MANDATE TRANSBUS

INTRODUCTION

The question before me is whether to mandate or encourage the acquisition of a low-floor, ramped bus ("Transbus") by all local transit authorities seeking federal assistance for the purchase of standard-size mass transit buses, after a certain date. Further questions include: if Transbus is mandated, what should be (i) the effective date of the mandate; (ii) the design of the bus; (iii) the federal role in introducing the bus; and (iv) the interim bus acquisition policy.

In 1971, the Urban Mass Transportation Administration ("UMTA") of the Department of Transportation ("DOT") initiated a major research project to develop an improved transit bus that would attract mass ridership, be accessible to those elderly and handicapped persons for whom the high floors and stairs of current buses provide serious obstacles and encourage continued competition among the manufacturers of transit buses. UMTA enlisted the aid of the three major domestic bus manufacturers, AM General, General Motors and the Flexible Co. (a wholly-owned subsidiary of Rohr Industries), to supply prototypes of such a bus for testing. Prototypes were built by all three manufacturers, tested by UMTA contractors and demonstrated in actual service in four cities. This process enabled the development of draft specifications for production of Transbus.

In July 1976, Robert E. Patricelli, who was then UMTA Administrator, announced that DOT would not mandate Transbus. Instead, the agency would permit the introduction of an advanced design bus ("ADB"), would mandate requirements for making buses accessible to elderly and handicapped passengers (to become effective on February 15, 1977) and would provide funds for research and development of under-the-floor components that would be needed by a low-floor bus in the future. This decision generated considerable public discussion. Many elderly and handicapped groups asserted that the bus accessibility requirements were unsatisfactory. Litigation was initiated challenging UMTA's authority to fund acquisition of ADBs. Work on developing Transbus came to a virtual halt.

Shortly after I was sworn in as Secretary of Transportation in January, I took several steps to address these issues. First, I announced that the decision against mandating Transbus would be reconsidered and a public hearing on the matter would be held on March 15. Second, I waived that portion of the regulations on accessibility for the elderly and handicapped that might have been inconsistent with a future decision on Transbus, until after that decision was made. Third, I initiated new policies and procedures for the interim acquisition of ADBs. A decision on Transbus was promised by May 27.

In reviewing this matter I have had available to me the record on which former Administrator Patricelli based his decision, the transcript of the March 15 public hearing, written material subsequently submitted for the record, summaries of staff discussions with interested parties, also in the record, and, of course, the relevant statutes which I am responsible for administering.

THE DECISION

After carefully weighing the date and views submitted by manufacturers, the American Public Transit Association ("APTA"), individual transit authorities, groups representing the elderly and handicapped and others, I have decided, for the reasons stated below, to mandate Transbus. This mandate will take the form of requiring the use of a Transbus specification for all standard-size buses acquired with UMTA assistance. The mandate will apply to all procurements containing vehicle specifications approved by UMTA, issued for bid after September 30, 1979. The specifications already developed after consultation with APTA and others will be used with some minor modifications. The specifications include a requirement for a stationary floor height of not more than 22 inches, for an effective floor height including a kneeling feature of not more than 18 inches, and for a ramp for boarding and exiting.

Additionally, I have decided that DOT should encourage the formation of groups of purchasers to make the initial purchases of Transbus through advertised, low-bid competitions. Progress payments will be permitted for these initial purchases. Finally, I have decided to leave in effect the interim policy on accessibility for the elderly and handicapped. That is, manufacturers must continue to offer optional wheelchair lifts, and local transit authorities must either purchase buses with lifts or provide special services for elderly and handicapped passengers. Each of these decisions is discussed more fully below.

THE STATUTORY FRAMEWORK

In 1964, Congress responded to a growing pattern of declining ridership and increasing financial difficulties in the Nation's mass transportation systems by enacting the Urban Mass Transportation Act of 1964 (UMT Act). There have been several major amendments since 1964, and, as amended, it continues to provide the legislative basis for the federal role in urban mass transportation. Section 2 of the UMT Act states that its purposes are: to assist in the development of improved mass transportation facilities, equipment, techniques, and methods; to encourage the planning and establishment of areawide mass transportation systems needed for economical and desirable urban development; and to provide assistance to State and local governments and their instrumentalities in financing such systems.

To accomplish these purposes, sections 3 and 5 of the UMT Act authorize grants to State and local public bodies to assist in the financing of mass transportation related capital facilities including standard-size transit buses. The federal share of a capital facilities grant under section 3 is 80 percent of net project cost. Under section 5, which also authorizes payments for operating assistance, the Federal share of a capital facilities grant is a maximum of 80 percent of net project cost.[1]

Section 6 of the UMT Act, under which the Transbus research activities were funded, authorizes research, development and demonstration projects in all phases of urban mass transportation. Section 9 authorizes grants for urban mass transportation planning and technical studies.

[1] The Federal-Aid Highway Act of 1973 also authorizes capital assistance to mass transportation including assistance to acquire standard size transit buses.

A 1970 amendment to the UMT Act declared the mass transportation needs of elderly and handicapped persons to be of national importance and required DOT to exercise a special leadership role to insure that their rights were protected. This 1970 amendment added section 16 to the Act to read, in part, as follows:

"SECTION 16. (a) It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this Act) should contain provisions implementing this policy."

Equally important, section 504 of the Rehabilitation Act of 1973 established the right of every handicapped person to be free of discrimination in any federally-assisted program. Section 504 reads:

"No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Shortly after the adoption of section 16, DOT began implementing the legislative mandate requiring special federal leadership in the area of mass transportation for elderly and handicapped persons through written guidelines for UMTA grantees. UMTA also financed research and studies in the area. In April 1976, the earlier guidance to grantees was formalized and strengthened by the publication of UMTA's regulations on transportation for elderly and handicapped persons. These regulations set forth a comprehensive scheme of planning, service and design requirements.

DOT has long recognized that a low-floor, standard-size bus that provides access for nonambulatory and wheelchair-bound passengers would be an effective means to accommodate these several statutory mandates. The Transbus program was initiated, at least in part, to test the feasibility of such a bus. Of the methods of accomplishing accessibility that were studied and demonstrated in the Transbus program, UMTA acknowledged that the ramped Transbus emerged as the most desirable. The ramp was nonetheless not required in the specifications that were subsequently developed. The existing statutory mandates regarding transportation for the elderly and handicapped and the proven feasibility of a low-floor, ramped Transbus that will result in substantial benefits to the able-bodied as well as the disabled, argue convincingly for a Transbus mandate.

Section 16 of the UMT Act, section 504 of the Rehabilitation Act and other statutory provisions have resulted in a number of lawsuits brought by elderly and handicapped persons. Although DOT has generally been successful in that litigation, litigation success alone provides no reason to avoid or defer a federal mandate of technological improvements as they become available, especially when, as here, those improvements significantly advance the mass transportation interests of all persons, including the elderly and handicapped, and when the improvements are quite unlikely to be introduced without a federal mandate.

There is one additional statutory reason, apart from improved accessibility, for mandating Transbus. First, DOT has a statutory obligation to assist in the development of improved mass transportation facilities and equipment. Until the recent introduction of ADBs there had been essentially no change in bus design since the advent of the "new look" bus in 1959. The advanced designs presently being offered are logical intermediate steps on the way to the introduction of Transbus, and in fact, they are in part outgrowths of the Transbus program. Yet these advanced designs fall short of accomplishing one of the major goals of the Transbus program—a low-floor with attendant benefits in boarding and exiting for all passengers. Thus, a Transbus mandate will bring to fruition the full benefits of federally-assisted research and development in the area of standard-size buses.

Finally, as the transit bus market has moved to new levels of product improvement, it has become increasingly difficult to fashion procurement methods since ADBs are of somewhat different designs, with different levels of performance and, quite naturally, different prices. A Transbus mandate will provide the necessary federal leadership in the marketplace to allow transit bus manufacturers to plan investments and tooling costs around certain required minimum performance and design characteristics. This, in turn, will permit low-bid procurements that will assist in the maintenance of a viable and competitive bus manufacturing industry based upon a predictable federal policy.

THE NEED FOR A MANDATE

A review of the history of the Transbus program convinces me that simply encouraging Transbus will not result in its prompt introduction and may not result in its introduction even in the long-run. Even after approximately $27 million of UMTA investment, all serious efforts toward producing Transbus stopped when UMTA announced in July 1976 that it would not be mandated. The history of change in bus design is not one of constant innovation. As noted earlier, the so-called "new look" bus, the one currently in use, was introduced in 1959.[2] ADBs will not be on the streets for another year and do not offer the advances of Transbus.

A review of the statutes that guide this decision suggests strongly that any inclination to postpone a mandate further would thwart the intent of the Congress. A review of recent litigation suggests equally strongly that the courts are also not prepared to countenance needless delay in making urban mass transit vehicles accessible to the elderly and handicapped.

Even if the Congressional and judicial concerns were not as clear as they are, I believe it is my responsibility to insure to the extent feasible that no segment of our population is needlessly denied access to public transportation. It is now within our technological capability to insure that elderly and handicapped persons are accorded access to urban mass transit buses. This access is fundamental to the ability of such persons to lead independent and productive lives. In my view, a decision assuring that access could have been made some years ago.

Today, the ADB represents the state-of-the-art in bus design from the floor up. But their floor height (even with a kneeling feature) does not make them accessible to the elderly and handicapped without a wheelchair lift. The lift is an expensive piece of hardware, principally benefiting those in wheelchairs. Many of those individuals, how-

[2] The lack of innovation in bus design prompted a study by the National Academy of Engineering (NAE) documenting the need for an improved transit bus. The NAE study concluded that a low-floor bus was: "The most desirable means—within the existing state of the art—for improving bus transportation." The low-floor, the NAE noted, would result in a bus that was "not only . . . easy and comfortable to use, but usable readily and without embarrassment by the physically and economically handicapped, the aged, the pregnant woman, the businessman, and the young adult."

ever, regard the lift as degrading and have expressed concern about the difficulty and safety of using it. In addition, use of the lift slows bus operations since it takes time to deploy and other passengers cannot board or exit during that time.

The low-floor Transbus can, on the other hand, accommodate a ramp. The ramp is swift to deploy and can be used beneficially by many passengers, including most categories of mobile elderly and handicapped. A low-floor, ramped bus will decrease the loading and unloading time for all passengers.

It is important to keep in mind that in discussing bus accessibility for the elderly and handicapped we are not concerned only with those confined to wheelchairs. We are concerned as well with any mobility-impaired person, a group which numbers at least 10 million. At any time there may be many other riders who are at least temporarily disabled. We cannot deny these people the rights that so many others enjoy when it is within our ability to accord them such rights.

I am acutely aware that many who are opposed to Transbus argue that it is not how within our ability to produce a low-floor, ramped bus which can operate safely and efficiently in day-to-day transit service. These objections are discussed in detail below and, in my judgment, satisfactorily refuted.

Further, a Transbus mandate does not interfere with the traditional responsibility of local officials to plan for and implement mass transportation projects. Routes, schedules and fares continue to be matters of local decision and State and local officials retain the authority to plan for and implement all transit services including specialized services where these can contribute to overall mobility needs. For those communities utilizing standard-size bus service over fixed routes, the Transbus will permit faster and more efficient bus service by minimizing the time required to take on and discharge all passengers, including those who are elderly or handicapped. Better accessibility, new styling features and a better ride will attract and retain new ridership, add to the operating revenue of transit operators and enhance the image of mass transportation in every community. Moreover, testimony at the public hearing, as well as a number of comments on the Transbus question, indicate that several communities have been and continue to be vitally interested in obtaining low-floor standard-size buses, but have been unable to do so because of the commercial unavailability of Transbus. A Transbus mandate will permit DOT to be responsive to these locally conceived mass transportation objectives, as contemplated by the UMT Act.

THE EFFECTIVE DATE OF THE MANDATE

The record of the March 15 hearing (and the hearing conducted by UMTA in 1976) contains conflicting projections of when Transbus could be ready for production. AM General indicates that Transbus could be available approximately 34 months from the date of a mandate. Flexible says 36–60 months, and General Motors says five years. These manufacturers have different views about the desirability of Transbus and the adequacy of ADBs, and their existing investments reflect these judgments.

My analysis of the entire record convinces me that all three current manufacturers could begin deliveries in 3½ years. This date allows almost 2½ years for development before bidding would begin, and approximately 15 months thereafter before the buses are actually delivered.

As I said in my opening remarks at the Transbus hearing, we have a very competent bus manufacturing industry and I believe competition, as well as innovation, must be encouraged. I am certain that these manufacturers can meet the challenge of producing Transbus. Additionally, I believe the pressure of effective competition among the manufacturers will result in a prompt introduction of this needed improvement. If one manufacturer is ready substantially before the effective date of the mandate, we will consider sole source procurements to get Transbus on the streets as soon as it is available.

Accordingly, as I stated above, I am ordering that all bus procurements utilizing UMTA capital assistance funds must use the Transbus specifications after September 30, 1979. I urge those manufacturers who can to make Transbus available voluntarily at an earlier date.

THE DESIGN OF TRANSBUS

In connection with the research effort to develop Transbus, UMTA developed a complete procurement document—the Transbus Procurement Requirements (TPR)—for use by local transit authorities in buying Transbuses. The document contains four parts:

Part I: Bid Requirements/Contractual Provisions. Provides legal and other instruments for procuring coaches;

Part II: Technical Specifications. Specifies the buses being procured;

Part III: Quality Assurance Provisions. Specifies the minimum quality control requirements in the manufacture of the buses; and

Part IV: Warranty Provisions. Describes the warranty coverage on the buses after their acceptance by local transit authorities.

The TPR was developed for DOT by Booz-Allen Applied Research with full participation by the APTA Bus Technology Committee, AM General, General Motors, Flxible, and UMTA. It was designed to be used by procuring agencies in competitive procurements of Transbuses under the UMTA Capital Grants Program.

It was originally intended that the Transbus prototypes developed by each manufacturer would be tested and evaluated and a winning design selected for use by all manufacturers. However, while the three Transbus manufacturers met the performance requirements for Transbus prototypes, all three used different approaches based on their individual body styling, construction and manufacturing techniques. UMTA concluded that to require all three manufacturers to build buses around one manufacturer's design would put two of the manufacturers at an unnecessary competitive disadvantage and would stifle innovation. Thus, the design specification approach was abandoned on January 8, 1975, when UMTA announced a policy which would permit all three designs to qualify for production if they meet a performance specification to be developed by UMTA as a result of testing and evaluation of the prototype vehicles.

The specifications that were developed as a result of this decision nevertheless include certain design requirements such as floor height, door width, step riser height and tread depths intended to insure that accessibility goals are met. The specifications include options for features such as power plant size, air-conditioning, bus width, bus length, etc. The TPR requires every manufacturer to be able to bid on any specified combination of options in direct cost competition. The specifications are intended to be modified, from time to time, as improved components or designs are developed.

I am today adopting, with some modifications, the specifications developed and set forth in the TPR. The most important modification is the one which makes the ramp a mandatory feature of the bus. The TPR, as modified, will be available from UMTA on June 13.

In my judgment, use of this specification will promote the earliest availability of Transbus without stifling innovation in manufacture and design.

THE FEDERAL ROLE IN INTRODUCING TRANSBUS

As I indicated above, DOT has already invested approximately $27 million in the Transbus program. As a result of that investment we have learned what is and is not technologically feasible in connection with development of a low-floor, ramped bus. We have identified the problems of the prototype buses as well as solutions to them. We have determined which components need further development, and which are presently able to be produced. In my judgment, the $27 million was well spent.

I am aware that costs remain in connection with going to production models of Transbus. I am convinced, however, that this type of cost should properly be borne by the manufacturers. Direct federal funding for tooling and start-up costs is not appropriate given the knowledge and experience already gained through the DOT investment. Product quality, production methods and related matters are and should be uniquely the responsibility of the manufacturer.

This would not be the case had the federal investment not already proven the underlying feasibility of Transbus. We could not reasonably require manufacturers to invest in a wholly unproven technology. But, as discussed more completely elsewhere, I am convinced the technology for Transbus is proven and consequently I believe it appropriate to require the manufacturers to put that technology into production.

There is, however, another important responsibility for the government to undertake in introducing Transbus into the marketplace. We should, I believe, do everything feasible to assure early purchases of substantial numbers of the first production Transbuses. To this end, we will encourage formation of purchaser groups to make initial procurements of Transbuses from each manufacturer through advertised low-bid competitions. While I do not think it is appropriate to allocate the market in an effort to guarantee that each manufacturer's bus will be bought, we will permit each consortium to make initial Transbus purchases from more than one manufacturer if the consortium members so desire.

Additionaly, we will agree to make progress payments in connection with these initial purchases to help defray start-up production costs. As I have already stated, we will also consider making sole source procurements of any manufacturer's Transbus which is available substantially earlier than the others.

I believe that these steps represent the maximum necessary federal role in introducing Transbus.

INTERIM ACCESSIBILITY POLICY

I am aware that even after Transbus is mandated purchases of conventional buses will continue, with UMTA financial assistance, for slightly more than two years. Inasmuch as these newly purchased buses will continue in operation for 12 or more years, I believe it is necessary to announce the policy that we will follow concerning accessibility of mass transit for elderly and handicapped in the period before the introduction of Transbus. I have decided that our existing policy in this matter should be continued.

That policy is based on requirements that all manufacturers offer optional equipment (*e.g.*, lifts) for loading wheelchair-bound and other handicapped passengers, and that local transit authorities must either purchase accessible buses, or provide special services suitable for transporting elderly and handicapped passengers.

Many handicappped passengers have expressed concern about the operation and safety of the lift. Additionally, the lifts are cumbersome and time-consuming to operate and will become entirely outmoded by the Transbus ramp. They do, however, make

buses accessible to mobility-impaired passengers. On the other hand, many elderly and handicappped representatives opppose special services since they require advance notification or have other disadvantages not associated with regular scheduled bus service. These representatives argue that "separate but equal" transit services are inherently unequal and do not enable elderly and handicappped persons to lead the most fully integrated lives possible.

Accordingly, I believe it appropriate to allow local governments to decide how best to serve their elderly and handicapped populations until Transbus is ready for production. Those who purchase lift-equipped buses will thereby offer substantially enhanced accessibility to their elderly and handicapped citizens. Those offering special services will provide valuable experience for the period after Transbus is introduced since even fully accessible fixed route buses will not meet the transportation needs of all elderly and handicapped. DOT will carefully monitor the activities of grantees of UMTA funds to be certain that the transportation needs of elderly and handicapped citizens are being addressed.

THE TECHNOLOGICAL FEASIBILITY OF TRANSBUS

A critical factor in determining the desirability of a Federal mandate of Transbus is technological and economic feasibility. I find that a bus that meets the existing Transbus specifications, as modified to require a ramp, serve the needs of the elderly and handicapped, can be produced in a reasonable period of time and would be operationally acceptable.

Axles, tires and brakes are the most unique components of the Transbus. These components do not require technological breakthroughs, but merely enough time for proper development. The Transbus prototypes, manufactured by AM General, General Motors and Flexible, showed that in at least one instance the new axles were lightweight, used many existing internal subcomponents and can accommodate the current design automatic transmission.

Similarly, Transbus will probably require tires which are substantially smaller than those presently available. Such tires have been undergoing development for some time and could be put into production in time for Transbus deliveries. While I understand that these tires will have shorter lives than current tires, estimates of Transbus operating costs, as discussed later, include an assumption that the smaller tires will be used. In my view, any problems that the tires may cause are more than offset by the greater accessibility of the Transbus.

Transbus brakes will also be somewhat different than existing bus brakes, yet will utilize essentially the same technology. Despite the smaller diameter wheels, the Transbus specification provides for more brake area per pound of vehicle weight than on current buses. Since this specification can be met using conventional drum brakes, very little development will be required.

Several Transbus operating issues have arisen. These include road clearance, problems associated with the kneeling feature and the appropriate width of the front door. Because the Transbus prototypes experienced minor road clearance problems, the final Transbus specifications require additional road clearance. After the prototypes were tested, every observed ground clearance problem was carefully analyzed and the final specifications written so as to eliminate those problems within the limits of the prototype technology. The specifications call for road clearance *equivalent to or better than* that attained by all three current model buses.

Some problems have been experienced in the past with the kneeling feature found on ADBs, some current buses and Transbus. First, the earliest kneeling devices did not always operate properly. This was found to be a result of corrosion within electrical components. When greater protection for that system was provided, the problem was solved. Further, there were complaints of drivers not kneeling the bus when passengers needed it. While this remains a potential problem, it can be overcome by proper driver training. A bus that can kneel to at least 18 inches will benefit all passengers, not just those who need the ramp. These benefits far outweigh the difficulties.

The front door width called for in the specifications is 44 inches. This is wide enough to allow room for wheelchair-bound passengers or to allow for a double stream of ambulatory passengers. This feature is desired by many operators because it allows an inbound and outbound stream at the same time, thus shortening the loading and unloading time. Some operators prefer a narrow (24") door making a double stream impossible and, therefore, fares easier to collect. The productivity improvements stemming from the wide door and consequent reduced loading time should more than offset any occasional inconvenience in fare collection, and the wide door is a prerequisite to achieving accessibility. For these reasons, the narrow door option has been dropped from the specifications.

The record of the public hearing and studies done for UMTA demonstrate the efficacy of the ramp in providing access for those with mobility impairments. The Transbus specifications call for a ramp that will yield the full benefit of this technology. The specifications provide that the maximum ramp angle on a level street with no curb must not be more than 14 degrees. This means that on a level street with a six-inch curb, the ramp angle will be less than ten degrees; even with a typical crowned street and no curb, the ramp angle would be approximately 15 degrees. This is within the range in which most wheelchair-bound persons can be expected to make unassisted entry although in some cases those in wheelchairs may need assistance in exiting. These angles can be accommodated with a ramp not more than 6 feet long and a slight incline where the ramp meets the bus floor. This type of technology has already been utilized by at least one of the prototype manufacturers.

Probably the most complex feasibility questions with respect to Transbus involve its economic viability. The Transbus prototypes included spacious seating arrangements with seating capacity for 42 to 43 people as compared to the maximum seating capacity of current production buses of 51 to 53. Actually, Transbus could have a seating capacity of 47 if it is designed with that goal in mind. ADBs seat between 43–47 passengers, depending on their seat design. Therefore, I do not believe that there will be a serious loss of seating capacity. Moreover, full load capacity is more relevant in determining transit system revenues, and Transbus will have a full load capacity comparable to current buses.

A similar situation exists with regard to weight and fuel economy. The Transbus specifications require that curb weight not exceed 26,000 pounds. This weight is about 1,000 to 2,000 pounds more than current production buses but is the same as the ADB specifications. The added weight is a reflection of the need for an additional axle and related components. Transbus reliability and maintainability have become issues as a result of the greater complexity of Transbus prototypes, especially as compared to current buses. The low-floor of the Transbus necessitates greater mechanical complexity in the running gear of the bus, but does not necessitate new or unique technology. It is important to remember that there has been no significant change in bus design in almost 20 years. It is not surprising, therefore, that those with responsibility for maintaining buses are concerned. Experience and familiarity with these changes and good product design will remedy this problem. I am, therefore, convinced that bus maintainability and reliability will not be seriously affected. Above the floor, Transbus will be similar to ADBs. We will have had considerable experience with ADBs before Transbuses are actually on the street.

Because of its greater complexity, smaller diameter tires and slightly increased weight, the Transbus will cost more than the current bus. The most reliable cost estimates indicate that, while the initial cost of Transbus will be approximately 15 to 18 percent more than current buses, this is only about five percent more than ABDs. A comprehensive analysis of cost estimates showed that the Transbus would have operating costs only about one percent higher than current buses. I conclude that these added costs are not unreasonable in light of the substantial benefits to all bus riders which Transbus will provide.

BROCK ADAMS,
Secretary of Transportation.

BACKGROUND INFORMATION ON TRANSBUS

In 1967, during the final years of the Johnson Administration, the National Academy of Engineering under contract from the Department of Transportation conducted an intensive panel study, in which all elements of the mass transit industry participated, to specify the design characteristics of a new generation of buses, the purpose: "to take the largest possible single step forward in bus technology and design within the existing state of the art." The National Academy concluded that a low-floor bus was "The most desirable means for improving bus transportation."

Subsequently, in the Transbus Project, conducted with the three American manufacturers (GM, AM General, and Rohr) of full-size buses, UMTA expended $27 million to design, develop, test and evaluate a low-floor bus. The final reports on the Transbus research and development project were released in April, 1976. Those reports concluded that a low floor (17 to 22 inch) single step bus with a ramp, which can be rapidly extended to provide "level" boarding, is technologically feasible and announced specifications for an improved, accessible, attractive and cost-effective bus which can now be put into production.

The UMTA reports, comparing the Transbus to the current standard bus and to the RTS II, a "new" bus proposed for production by General Motors, showed the following benefits inter alia from the Transbus:

Boarding time is halved by the Transbus.

Trip-time is reduced by 10 percent.

Revenue miles-per-driver's-wage dollar is increased 5 percent.

The ride quality (noise, vibration, temperature) of the Transbus aproaches that of passenger cars.

Passenger, traffic and pedestrian accidents, and insurance costs, will be substantially reduced—boarding/alighting accidents will be cut by 20 percent, on-board accidents by 35 percent; traffic accident costs by 25 percent, total insurance costs by 20 percent.

Maintenance and repair costs remain constant on a unit basis.

Ridership increases (exclusive of the elderly and the handicapped) up to 10 percent.

"Improvement for the elderly will be significant only on the low-floor Transbus design"; "accessibility for the handicapped can only be achieved on a low floor, Transbus at a reasonable additional cost and without introducing significant operational problems."

Increased handicapped ridership alone will reduce operating deficits by 4 percent to 10 percent.

IMPACT SUMMARY

a. Results. A summary of the impact analyses contained in this report is presented in Table 18 in three categories:

Operational Impacts.

Passenger and Public Impacts.

Cost Impacts.

Key factors are presented in quantitative terms and indexed to the current production bus. In Table 18, the current production bus, therefore, appears as 100 percent for any factor in the analysis which can be quantified. The table references detailed discussions or supporting tables in the body of the report.

The following key results refer to Interim bus and Transbus. Results are summarized in the order in which they appear on Table 18.

The potential for trip time reductions of up to 19 percent exists, depending on the type of route. If current routes are not rescheduled, this should result in an immediate improvement in schedule adherence, except on very congested arterial routes in large cities. Improved bus characteristics offer the potential for increased driver productivity and/or route coverage. Improved bus performance might be coupled with innovations, such as electronic scheduling, to provide significant benefits as these technologies are developed.

Trip speed improvements are sufficient to affect passengers only on express/suburban routes, where current trip times are relatively long. On other types of routes, trip times are shorter and/or crowded conditions negate the impact of improved speed.

Unit capacity reductions, seated plus standees, will be up to 7 percent on the new design buses. An analysis by route type and system size, however, indicates that the national transit bus fleet would have to increase by less than 2 percent, because capacity is not critical on many routes. High-capacity buses, articulated or double-decked, are a more cost-effective solution for high-passenger volume routes.

TABLE 18.—SUMMARY OF THE IMPACT OF INTERIM BUS (RTS-2) AND TRANSBUS ON PUBLIC TRANSPORTATION IN THE UNITED STATES

Impact categories	Bus designs: Current fleet	Bus designs: Interim bus (RTS-2)	Bus designs: Transbus	Reference to supporting sections and tables
Operational impacts:				
Trip time compared to baseline	100 percent	100-93 percent	96-90 percent	2.c: tables 4 and 5.
Improved schedule adherence		In large and medium systems	In large and medium systems	2.c(1): table 3.
Improved driver productivity		Long-term potential significant	Long-term potential significant	2.c(2).
Increased route coverage		Due to speed	Due to speed and axle loading	2.c(3).
Modal choice effect on ridership		In express service only	In express service only	2.c(4).
Fleet size/capacity:				
Unit capacity	100 percent	95 percent	93 percent	2.d: fig. 4, table 6.
National fleet size	do	100.5-10 percent	101-102 percent	2.d: tables 2 and 7.
Passenger and public impacts:				
Safety and insurance costs	do	86 percent	80 percent	3.a: table 8.
Traffic accidents	do	75 percent	75 percent	3.a(1): table 8.
Passenger accidents	do	95 percent	71 percent	3.a(2): table 8.
Pedestrian accidents	do	94 percent	84 percent	3.a(3): table 8.
Provisions for the elderly	Limited	Limited	Greatly improved	3.b: table 9.
Options for the handicapped	Costly retrofit	Difficult	Major improvement in basic design	3.b: table 9.
Options for wheelchairs	do	Costly retrofit	do	3.c: table 9.
Environmental	Meets public standards	Reduced noise/emissions	Reduced noise/emissions	3.d.
Esthetic/image	For 1960's	1980's	1980's	3.e.
Comfort:				
Seat spacing	28-34 inches	28-34 in	23-34 in	3.f(1).
Ride quality	Standard	An improvement	Approaches passenger car	3.f(2).
Ease of boarding/alighting measured as time.	100 percent	100 percent	85-60 percent	3.f(3).
National ridership potential	do	102.5-105 percent	105-110 percent	3.g: tables 10, 11 and 12.
Cost impacts:				
Operating costs (1973 baseline=134.6 cents per mile).	do	100 percent	101percent	4.a: tables 13, 14, 15 and 16.
Production costs (1975=$68,200) [1]	do	105.5 percent	112.5 percent	4.b: table 17.
Introduction costs		Production engineering/tooling new facilities/equipment.		4.c.

[1] Production cost comparison is for equivalently equipped 1975 production bus in 1975 dollars.

TABLE 14.—CHANGES IN MAINTENANCE, SERVICING AND CONSUMABLES COSTS FOR COMPLETE REPLACEMENT OF FLEET

Categories	Current bus cents per mile	Interim bus: Cents per mile	Interim bus: Basis	Transbus: Cents per mile	Transbus: Basis
Repairs to revenue equipment:					
Accidents	1.39	0.80	Improved body repairability and energy bumpers.	0.80	Same as interim bus.
Powerplant	1.83	1.83	8V-71	1.83	8V-71.
Body and doors	1.68	1.60	Doors are more complex panograph but body is stainless steel.	1.80	New inward opening door and steel or aluminum body.
Suspension/chassis/rear axle/drive train.	1.47	1.47	Same as current	2.20	Extra rear axle/suspension.
Brakes	1.13	1.75	Self-adjusting (FMVSS 121)	1.75	Self-adjusting (FMVSS 121).
Transmission	.82	1.02	V-730 more complex	1.02	V-730 more complex.
Electrical, starter, generator	1.11	1.11	Essentially the same	1.11	Same.
Air-conditioning	.64	.64	Same	.64	No credit for heavy duty, redundant compressor system—unproven but has potential of 50 cents per mile.
Front axle/steering	.49	.71	Single axle, independent power assist	.71	Single axle, independent, power assist.
Air system	.37	.41	Increased capacity for FMVSS 121	.41	Increased capacity for FMVSS 121.
Total for repairs	10.93	11.34		12.27	
Daily servicing, cleaning, fueling, and inspection.	2.81	2.81	Cantilevered seats will improve cleanability	2.81	Cantilevered seats will improve cleanability.
Fuel	7.75	8.14	Increased weight	8.83	Increased weight.
Oil	.16	.16	Similar engine	.16	Similar engine.
Tires	1.28	1.35	Increased tire load: Larger tire used	1.63	Firestone estimate for number of tires, tire life, and unit cost.
Total	22.93	23.69		25.59	

Source: Booz, Allen applied research: Current bus costs based on survey of 16 major properties. Interim bus and transbus projections based upon engineering estimates, which utilize transbus durability test data, component manufacturer's data, and judgement based on observations of vehicles and drawings of equipment.

Start-up costs, requiring investment in production engineering and tooling by manufacturers, will be substantial. Capital requirements for new facilities and equipment at properties will be typical of any new bus order, since most components are the same as those on the current production bus.

Transbus start-up would include a joint transit industry/government-managed quality assurance program, plus a product improvement program supported by UMTA.

b. Conclusions. The following conclusions can be drawn about the impact of these new bus designs.

Operational impacts of increased trip speed and reduced unit capacity should counterbalance. Potential exists for improving service dependability and driver productivity, but the transit industry will require time to adjust operations to maximize the impact of these new bus designs.

It is estimated that the new buses could increase ridership by 10 percent, or perhaps more, when coupled with service improvements and marketing programs with the Transbus having the greatest potential.

Significant safety improvements will be reflected in reduced claims costs.

In this comparison, Transbus could have a significant impact on the overall comfort and safety of the elderly who are a significant portion of the riding population.

Initial response to new design buses will be positive, since a new transit bus design is overdue, despite one-time costs and potential start-up problems, which should be anticipated in planning the new bus introduction.

In summary, the potential benefits of Transbus over Interim bus and current production buses are rider oriented. This offers the potential for patronage improvements and greater support from local political organizations responsible for transit funding. Specific benefits are related to passenger safety, accommodation of the elderly, and service dependability. These benefits are accompanied by increased unit production costs. Interim bus should also produce positive but lower patronage gains with commensurately lower production cost increases.

To many operators, the opportunity to introduce new technology and project a new public image for their bus operations may be the most important factor. Each of the new buses has new styling and improved interior passenger amenities to achieve this new image. The Interim bus can be made available sooner and thus can have the greatest immediate impact. Transbus, with the low floor, will have the greatest potential for achieving a lasting impact on the public, based upon the bus features selected as "most important" by 10,000 riders and potential riders during the four city demonstrations of the Transbus prototypes.

The introduction of these new bus designs is an opportunity for the transit industry, which will at long last have a new bus, to improve its image and thus generate increased additional revenues. The magnitude of the positive economic impact depends on the degree to which patronage increases can be generated and sustained, and the ability to minimize production costs.

Mr. BROOKE. Mr. President, I commend the distinguished Senator from New Jersey for this amendment. It is necessary that it be submitted, and I join him. I was elated to hear the announcement of Secretary Adams the other day. For too long, the handicapped and the elderly have been denied easy access to public transportation.

I applaud the fact that even in the city of Washington, and in some other cities and towns around the country, they are beginning to cut their crosswalks so that wheelchairs can be used to get across the streets.

It is certainly enlightening and encouraging to know that we now have the technology, we now have the advanced art, so that these vehicles can be constructed so as to make easy access by the handicapped and the elderly in our country. This is a giant step forward. It certainly will be appreciated by those who are handicapped and those who are elderly.

I believe the Senator's amendment is an important one under the circumstances, and I accept the amendment.

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

Mr. JAVITS. Mr. President, if the Senator will yield, it is my understanding that this improves the situation for the very classes of people which are referred to in the amendment.

Mr. WILLIAMS. That is correct.

Mr. JAVITS. It also is a reverse from what was decided by the previous administrator of Urban Mass Transit, but, nonetheless, the Senator is convinced that this is best for the handicapped, with whom we are particularly concerned, and the elderly?

Mr. WILLIAMS. Yes. This is really one of the most promising developments that the elderly and handicapped could have in terms of accessibility on mass transportation vehicles.

Mr. JAVITS. If the Senator will yield further, I am very much impressed with that because the Secretary of HEW, Mr. Califano, also is issuing regulations under section 504 of the handicapped bill which we passed, and has made a similar landmark decision. I am pleased that our chairman of the Human Resources Committee has taken this initiative in order to carry through what I understand to be the same concept here.

Mr. WILLIAMS. The Senator is exactly right. Some of the material I have placed in the RECORD does show the relationship with the section 504 regulations of HEW.

Mr. JAVITS. I thank my colleague very much. I favor the amendment.

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

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

The PRESIDING OFFICER (Mr. NUNN). All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor: Barbara Washburn, of Senator JAVITS' staff; Ingrid Hanson, of Senator STEVENS' staff; Gene Larimore, of Senator THURMOND's staff; Connie Maffin, of Senator HEINZ's staff; Donna Maddox, of Senator PERCY's staff; Marc Steinberg, of Senator GRIFFIN's staff; and Elvira Orly, and Jan Olsen, of my staff.

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

UP AMENDMENT NO. 524

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA), for himself, Mr. SCHMITT, and Mr. HATCH, proposes unprinted amendment No. 524.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 13. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"Minority Employment Opportunities in Transportation"

"SEC. 19. (a) Notwithstanding any other provision of this Act, no assistance under this Act may be made available to assist mass transportation service in any State or locality which maintains or enforces any restriction or requirement relating to the operation of the taxicab business except the following:

"(1) A requirement that the operator have a valid motor vehicle operator's license.

"(2) A requirement that the operator have a valid chauffeur's or hacker's license, at a cost not to exceed $35, which license may be granted after requirements (in addition to those required for the regular motor vehicle operator's license) reasonably necessary to assure a knowledge of streets, locations, and traffic laws of the State or locality are met by the operator.

"(3) A requirement that the motor vehicle to be used must pass any regular motor vehicle inspection required by the State or locality.

"(4) A requirement that proof of motor vehicle insurance be furnished to the same extent as such insurance must be obtained by all drivers within the locality but with no required minimum term of such insurance.

"(5) A requirement that ownership of the motor vehicle (or in the case of ownership by someone other than the operator, the approval of the owner for the commercial use proposed) be demonstrated.

"(6) A requirement that the operator periodically pass a medical examination.

"(7) A requirement that the operator not have been convicted of a felony and not have committed an excessive number of motor vehicle violations.

"(8) A requirement that the operator be 18 years of age or older.

"(b) A State or locality, which receives assistance under this Act may not regulate taxicab rates, fares, or routes, except that a State or locality may establish a schedule of maximum rates and zones to which those rates apply, in order to protect the consumer.

"(c) The Secretary shall establish a procedure for the payment of, and shall pay, claims by persons who, prior to the date of enactment of this section, made investments (as defined by the Secretary for the purpose of this section) in order to comply with requirements which this section prohibits and which, as a result of the application of this section, a State or locality has repealed. The amount of any such payment shall not exceed:

"(1) 90 percent of the amount invested in the case of an investment made 1 year or less prior to such repeal,

"(2) 79 percent of the amount invested in the case of an investment made more than 1 year but not more than 2 years prior to such repeal,

"(3) 67 percent of the amount invested in the case of an investment made more than 2 years but not more than 3 years prior to such repeal,

"(4) 54 percent of the amount invested in the case of an investment made more than 3 years but not more than 4 years prior to such repeal,

"(5) 39 percent of the amount invested in the case of an investment made more than 4 years but not more than 5 years prior to such repeal,

"(6) 23 percent of the amount invested in the case of an investment made more than 5 years but not more than 6 years prior to such repeal,

"(7) 5 percent of the amount invested in the case of an investment made more than 6 years but not more than 7 years prior to such repeal,

No payment shall be made for any investment made more than 7 years prior to such repeal. Notwithstanding any other provision of this Act, any sums available to the Secretary for grants under section 3 of this Act shall be available for the payment of claims under this subsection.".

Mr. HAYAKAWA. Mr. President, I express my gratitude, first of all, to the

distinguished Senators from New Jersey and Massachusetts for their presentation of this bill in support of mass transit. They come from enormous, vibrant urban areas, and they understand the situation well. I believe that, in offering this amendment, I shall be strengthening their purposes and their hopes for what mass transit can do, both for the convenience of people and for the saving of energy.

My amendment is designed to provide employment and business opportunities for members of minority groups and low skilled individuals by requiring States and local governments to loosen their restrictions and regulations on the taxicab and/or jitney business.

Specifically, the amendment sets out maximum requirements and restrictions that could be imposed on an individual seeking to enter the taxicab or jitney business by any State or locality receiving Federal mass transit funds and prohibits the granting of funds under this act to any State or locality that maintains more stringent restrictions and regulations on these businesses. In addition, the amendment specifically prohibits regulation of routes and fares, other than to establish maximum rates and a zone system to which they apply.

Finally, the amendment establishes a system of compensation for those individuals who have recently purchased a permit, certificate, or medallion, either from the State or locality, or from another individual or company, in order to comply with the established procedure to enter the business.

In other words, I should like to see far more people get into the taxi and the jitney business.

The maximum allowable requirements are:

First. A requirement that the operator have a valid motor vehicle operator's license.

Second. A requirement that the operator have a valid chauffeur's or hacker's license, at a cost not to exceed $35, which license may be granted after requirements—in addition to those required for the regular motor vehicle operator's license—reasonably necessary to assure a knowledge of streets, locations, and traffic laws of the locality are met by the operator.

Third. A requirement that the motor vehicle to be used must pass any regular motor vehicle inspection required by the State or locality.

Fourth. A requirement that proof of motor vehicle insurance be furnished to the same extent as such insurance must be obtained by all drivers within the locality, but with no required minimum term of such insurance.

Fifth. A requirement that ownership of the motor vehicle—or in the case of ownership by someone other than the operator, the approval of the owner for the commercial use proposed—be demonstrated.

Sixth. A requirement that the operator periodically pass a medical examination.

Seventh. A requirement that the operator not have been convicted of a felony and not have committed an excessive number of motor vehicle violations.

Eighth. A requirement that the operator be 18 years of age or older.

I should like to make it clear that these requirements are the maximum permissible and are not mandatory. For instance, if a city wants to allow 16-year-olds to drive taxis, it could do so under this provision.

On the other hand, these requirements are all-inclusive. Therefore, a city could not, for instance, establish a residency requirement or an education requirement. It could not require any special equipment on the vehicle other than that required to pass the regular private auto inspection. It could not require that the insurance be purchased from particular companies. It could not prevent an individual from using his own private vehicle as a taxi or jitney, so long as he met the maximum requirements.

The provision allowing States and localities to set only maximum rates is designed to protect the consumer—so that he knows the most he will have to pay for a given trip—while, at the same time, giving new entrants into the business the opportunity to build up a clientele by providing cheaper service. There is also a prohibition against route regulation.

In the early 1900's, cities put jitneys and taxis out of business by requiring them to make long trips where the costs of operation exceeded the fare, by excluding them from high-density downtown areas, or by prohibiting them from operating along the mass transit system's lines. I do not want to see these types of restrictions used to limit opportunities for low-skilled individuals to earn a living by driving cabs or jitneys.

Finally, in order to be fair to those individuals who have played by the rules of the game—that is, the existing rules—and recently purchased taxi permits or medallions, the amendment includes a scheme to compensate those individuals for that investment. This compensation scheme is based on how long the individual has held the permit and, therefore, how long he has been reaping monopoly benefits due to the restricted nature of the business. If the individual, instead of purchasing the permit, had invested the money at a 10 percent rate of return, he would have doubled his money within 8 years. A 10 percent rate of return is considered normal on an investment. The rate of return should be even higher under a restricted, monopoly situation. And this is a lower rate of return than the average rate of return on stockholders' equity for the last 10 years.

Reducing the amount of compensation based on a 10 percent rate of return results in a higher amount of compensation than would be justified by the higher rate of return on stocks over this period. In this regard, the compensation scheme is generous. In addition, when an individual purchases a permit, he has no guarantee that he will be able to sell it in the future for as much as he paid for it. Thus, we are again being generous by guaranteeing him compensation based upon his purchase price.

That is the technical explanation of the amendment. Now I shall explain why this amendment should be adopted.

The taxicab business is one which would, in the absence of government barriers, present great employment opportunities to members of minorities, college students, and people with few job skills. Driving a car involves no difficult technical education. It is a skill that almost everyone has. In addition, the initial capital investment required to enter the business is very low—a downpayment on a car and the cost of insurance. But the high restrictions that localities place upon taxicab operation exclude from the business all those with limited capital to invest.

For example, in many cities, an initial investment of tens of thousands of dollars is required to purchase a "taxicab medallion" which is required to operate a cab.

(At this point, Mr. HARRY F. BYRD, JR., assumed the chair.)

The last I heard, a medallion in Los Angeles cost $33,000, just to get the permit, which is several times the cost of the automobile itself, and up to $27,000 in San Francisco.

In some cities, the number of medallions is strictly limited to protect those already in the business and to keep out potential competitors. Many individuals, especially the less fortunate members of minority groups, cannot muster the resources needed to purchase the medallion. Maybe they can afford the car, but they surely cannot afford the medallion. Many cities prohibit an individual from using his private auto as a taxi or jitney. Some have residency requirements, education requirements, and equipment requirements that limit entry into the business. In addition, most jurisdictions regulate routes and fares so that a new entrant cannot build up business by undercharging his competitors or providing more convenient service.

In most cases, the fare and route regulations are designed so that taxis cannot compete with the city's mass transit facility but in the final analysis, all these regulations and restrictions amount to a publicly sanctioned, huge conspiracy in restraint of trade aimed at the entrepreneur with modest capital resources.

There is no economic justification for any of these restrictions, nor do they serve the interests of commerce, consumers, the general public, or minorities. But the cities maintain these restrictions to protect existing large cab monopolies and mass transit systems, all of which operate at larger and larger federally subsidized deficits every year. Obviously, large transit and cab companies have greater political clout than the individual, unorganized taxi operator. But the Federal Government should not encourage cities to give in to the political pressure and protect these large companies at the expense of employment and business opportunities for low income individuals. However, the Federal Government does encourage these restrictive policies by continuing to subsidize, to an increasing extent, the operating deficits of mass transit companies. It also funds most of the expense of building new transit systems.

If localities had to pay for their own transit systems, they would be more likely to remove their restrictions on the taxi business to encourage greater participation in the overall transportation

systems by individually operated taxis or jitneys.

Let me explain a little bit about a jitney, which is a disappearing phenomenon in American cities.

Jitney is a term that has commonly been used to refer to a private auto or minibus which picks up passengers for a fee. In the early 1900's, jitneys began to operate, providing cheaper, speedier, and more convenient service to passengers than did the streetcars operating at the time. It is generally said that the advent of the jitney was on July 1, 1914 in Los Angeles when L. P. Draper picked up a passenger in his Ford Model T touring car, took him a short distance, and accepted a nickel fare as payment. During the depression that followed the outbreak of World War I in the fall of 1914, many unemployed men began to operate jitneys. However, as the jitney business began to flourish and grow, transit companies—mainly buses and streetcars—perceived the jitney as responsible for the financial problems of the transit systems, and lobbied for strict regulations on jitney operations. The regulations enacted in most localities were stringent enough to put jitneys, for all intents and purposes, out of business. Thus, by mid 1915, there were as many as 62,000 jitneys operating in 175 cities in the United States.

Then the regulations began to be enacted, one by one, in city after city, and by 1920, the jitney had virtually disappeared.

This put a large number of the American people and self-dependent individuals out of business altogether.

Jitneys were also used in the South late in the 19th century—this is an aspect of history of the jitney that I find completely fascinating—to counter racial discrimination on public transportation. We are all familiar with the famous bus boycott in Montgomery, Ala., in the 1950's. It launched the modern civil rights movement and made Martin Luther King a national figure. But not too many people know about the first boycott movement against Jim Crow transportation. It occurred way back at the turn of the century. I would like to tell the Senate about it, because it pertains directly to some of our problems today.

In those days, even in the deep South, public transportation—in the form of horse-drawn trolleys—was not always segregated. It was only in the 1890's that racially separate public accommodations were imposed upon the people of this land.

The black citizens of the South reacted to the new Jim Crow laws with anger, courage, and determination. They boycotted the segregated cars. Their newspapers urged, "Do not trample on our pride by being 'Jim Crowed,' Walk!" When a public official in Savannah gave his Negro maid carfare to carry his two heavy suitcases to city hall, she arrived very late, exhausted, and soaked with perspiration. She had carried the suitcases, but she had walked all the way. She did her duty, but she maintained her pride. She would not humiliate herself by riding on a segregated trolley.

But the minority population of the South did far more than simply walk. In many cities, they set up their own transportation systems. They used their vans and wagons, their carriages and carts to start black-owned-and-operated trolley lines. And they did it without help from the EEOC, the Department of Transportation, or the Small Business Administration.

Especially in Virginia and Tennessee, alternate transport lines were a temporary success. And in Houston, the law-abiding Negroes who were operating their own horse-drawn carriages obeyed the Jim Crow ordinance by marking off the back seats of their jitneys with signs reading, "Whites Only."

In the long run, however, their efforts and attempts to sustain minority-owned business and minority rights through minority business enterprise failed. Lack of capital and lack of experience played one part, as did harassment by public authorities. For example, local humane officers suddenly became extremely solicitous of the health of the horses pulling black-owned jitneys. It put them out of business.

Of course, times have changed. Segregation is a thing largely of the past. But rising fares on buslines are not past. Poor service and inconvenience and dirty buses and dangerous subways are still with us. And what are we to do? Follow the advice of the black newspapers of 75 years ago and walk? Or should we patronize instead our own privately operated transportation systems, jitney buses and taxies, and minivans?

But the problem is there are not any! They have been suppressed by local legislation designed to benefit special interest groups rather than consumers and the community.

However, as is obvious from today's experience, the disappearance of the jitney did not solve the financial problems of the transit companies. From 1946 to 1963, ridership dropped from 23 to 8 billion riders and the business had become so unprofitable that most private transit companies shut down and the Government took over. But the situation has only continued to worsen, with larger and larger subsidized operating deficits each year. But the public transportation systems are in just as much financial trouble without the jitneys as they would have been with them. And I think there is an explanation for that.

If there were a free enterprise system in taxis and jitneys, so that they can compete with each other and with the existing taxi system, then we will have a feeder supplement to the mass transit system—to BART, for example, in the San Francisco Bay area—that will feed and enhance the usefulness of the mass transit system. This, I think, is a most important point.

The most important reason for the demise of most transit systems is their fixed route, parallel line structure, which does not offer the average passenger the flexibility he needs and demands. For instance, many BART passengers must drive their own auto to the closest BART station to be able to use the service. The individual often decides that he might as well drive where he is going, especially if the BART station closest to his destination is also a formidable distance. Low cost, quick, efficient jitneys could provide him with this point of origin to BART station and BART station to destination service at a reasonable price.

In other words, the jitneys can be a supplement at both ends to mass transit service. But, obviously, if the supplement is too expensive, as it now is, it is not going to be used, and they will use their own cars instead. In so doing, they will skip mass transit altogether.

Many commuters will take their own auto to work in case they must go somewhere during the day that is not conveniently served by the transit system. Or in Washington, D.C., for instance, if an individual works long or erratic hours, the transit system may not serve his needs. Who wants to take the chance of having to work late in the evening and then having to wait half an hour or more for a bus which may not even take you within walking distance of your home? But if reasonably priced jitneys were available to handle such infrequent, sporadic situations you might just leave your auto at home and ride the bus or subway.

I think that all these systems will supplement each other, and complement each other. We will get people to give up their private cars only if we have two or three or four different systems to take people around as economically as possible. Now what I want to do then is to give the unemployed, especially those who want to go into business for themselves, a chance to run their own jitneys, their own taxicabs, without undue licensing requirements, without the requirement of tens of thousands of dollars in capital investment, to go into business at all. The evidence I have collected would seem to indicate that individuals will take advantage of this opportunity.

We have that evidence right here in Washington, D.C. It is the major city in the United States with the lowest restrictions on entering the taxi business. The charming thing I found about Washington when I first arrived here and I started asking drivers these questions was that an individual can use his own car, and for the price of insurance plus less than $50 for a driver's license, hacker's license, public service auto license, and police check, enter the taxi business. Consequently, Washington has the best, least expensive taxi service in the country, and the highest black ownership of cabs relative to black population. Also, 7,700 cabs operate on the streets of Washington.

Now, Philadelphia has only between 500 and 600 cabs. Let me repeat that: Washington has 7,700 cabs to serve the people; Philadelphia has only 500 to 600, of which only one-fourth are owned by individuals. However, in order to operate a cab in Philadelphia, you must obtain a permit from the State public utilities commission. Only a limited number of certificates have been issued, the last new permit having been issued several years ago, and none since. One must prove public necessity to the commission to obtain a permit in that manner.

However, certificates exchange hands between individuals. The going market

price for a taxi certificate in Philadelphia now is about $35,000. Rates are set by the commission, the cars are required to have meters, top lights, and four doors, and the driver must be at least 19. There are no data available on minority ownership of cabs.

San Diego is an interesting example in my State. Until the recent bankruptcy of Yellow Cab in California, San Diego had no individual ownership of cabs. The city issued permits to operate cabs, which could only be transferred with the approval of the city council. Ten companies operated in the city with only 410 permits having been issued, and that is a city that needs at least 3,000 to serve the public adequately.

The supply of permits was limited and the city set the fares. After the bankruptcy of Yellow Cab, the city sold 61 permits to individuals. In order to get an individual permit, a person had to pass a police check, pay $200, and paint their cab a certain color. The permits were passed out on a first-come, first-served basis, and there was demand for a far greater number of individual permits.

So far, the individual operator/owner system has proved very successful. Surveys have indicated that the independents are more successful than the established companies, and they have found that the individualized service builds up a regular clientele. The city ordinances are being revised to make it easier to comply with the two-way radio requirement. The city is also conducting a market analysis study and believes that the study will show that the improved taxi service has increased the demand for taxicabs—still speaking of San Diego. They will probably issue more individual permits. Finally, they have found that the individual owner/operators provide better service to minority neighborhoods than the established companies do, and about 20 of the independent cabs plus 1 of the small cab companies are owned and operated by minorities.

Again, let us look at it from the point of view not of the minority businessman but from the minority customer and passenger in taxi service. I encountered this repeatedly in Chicago and continuously encountered it in San Francisco.

There are only a limited number of taxis. If you are a member of the minority race and you want to go to the Southside or the Westside of Chicago or Fillmore in San Francisco, there will not be many white operators who will take you there at all, despite the fact that they paid $30,000 for a certificate of public convenience and necessity. When you need a cab, they will not even take you there.

What solved that problem is the same solution we had back further in American history, when blacks owned jitneys and taxicabs. They got into business for themselves to take care of the neighborhoods and the people the regular system would not take care of.

Mr. President, I have similar information on other cities which I ask unanimous consent to have printed in the RECORD at this point, plus an article from the Philadelphia Tribune written by Dr. Walter Williams, a distinguished black economist at Temple University.

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

ATLANTA

Atlanta sells permits to drivers entering the taxicab business. There is no limit to the supply of permits, which are issued on a daily basis to new drivers at an initial cost of $25, a charge of $15 to transfer companies, and charge of $5 to replace if lost. All drivers must operate under a company banner, but can use their private autos if they have meters, top lights, and door signs and comply with company requirements and color schemes. The drivers pay approximately $25 to $45 weekly to use the company banner. There are approximately 45 to 50 companies operating 900 cabs. All new companies must operate at least 50 cabs. The city council sets the fares.

BALTIMORE

Baltimore allows individual ownership of cabs, but the driver must belong to a dispatch organization, have a 2-way radio and paint his car to fit the company pattern. Approximately ⅔ of the 1,151 cabs are owned by individuals or small groups. The Maryland Public Service Commission controls taxicabs, and a driver must have a permit to operate. However, permits are not available from the state, the last 150 having been issued to GIs in 1946 after the war. Thus permits can only be obtained from someone else at a market price which varies between $4,000 and $10,000. Fares are set by the State Public Service Commission. There is a minimum age requirement of 24 or 25. Approximately ½ of the individually owned cabs belong to blacks.

BOSTON

Of 1,525 cabs in Boston, 850 are individually owned. A private auto can be used as a cab if it has a partition between the front and back seats, a meter, and a toplight. A driver requires a state permit to operate, but none have been issued since 1945. Permits exchange hands privately at a market price of about $25,000. Rates are set by the police commissioner. There are 20 large fleets of cabs and fifty smaller companies and associations with 10 cabs or less operating in the city. Minority ownership is substantial, with about 60% of permits recently purchased going to blacks and Puerto Ricans.

CHICAGO

In Chicago 934 of 4,600 cabs are owned by individuals. The proportion owned by minorities is unknown, but believed to be quite large. An operator must have a medallion to operate, however, they can no longer be purchased from the city. There are only 4,600 medallions. The last time a permit was issued was around World War II. The city collects an annual fee of $90 from the owner of a medallion. The going market price for a medallion is currently about $16,000. Private cars cannot be used as cabs, and all cabs must have a meter, a top light, be a certain length, width, and height, and must be clearly numbered inside and out. Yellow Cab and Checker Cab operate almost all of the 3,666 company owned cabs. The city council sets the taxicab rates.

DENVER

In Denver there is no individual ownership of cabs. All cabs are either owned by a company or leased to a company for their use. The State Public Utilities Commission grants taxi certificates to the companies. The certificate specifically limits the number of cabs that the company can operate. Certificates are not exchangeable among companies. Only three companies operate between 450 and 500 cabs in the city of Denver. The Public Utilities Commission sets the fares. All cabs must have meters and two-way radios. A taxi operator must be at least 21 years of age.

DETROIT

The city of Detroit issues bond plates for taxicabs. Currently, there are 2,300 bond plates issued, and no more can be issued. The last one was issued some time around World War II. Almost all taxicabs in Detroit are owned by individuals. However, they must pay to join a company and use its name and dispatch service. All cabs must have meters, partitions, top lights, and markings on the side. There are about six major cab companies operating in Detroit, and in addition many small companies and independents. Currently, ownership of cabs is about evenly split between blacks and whites. The going market price for a bond plate is between 1,000 and 3,500 dollars. The city council sets the taxicab fares.

LOS ANGELES

Up until a short while ago in Los Angeles, all cabs had to be owned by companies, according to city ordinance. Companies were given "franchises" and could operate only in certain areas of the city. A cab could not go out of "its area" unless it got a telephone request. What this meant was that if a cab from one company took a passenger into another company's section, it could not pick up a return passenger. This increases costs of operation and consequently fares and wastes energy as well.

Companies must apply to the City Board of Public Utilities for a franchise. Currently seven companies have franchises.

The city just authorized individual permits a short while ago, but they are still being processed. All drivers will have to belong to a dispatch association, and each association is limited to 100 permits. Permits will cost drivers $250. So far only two dispatch associations have been formed, and the applications are all still pending council approval.

There are currently 350–450 cabs operating in Los Angeles. There is no limit on taxicabs allowed to a franchise; they may operate whatever the traffic will bear. The companies pay the insurance, and hire the drivers to drive the cabs.

MIAMI

The city of Miami issues permits to operate taxicabs. A city ordinance establishes that there must be one taxicab per 1,500 people. However, since 1949, with the exception of one or two hardship cases, no new permits have been issued. There are only 431 permits available in the city currently. The going market price for a permit is approximately $10,000 to $15,000. In order to secure a new permit from the city, an individual must prove public convenience or hardship. Miami does allow individual ownership of cabs, and approximately 25% to 30% of the cabs in Miami are individually owned. An individual may use his own car as a taxicab so long as it has a meter and a certain size sign on it. Of the individually owned cabs, a large proportion are owned by blacks, Cubans, and Pakastanies. There are also nine taxicab companies operating in the city. The city of Miami has the power to set taxicab fares, however, has chosen to let the Dade County Board of Supervisors set the rates.

Miami also has a jitney operation, mostly in the black areas. There are currently 21 jitnies that run along established routes. They are regulated by the city and must operate a certain number of times per hour. These jitney routes have been established for a long time, and the rates they can charge are set by the city. There has only been one case recently where some one proved public necessity and was allowed to set up a new jitney route. However, this operation only lasted a short time. The main problem with the jitney operations is that they are in competition with the city bus lines.

NEW YORK

An individual must have a permit from the city of New York to operate a taxicab. The

number has remained stable at around 11,787 since 1938, except for some fluctuation after World War II. Permits are no longer obtainable from the city. They are exchangeable, however, and sell at a market price of approximately $42,000. New York does allow individual ownership of cabs, and approximately 4,971 individuals own their own cabs. However, they can not use their private autos for this purpose. All taxies must have meters which are approved by the Taxi and Limousine Commission, and must conform to certain technical standards and have top lights. There are currently approximately 2,200 companies operating cabs in New York, but many of these are companies with only two car fleets owned by the same person. Cab holdings are usually split into these smaller companies to limit liability. The Taxi and Limousine Commission sets the rates for taxicabs.

SAN FRANCISCO

Since the bankruptcy of Yellow Cab, there are only 461 cabs currently operating in San Francisco. There have been 849 permits issued, but Yellow Cab owned 500 of them. Twelve have so far been auctioned off and the remaining 488 are tied up in legal battles.

San Francisco now has a situation where almost all the cabs are individually owned. The large companies are really co-ops. Most of the owners of the cabs drive the cabs, but some people in the company own two or more cabs, and might hire other drivers to drive the others. The drivers/owners will pool their money to buy insurance for the fleet of cabs, and will often split the profits. In some of the smaller cab companies (co-ops), the drivers will be completely independent of the company. He may just be paying a flat monthly rate for the use of the name and color scheme. He would pay his own insurance, collect his own profits, keep his own hours and often work out of home. However, a cabbie cannot use his private auto as a cab, because the meter must be running at all times when operating.

Permits may be sold or transferred. The last permit that was sold went for $30,000 but that was before Yellow Cab's bankruptcy. People may apply for new permits if they can prove "public necessity or convenience", but this is almost impossible, the last permit being issued in 1968. Minorities own approximately 25% of the city's cabs, mostly Chinese-Americans.

MINORITY-OWNED BUSINESSES IS ONE WAY MINORITIES CAN FIND WAY OUT OF POVERTY

(By Dr. Walter Williams, an associate professor of economics, Temple University, School of Business Administration)

Though not as promising as other economic alternatives, minority-owned businesses offers one way that minorities can find their way out of poverty. However, the deck is stacked against would-be minority businessmen in several important ways. One important way is the characteristics of the business environment in which they find themselves operating. This environment features relatively high crime rates which adds to their operation cost, and low income which lowers the demand for the products and services that they sell. Though mostly neglected, the other important way that minority business is inhibited is through highly restrictive practices in many potentially rewarding business activities.

For many businesses, as one of the conditions of entry, the entrant must have legal permission to practice the business. Most often the person must meet the requirements set by a governmental body that is controlled either directly or indirectly by people presently involved in that business. Obviously, the incumbent practitioners of the business have little interest in seeing a large number of new entrants. The reason, though disguised in lofty moral language, is that increased competition means that they could not charge as high a price, or that they would have to improve their services and hence their incomes would not be as high.

Entry restrictions are rife in the American economy. Here I will discuss only two for illustrative purposes in terms of minority interests, because they are businesses where (1) there are not high capital costs relative to other businesses and (2) they do not require high skill levels. Therefore, the only reason for small minority participation in these businesses stems from artificial barriers to entry.

The taxicab business is one such where capital and skill requirements are low. However, entry is restricted through prohibitively high legal requirements. For example, in New York and Boston a license fee costing $30,000 must be paid for each vehicle operated. In Baltimore and Chicago these licenses sell for $14–$18,000 dollars. In Philadelphia, a certificate is required. The Board of Commissioners, in Harrisburg, sits to decide whether to issue certificates or not based on whether they think the community needs more taxi service. For the last few years, they have decided that Philadelphia had adequate taxi service, because they have not issued a single certificate.

In Washington, D.C., the story is quite different. Fee requirements are nominal. As a consequence, Black ownership relative to the Black population is high, and in addition, taxi fares in Washington, D.C., are among the lowest in the nation.

Another potential business for minority entry is the trucking industry. Here, too, are significant entry restrictions. To own and operate a truck requires that one receive a certificate from the Interstate Commerce Commission (ICC). A certificate will be granted if the entrant can prove that he can provide a service that no other trucker is providing. If the entrant only offers to provide a better service at cheaper prices, he will be denied a certificate. Behind the ICC are teamsters and trucking companies who benefit from restricting entry in order to keep wages and income higher than they would be with more competition. In a recent Illinois crackdown on trucking without certificates, the majority of those arrested were Black truckers. Additionally, the fact that there are very few Blacks licensed to be common carriers points up the adverse effects of the regulations in the trucking industry.

The market entry restrictions noted here are not racial in their intent. To the contrary, the stated intentions are those of high social objectives such as "orderly markets," "fair prices" and so forth. However, the clear effects are racial to the extent that these market entry restrictions discriminate most against late-comers, poor people, and those with meager political clout. Minorities are disproportionately represented in such a group.

In general, what minority businesses need more than government loans is freedom from governmental interference with their attempts, and indeed what I consider Constitutional rights, to earn a livelihood in their chosen field.

Mr. HAYAKAWA. In conclusion, Mr. President, I would like to say that although my amendment offers many benefits—better and cheaper transportation, greater employment and business opportunities for the disadvantaged, and reduced Government expenditures on public assistance and public jobs—I feel that the most important benefit of the amendment is that it provides opportunities for people to help themselves, rather than to accept a Government handout.

From a public service point of view, I believe that these jitneys and taxicabs operating competitively and, therefore, at a lower rate, will act as a supplement to mass transit systems that will help to make mass transit economically more successful.

But let me go back to the problem of the individual trying to make his living.

By operating his own taxi, an individual can get himself off the public dole, learn to operate a little business, and most importantly restore his self-respect and pride. The benefits of easier entry into the taxi business would not even just benefit the hard-core unemployed and poor. The laid-off steelworker or aeronautical engineer, rather than having to go on public assistance, could temporarily support his family by operating his car as a jitney while he searches for a new job. In the process he would maintain his pride and manhood.

If this is our goal—to help people to help themselves—then we should encourage localities to remove their excessive restrictions on taxicabs and jitneys. I believe that this amendment will give them that incentive. I hope you agree with me and support this amendment. It would be the best thing that the Federal Government has done in years to help people help themselves.

Let me say, in closing, that I speak not only as a concerned citizen and a legislator, but I speak also as an ex-taxi driver. That was one of the things I did to work my way through college and graduate school, and I treasure that experience, which is the kind of thing that makes it possible for you to work part time or full time, continue your studies or continue other occupations at the same time, and maintain your self-respect and mintain your pride while you are temporarily faced with a difficult economic circumstance.

Therefore, I hope Senators will agree with me and support this amendment.

Mr. President, I yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from California. I compliment him on his scholarly and very extensively researched presentation in defense of his amendment, and I also wish to emphasize my support and cosponsorship of that amendment.

In addition to being a believer in the taxicab and jitney, although never a driver of either, I want to emphasize that I am a fan of mass transportation. I think it will in the future be one of the major ways that we come to grips with our basic problem of insuring that our use of energy is in balance with its availability from exhaustible sources.

However, for mass transportation to be a viable part of our society, it must be lower in cost, it must be higher in convenience, and it must be considerably more efficient in its use of energy. It also must be fun to use.

The Senator's amendment goes to the heart of one of these four issues, and that is convenience. I think he has made that point, and I want to underline and italicize that point, that with a feeder system of jitneys and taxis, mass transportation can start to be more economical than it is at present, and much more convenient to use.

Mr. President, as a cosponsor of this amendment, I wish to emphasize the

principle of competition which it endorses. It is a principle that should be applied whenever possible to the provision of goods and services to the American public. Competition can generate the lowest cost and most efficient source of most goods and services in the economy, and it should be given every opportunity to function in the provision of intracity transportation services as well as in other portions of our society.

The production of monopoly organizations, whether they be privately or publicly operated, should not be supported when the possibility exists that cheaper and more responsive services are available. We could only help the inner cities and encourage economic development and encourage minorities by seeking the lowest cost form of mass transportation for the residents of our metropolitan areas.

While the Federal Government's emphasis in recent years has been on the funding of large rail mass transit systems, it is time now to look at the alternatives and compare the relative merits of all forms of transportation. While certain advantages are available from the use of rail transit, it does carry some liabilities in some cases as a service to the residents of urban areas. This has been pointed out eloquently by the Senator from California. Routes, for example, are fixed and unable to adjust to the ever changing service requirements of a dynamic metropolitan region. And while the rail and mass transit alternatives are relatively fuel efficient in operation, overall it is a very costly system to establish. That is extremely capital intensive. We need only look at the District of Columbia metro system and the problems it has getting established to comprehend how expensive the systems are to the taxpayers.

By comparison, the jitney and the taxi service provide relatively fuel-efficient and flexible service inside the city. But the survival of the special interest groups supporting mass rail and other transit systems requires that these economically viable transit vehicles be made and continue to be illegal. History has shown, however, that even this degree of protectionism has not been sufficient to keep many of the mass rail systems economically viable. Buses, which eventually replaced some rail-borne streetcars and commuter trains in the past, have proved to be no more effective in serving the public as were the systems that they have replaced. The fiscal problems which followed were solved by the infusion of massive subsidies at taxpayer expense. The result has been taxpayers bearing the cost of a service that few people are willing to pay for.

I wish to compliment the Senator from California for his extensive effort and initiative in this area, and I am happy to join him as a cosponsor. I yield back the floor to him.

Mr. HAYAKAWA. I thank the distinguished Senator from New Mexico for his supporting remarks.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kansas (Mr. DOLE) be added as a cosponsor of my amendment.

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

ADDITIONAL STATEMENT SUBMITTED

Mr. DOMENICI. Mr. President, I am pleased to give my support to the amendment to the pending bill offered by my distinguished colleague from California, Senator HAYAKAWA. I commend him for finding ways in the legislative process to advance and enhance the opportunities available to individual people, particularly members of minority groups.

By this amendment, Senator HAYAKAWA, would, in effect, put the considerable leverage of urban mass transit Federal grants to work for individuals who want to use their own private autos to enter the taxicab business. As I understand it, this amendment would not prohibit reasonable and tolerable procedures for dealing effectively with such individuals, but it would prevent unreasonable, intolerable regulations and requirements intended to discourage this kind of entrepreneurship in favor of some other kind of transportation system.

I think this is an entirely proper course of action and I urge my colleagues to adopt Senator HAYAKAWA's amendment or to make some provision to achieve the purpose of his amendment.

Mr. SCHMITT. Mr. President, will the Senator yield for one unanimous-consent request?

Mr. HAYAKAWA. I yield.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Chris Brewster of Senator DANFORTH's staff be accorded the privilege of the floor during consideration of S. 208.

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

Mr. WILLIAMS. Mr. President, I yield myself a few minutes.

In responding to the very able and very distinguished Senator from California and his amendment to this mass transit bill, I will try to be brief since we are on controlled time. I thank and applaud the Senator from California for his eloquent and imaginative statement which has brought to our attention an area that perhaps we have overlooked. This is certainly helpful in our efforts to improve mass transit as an element of more effective and efficient urban transportation systems. As I sat here listening to the Senator's review of the history of the jitney, I confess I wondered just where the word "jitney" came from. I checked in a dictionary, and that dictionary said it is an archaic word, origin unknown.

So, evidently, the jitney has been around for a long time. Maybe horse-drawn chariots were used as jitneys after their days of glory in the ring were over. Were these the first jitneys? We do not know.

But my personal gratitude goes to the Senator for giving us some of the history of the jitney and for describing to us how people who were excluded or relegated to a particular part of the regular transportation, responded by introducing the jitney.

I come now to a little ad for the great State I represent and one of its cities: Atlantic City, N.J., has had, does have, and I believe will continue to have great jitney service.

It is interesting that the main avenue in Atlantic City closest to the Atlantic Ocean is called Pacific Avenue; farther inland is Atlantic, then Arctic, and then Baltic. They were named after all the oceans. But down Pacific and Atlantic, of course, the jitneys flow as I am sure many visitors of years back remember. There are fewer right now. But there is a wave of visitors coming on their way to New Jersey shortly to visit our "Granada," Atlantic City, and some of its great opportunities for economic advancement. Though I am glad the jitney is there, I do not want to prolong the debate, but I also applaud the Senator from California for his attention to and his concern for the employment of minorities, students, and those who are unskilled in other types of employment but skilled enough to drive a vehicle. These are all most worthy concerns and considerations, and he addresses their needs through this amendment.

But that brings me to one or two other observations.

Many of those to whom encouragement would be granted under this amendment have already entered the field.

I take a cab from the airport into town so frequently. It is remarkable the number of students that I meet that way who are driving, exactly as the Senator did in his student days. Students are doing it today.

In New York I believe one of the ways to keep updated in your education is the cab ride in New York. What a variety of backgrounds, nations, and talents there are in the taxi! Even now, it is a fertile opportunity for employment; in fact, the National Association of Taxicab People tell us they are always searching for people to drive cabs.

My problem with the amendment, I respectfully say to the Senator from California, is that it is deserving of more discussion, more thought, and more searching inquiry than we can give it here in the Chamber. It is worthy of hearings. I know the vitality of the Senator from California and his courage is greater than mine.

When we enter an area that has been a State province, as is insurance, and say here, in our Federal majesty, to the States and communities, "We are going to tell you your limitations on what you can require in terms of insurance," I tell the Senator I know we are running right into a buzz saw.

The opposition to that would be immense. Perhaps not justified, but it would give all kinds of problems. Therefore, I for one would like to consider this further, and, as a part of our transportation efforts, give it fuller hearing.

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

Mr. WILLIAMS. Yes.

Mr. BROOKE. Mr. President, let me first say that I never cease to be amazed at the talents of our distinguished colleague from California, and the scholarship that went into the statement that he has made on this floor this morning.

I just regret that many of our colleagues in the Senate, who I am sure are tied up in committees and have other commitments, could not be present. I wish they could have been treated—and it was a treat—to the scholarship that went into the Senator's presentation, and the obvious indepth research that also went into the presentation.

The concept is, as the Senator from California has said, not a new concept, but it is a fresh concept for us to consider in rapid transit legislation, and it is a concept that I think carries with it great possibilites.

I did not know that the Senator had formerly been a taxi driver; but I certainly say that that augurs well for the taxicab profession, if the Senator from California has once served as a member of that profession.

I listened very intently, with few interruptions and minor interruptions, to what the Senator had to say. It was not only scholarly, but it was amusing and delightful to hear. Nevertheless, it was a serious presentation, and I know full well that many of the things that the Senator has pointed out few Members of this body are aware of.

I know the problems that minorities have had, for example, in breaking into the field of taxicabs and getting jobs. I know firsthand, as a former attorney general, of the enormous cost of the medallions, from $25,000 to $33,000 and maybe even higher. And cities do not get that revenue; they are sold from individual to individual, which automatically forecloses the possibility that the poor or even the near poor, or even some of these moderate income people, could afford to pay for medallions.

I also know of the scarcity of taxicabs and taxi service in many of the cities across the Nation; and I also know full well, as the Senator very astutely pointed out, that there are cabs that will not take certain groups to certain sections in the city, and yet they are regulated by localities.

There are some problems, as our distinguished chairman has brought out; and as I said a while ago, the purposes of the amendment are laudable. I think I ought to present to the Senator for his thinking some of the questions which come to mind.

First of all is the question of cost. To my knowledge, no one has determined just what the cost of this would be, how much this amendment would cost us.

Then I am particularly concerned with subsection (c). Subsection (c) requires the Secretary to pay claims to persons who, prior to the date of enactment, made investments in order to comply with requirements which this section prohibits.

As an example, if a locality had no requirement for auto insurance, but it did require taxi operators to be insured, as I understand the proposal, the DOT Secretary would have to reimburse the owner of the taxi the amount of his insurance premiums. Is that correct?

(Mr. HASKELL assumed the Chair as Presiding Officer.)

Mr. HAYAKAWA. Excuse me?

Mr. BROOKE. I am sorry that the Senator was interrupted at the time. I will put the question again to the Senator, if I may.

Mr. HAYAKAWA. I thank the Senator.

Mr. BROOKE. Subsection (c)—and I refer the Senator to subsection (c) of his amendment—subsection (c), as I understand it, requires the Secretary to pay claims to persons who, prior to the date of enactment, made investments in order to comply with requirements which this section prohibits.

As an example, if a locality had no requirement for automobile insurance, but it did require taxi operators to be insured, as I understand the proposal, the DOT Secretary would have to reimburse the owner of the taxi the amount of his insurance premium; is that correct?

Mr. HAYAKAWA. Briefly, the original purpose included the purpose that the Secretary, in order to comply with the requirements, has discretion as to what he shall reimburse.

What we essentially had in mind, of course, was the reimbursement of his license fees, the medallion fees.

Mr. BROOKE. Let me read the provision:

> The Secretary shall establish a procedure for the payment of, and shall pay, claims by persons who, prior to the date of enactment of this section, made investments.

That is not permissible or discretionary. It seems to me that language is mandatory.

Mr. HAYAKAWA. It seems to me that the parenthetical expression "as defined by the Secretary for the purpose of this section" makes it discretionary.

Mr. BROOKE. "As defined by the Secretary for the purpose of this section?"

Mr. HAYAKAWA. Yes.

Mr. BROOKE. It would be a question of statutory interpretation, but I do not think that modifies the expression "shall pay." Even though it would be an investment as defined by the Secretary, "shall pay" relates to claims by persons who made investments. Does the Senator not envision the Secretary having to pay for those investments?

Mr. HAYAKAWA. No; I would envision the Secretary only having to pay that licensing fee. On things like insurance, they have already received the service that was paid for.

Mr. BROOKE. It might be pro rata. There might be some days still remaining, or 1 year or 2 years still remaining on a 3-year policy. On a 5-year policy there might be 3 or 4 years still remaining. Would they not get a pro rata payment for that?

Mr. HAYAKAWA. It seems to me the Secretary would have discretion as to how to define that.

Mr. BROOKE. But at least it could be a cost to the Federal Government?

Mr. HAYAKAWA. It could be.

Mr. BROOKE. If the Secretary used that discretion, there is no question but that the Secretary would have to pay the cost of the medallion; the Senator has done that part very well, passing it down from 90 percent to 5 percent, and then, after 7 years, there is a mark out to zero.

Mr. HAYAKAWA. If the language can be refined in such a way as to exclude everything but the repayment for the medallion, I would certainly accept that.

Mr. BROOKE. But even as to the cost of the medallion reimbursement, I do not know what we are talking about. It would appear to me that we could be talking about literally millions of dollars. Is that not correct?

Mr. HAYAKAWA. Most of these medallions have been held by the company for many, many years, in figuring on a 10-percent return per year, paying for the investment in the course of 8 or 10 years; and most of those medallions would already have been amortized.

Mr. BROOKE. What about the individual medallion that was just purchased for, say, $33,000?

Mr. HAYAKAWA. That was precisely what I had in mind.

Mr. BROOKE. And held for 1 year. That person would be reimbursed?

Mr. HAYAKAWA. Reimbursed for that fraction of the 8 years or so that he had regarded the investment to be good for.

Mr. BROOKE. Another concern I have——

Mr. HAYAKAWA. And there is not that much turnover in medallions, anyway. I would be surprised if the whole thing came to a million dollars.

Mr. BROOKE. Well, another concern I have, and I am sure this is one that concerns the Senator from California as well: The amendment would allow Federal regulation of what have been traditionally matters of local concern.

As an example, this amendment would restrict by Federal law the amount the locality could charge for a hacker's license. Additionally, it requires that any community receiving UMTA funds would be precluded from establishing taxicab fares or routes. I submit to the distinguished Senator that this has long been under the control of local governments. I just question why a recipient of Federal UMTA funds should now be denied the local regulatory role it has traditionally enjoyed.

Mr. HAYAKAWA. Mr. President, in reply to the distinguished Senator from Massachusetts, it seems to me that it is the kind of regulation that is analogous to those articles of the Constitution which state Congress shall make no law in restraints, let us say, of freedom of speech. The only kind of law we are passing is a law which says the municipality shall make no law in restraint of trade of this kind. I really have wondered, long before I came to this distinguished body, why antitrust proceedings have not been taken against these combines long, long ago. If it has not happened yet, it is unlikely to happen. It seems to me that these restrictions in restaint of trade can be legislated out, in the same way that in EOC and in other affirmative action we have legislated out certain discriminations in employment, and so on. This kind of restraint upon human freedom, which is now legislated by the cities, would have to stop. I believe the Federal Government has taken this kind of step toward preventing or stopping localities and States from imposing these restrictions

upon human freedom. This is my justification for it.

Mr. BROOKE. The Senator from California makes a strong case, but I believe in the position taken by the distinguished chairman, that, in short, there are many unknowns about this proposed amendment. I agree with the principle. I even agree with the amendment itself, with what it attempts to do. The intent of the amendment, I believe, is commendable. It is laudatory. It is an excellent proposal. I believe it is a proposal which the Senate ought to hear. But there are unknowns. There are unknowns as to cost. The chairman brought up the question of getting into the insurance problem, which is a very real problem.

I urge upon the Senator from California that, since the chairman has said he thought this was an amendment which merited hearings, we get an agreement with the distinguished chairman of the subcommittee—as the ranking minority member of it, I would certainly concur—to have hearings on this. We do need jitneys added to our transportation system. There is no question about it. At the same time we get that benefit, we get the benefit of alleviating the problems the Senator has pointed out so well, so vividly, to the Senate which already exist in the taxi industry in this country.

The amendment is certainly one that I, in principle and concept, could support and would like to support. I would like to see the Senate have hearings, rather than to just take this now, have a vote on it, and if it failed, to send out a message that this concept is not approved by the Senate. I do not think that would be fair.

If the Senator would consider it, I would prefer letting us hold hearings as soon as we possibly can, getting witnesses in, and ironing out some of the difficulties we might have with the amendment, perfecting the amendment. Then we would come back to the Senate with a bill, because I believe it should be a bill which could be accepted by the Senate, voted upon by the House, and passed into law. I know that is what the Senator wants. He is not just trying to make a record; he wants it as law. I believe it should be given serious consideration.

I urge the Senator to consider what I take is an offer from the distinguished chairman to hold hearings on the subject, if the Senator so desires.

Mr. HAYAKAWA. Mr. President, I believe the distinguished Senator from Massachusetts and the distinguished chairman of the subcommittee are right in feeling that this is a subject which requires further reflection. I believe to him it is a novel idea. It has not been discussed before. It has not been widely discussed in the press at all. Therefore, I would be glad to have hearings on this matter so this whole thing can be better understood before it is legislated. I believe I understand it well enough, but certainly I would like to have other people share in the discussion of it.

I would like to be assured that a hearing would be held during this session, very soon, so that it just does not drop through the cracks.

Mr. WILLIAMS. I do not have a chairmanship in this area on our Banking, Housing, and Urban Affairs Committee, but I believe our chairman will certainly give me the authority to follow up with hearings. The more we discuss this, the more I am stimulated, indeed excited, about the opportunity to consider the jitney, the taxi cab, more comprehensively in our transportation thinking and planning.

I can say absolutely for myself that I would call a hearing, again subject to the chairman of the full committee, and I am sure there will be no problem. I would welcome setting it up as soon as we can, and certainly within this session.

Mr. BROOKE. If the Senator will yield, I am sure the Senator from California must know from what I have said that I share in the excitement of this novel approach. In addition to serving as the ranking minority member on the subcommittee, I serve on the full committee. I will urge the distinguished chairman of the full committee to hold hearings in this session of Congress. I believe it is something which can be used and can be used now. I appreciate the Senator from California, after giving us this very sound approach to the improvement of mass transit, agreeing to hearings.

Mr. HAYAKAWA. Mr. President, I do agree to these hearings. I hope they will be held as soon and as expeditiously as possible. I welcome wider discussion of this entire issue.

Upon receiving these assurances for an early hearing, I withdraw my amendment from consideration.

Mr. BROOKE. When the Senator has drafted his final bill, I would seriously like to be considered as a cosponsor.

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the withdrawal of the amendment? The Chair hears none and the amendment is withdrawn.

The bill is open to further amendment.

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

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

UP AMENDMENT NO. 525

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment No. 525.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 32, line 22 and line 24, strike the following: "$10,000,000" and insert in lieu thereof "$20,000,000".

Mr. ROBERT C. BYRD. Mr. President, I, along with many others, remain concerned that the energy program proposed by the administration does not include a transportation component. One of the goals of such a program should be the development of mass transit options for the commuting public.

If we are to solve the energy crisis over the long run, more energy-efficient forms of transportation must be fostered by the Federal Government. One of these means of transportation is our Nation's rail system. Our rail system has too long been neglected; it has too long been the orphan child of transportation. We have only recently begun to rediscover its potential and to enact legislation to foster its development.

In some areas of transportation, such as commuter rail, it is the people of this country who are the innovators, the leaders. Many young people are setting up their households in close proximity to local commuter rail systems. Too often, however, they have found these lines running trains infrequently, trains which are too crowded, arriving too late in the morning, or too early in the evening to allow them to use the system to commute to work. Their only recourse, in many instances, is to continue to rely on their automobiles.

I have often thought that these young people are showing us one of the ways out of the energy dilemma. Surely, this country must and can do more to improve its commuter rail system. An expansion of the system would attract a larger proportion of commuters. It would not only lead to energy conservation—with fewer individuals relying on personal automobiles to commute to work—but it would also serve to improve the quality of life in our urban and rural areas by providing transportation options to the economically less advantaged and to the handicapped, as well as the general population. Expansion of the commuter rail system would also reduce the congestion that plagues our Nation's highways and cities.

The amendment I am proposing would increase by $10 million the operating assistance funds available for rail commuter services which are not part of the ConRail system. Over 15 million commuters use the rail services which would benefit from this amendment. These rail services would be able to apply these additional funds towards offsetting their operating deficits. Such deficits often force a cutback in service.

Mr. President, the country must go forward with the development of an alternatives to dependence on the private automobile. Commuter rail systems—many of which are deficit-ridden—serve some 19 million commuters. Improvement of these systems will help us realize our national energy objectives.

I hope that the Senate will approve my amendment.

Mr. WILLIAMS. Mr. President, the amendment that the distinguished majority leader has offered to the bill deals with a section that was added in committee by the Senator from Illinois (Mr STEVENSON). It reaches an area that had

not been reached by another section dealing with commuter service provided by ConRail that has been in the law and is extended in the bill. But this section deals with lines that are not within ConRail. It was a gap in our response to the needs and we accepted the Stevenson amendment in committee. It was at a $10 million level; this would increase that to $20 million.

Certainly, the need is there and, while budget considerations were of some concern, we have learned that there is no limitation in the budget procedure that would keep us from going to the $20 million. As manager of the bill on this side, I certainly applaud and accept the amendment.

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

Mr. BROOKE. Mr. President, I concur. I think it is a sound amendment. As the distinguished subcommittee chairman has said, it is needed and I commend the Senator from West Virginia for proposing the amendment.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished ranking member for his support.

ADDITIONAL STATEMENT SUBMITTED

Mr. STEVENSON. Mr. President, the largest cities are discriminated against. They receive only about 18 cents per transit vehicle mile in UMTA funds. Smaller cities receive 35 cents per transit vehicle mile. They receive only 6 cents per rider, while smaller cities receive 15½ cents per rider. They are the victims of an unfair distribution of section 5 funds, and they receive no section 17 funds. The commuter rail services which would benefit from this amendment and the new section 18 program I authored in the Committee on Banking, are now faced with a need to cut back service and increase fares. This amendment would provide some relief in addition to that which the bill now authorizes. It is little enough, and I urge the Senate to support it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. ROBERT C. BYRD. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

M. ROBERT C. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The existing Urban Mass Transportation Act authorizes up to $500 million

Mr. STAFFORD. Mr. President, I urge the Senate to approve S. 208, the National Mass Transportation Act of 1977, in order to eliminate the discrimination against all of my State of Vermont and many rural areas that is incorporated in the law at present.

The existing Urban Mass Transportation Act authorizes up to $500 million of Federal assistance under section 3 for areas of the country with populations of less than 50,000 persons. But, this Federal assistance is restricted solely to capital grants.

The section 5 program of the act authorizes formula grants to assist in meeting both the capital and operating assistance costs of public mass transportation service in urbanized areas. By definition, that assistance is limited to cities or areas of at least 50,000 persons.

Thus, existing law contains no provision for operating subsidies for transportation agencies that serve cities of less than 50,000 persons. This despite the fact that one of the landmark features of the law is that it is the first Federal mass transit act to provide a subsidy for public mass transportation operating expenses.

The effect of all this has been to prevent operating subsidies for small bus companies that serve rural areas and small cities—and also to provide no operating subsidies at all to the States of Vermont and Wyoming, simply because they are the only States in the union without an urbanized area—a city of 50,000 persons.

Federal assistance is available for the purchase of buses and other capital equipment to serve rural areas and small cities, but no Federal aid is available to help to operate those buses.

We are all aware that public mass transportation systems cannot operate in the black on the fare box alone. The Urban Mass Transportation Act recognizes that economic fact of life. It is ironic that UMTA, which has helped to purchase buses for service in rural areas, is prohibited by law from providing the necessary operating subsidies to keep those buses running to serve the public.

It is apparent that the $500 million capital grant program for nonurbanized areas fails to meet the total needs of those areas.

Earlier this year, I introduced S. 46, a bill to authorize use of the $500 million for operating as well as capital assistance, on such terms and conditions as the Secretary of Transportation may require.

Under the proposal, the Secretary would be authorized to make operating subsidy grants under terms and conditions similar to those governing section 5 grants to urbanized areas. This bill would provide for alternative use of the $500 million in funds already authorized, and requires no additional new Federal funding.

That bill, S. 46, has been incorporated in S. 208, the measure pending before the Senate today. I urge its passage.

That proposal was contained in a bill, S. 662, passed by the Senate last year, and that provision won approval in a House committee. Unfortunately, because of disagreement over the sections of S. 662, that bill was never enacted into law.

It is my hope that this Congress will deal with this urgent matter, which it has previously recognized, at the earliest possible moment of this session to provide equal treatment in the matter of operating subsidies not only to my own State of Vermont and to Wyoming, but also to rural areas of all parts of our country.

Mr. MOYNIHAN. Mr. President, the legislation before us marks an important step forward in assuring equity in Federal assistance to mass transit. Mass transit operating assistance is provided to cities by section 5 of the Urban Mass Transportation Act, and the formula which appears in section 5 is described by the Department of Transportation as follows:

> The formula currently used to allocate section 5 funds to urbanized areas distributes them half in proportion to urbanized area population and half in proportion to urbanized area population weighted by population density.

The Department goes on to note that—

> When the resulting allocations are compared to transit ridership and vehicle miles, there are considerable variations within and between population groups.

This is an understatement, since the variations are not only considerable but enormous. The section 5 formula ignores the two factors in which New York City ranks first, transit vehicle miles and transit ridership. As a result, New York receives 3 cents per rider in Federal assistance, while, to cite a few examples, Los Angeles receives 20 cents, Houston 19 cents, and Dallas 12 cents. The average assistance per rider for cities of over 1 million in population is 6 cents, twice what New York receives. The situation is the same for assistance per vehicle mile: New York receives 12 cents, while, to cite some examples once again, Los Angeles receives 42 cents, Houston 33 cents, and Kansas City 30 cents. The national average for cities of over 1 million in population is 18 cents, or 50 percent more than New York City receives.

The result of the use of the section 5 formula is simple. As Deputy Mayor John C. Burton of New York City told the Senate Banking, Housing, and Urban Affairs Committee on March 30, 1977, "New York City has more than 30 percent of the national transit ridership. Nevertheless, under the section 5 formula, the city receives only 10.7 percent of the annual section 5 authorization."

Mr. President, the Senate Banking Committee has acted to redress, at least in part, the inequities inherent in the section 5 formula in the National Mass Transportation Act of 1977. The act makes $295 million available to the Secretary of Transportation to be divided by him according to three factors: population weighted by density, and two new factors, share of the national total of revenue passengers, and vehicle miles. As the committee's report states, "Experience with the basic formula grant program indicates that major urban areas of the country are in need of additional operating assistance funds." The committee has provided for additional funds, which are very much needed in many of our largest cities, and especially needed in our largest city, New York. I thank the committee for its action, which indicates not only its understanding of the problems of mass transit in our cities, but its commitment to help cope with them.

Mr. CHAFEE. Mr. President, the bill we have before us this morning, S. 208, the National Mass Transportation Assistance Act of 1977, deserves the full support of Congress.

Few domestic issues are of greater importance than the development of coordinated public mass transportation systems. At a time when 26 percent of our energy consumption and as much as 50 percent of our air pollution problems are directly the result of transportation alone, it could not be more timely for us to endorse this legislation.

We cannot discuss mass transportation without recognizing the significant benefits it brings to the quality of life in many different types of communities. It is key to the revitalization of our older decaying cities and to the economic viability of all urban areas, whether new or old. It is key to the mobility and independence of elderly, handicapped, and economically disadvantaged citizens in both urban and rural communities. And, it is key to relieving the congestion and claustrophobia that makes many people flee to the sprawling suburbs.

Mr. President, as you know, Rhode Island has a largely urban population, lying in a corridor between New York City and Boston. The upgrading of public transportation services is extremely important to our economic development efforts at this time, and we will benefit significantly under this legislation, as will most States.

The city of Providence, under Mayor Vincent Cianci, has developed plans for a major transportation project which provides for an auto-restricted zone in the downtown commercial area and free fare transit within that area for expanded inner-city bus service. They will soon be taking their request to the Department of Transportation for funding under section 3 of the Urban Mass Transportation Act. Mr. President, I would like to see that adequate funds exist to insure that this project will get underway.

In 1964 as Governor, I created the Rhode Island Public Transit Authority. This agency will also be the recipient of assistance from the legislation we are considering this morning; first under section 5, the formula grant program, for routine bus replacement and, second, under section 8 of the bill, the loan forgiveness provision.

I would like to take this opportunity to emphasize the importance of this provision. In 1964 before Federal legislation was enacted, we in Rhode Island were farsighted enough to begin development of a State-financed public mass transportation system. To accomplish this the transit authority obtained a $3.1 million loan from the U.S. Department of Transportation to purchase the Providence Bus Line and make other capital purchases and improvements. A year later, pursuant to provisions of the new Urban Mass Transportation Act of 1964, such assistance was provided to States predominantly through capital grants rather than through the loan program.

As it is pointed out in the committee's report on S. 208, the Rhode Island Public Transit Authority has been in arrears on the loan since 1969. In fact, Mr. President, the Department of Transportation in 1971 granted RIPTA a moratorium on payment of both the principle and interest on the loan pending final congressional action on the loan forgiveness proposal. Assuming that this legislation is enacted, the original loan will be transformed to a capital grant requiring a 33-percent match from the State.

Mr. President, this provision will simply put Rhode Island, and the State of Pennsylvania which is likewise affected, on even ground with those States that have been grant recipients in the years subsequent to 1964. I might point out that the loan forgiveness was also included in S. 622, passed by the Senate during the 94th Congress but not acted on by the House.

As ranking member of the Senate Aging Subcommittee. I am particularly pleased by the provisions in this bill for transportation services to elderly and handicapped persons; 12 percent of all Rhode Islanders are 65 years old or over. Transportation provides more than a means for many of these people to get from one place to another; it is an essential link between them and their community. All too often, elderly and handicapped persons remain sequestered in their homes because an adequate means of transportation adapted to their special needs is not readily available. Instead of remaining active members of their community, employed, taking advantage of nutritional programs and health services, or simply visiting friends and relatives, these people are tied to their homes. Frequently, they become dependent upon friends and relatives because suitable public transportation does not exist.

The bill before us addresses this problem. The bill reinforces our "national policy that elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services". The bill recognizes that special efforts in design, planning and administration will be necessary to provide these services. It is clear to me, Mr. President, that such special efforts will not only benefit elderly and handicapped passengers, but all passengers and each community as a whole.

Mr. President, I think we all realize that S. 208 is not the all-encompassing transportation reform bill that many of us in the Senate, as well as the House and the administration, would like to see. It is essentially a continuation of the transit assistance programs that have worked in the past and promise to continue to do so. In Providence, for example, with UMTA assistance, bus ridership has jumped 17 percent in the last 5 years. And, with the innovative transportation programs contemplated by the city, I think we can look forward to further progress.

However, we must not lose sight of the overall need to review and coordinate national policy among all modes of commercial, public, and private transportation and to synchronize such policy with our goals of energy conservation and independence. As a new member of the National Transportation Policy Study Commission and as ranking minority member of the Environment and Public Works Transportation Subcommittee, I look forward to progress in these areas. And I heartily endorse S. 208 as the first major step taken in the 95th Congress.

Mr. HEINZ. Mr. President, S. 208, the National Mass Transportation Assistance Act of 1977, of which I am a cosponsor with Senators WILLIAMS and KENNEDY, demonstrates that the Congress is firmly committed to the goals of developing efficient and coordinated mass transportation systems. The legislation before us today is the most significant mass transit measure to be considered by the Congress in 3 years. I wholeheartedly support its passage.

The distinguished Senator from New Jersey (Mr. WILLIAMS) should be commended for his leadership and diligence in guiding the Banking, Housing, and Urban Affairs Committee through the hearings and markup sessions needed to produce this legislation. He deserves the national reputation he has gained as being the father of mass transit.

I believe that this legislation offers us a unique opportunity to have a far reaching effect in providing solutions to several vexing national problems. There is no question in my mind that Federal support for the development of new mass transit facilities and the expansion and maintenance of existing transit systems, offer solutions to the energy crisis, our environmental problems, and the revitalization of many of our great cities.

By no means will the availability and widespread use of mass transportation be a panacea. It will, however, assist in reducing energy consumption, help to curtail automobile pollution, and can be instrumental in encouraging urban reinvestment.

Our efforts to date have led to the development of transportation alternatives in many major metropolitan areas. Federal assistance for mass transportation facilities, both existing and new, has provided the resources to improve both the quantity and quality of public transportation. In urban areas throughout the Commonwealth of Pennsylvania new transportation facilities are being designed or are under construction. Older rail systems and equipment have been replaced or rehabilitated. Many of the smaller urban areas in the State, which do not have a sufficient population to support a rail system, have vastly expanded bus services through the purchase of new equipment.

With the addition, in the National Mass Transportation Act of 1974, of the section 5 operating subsidy program there has been a dramatic increase in ridership. In my home city of Pittsburgh ridership has increased 17 percent between 1971 and 1975. This is true despite the continued, and unfortunate, loss of population within the entire Pittsburgh metropolitan area. Much of this increase can be attributed to the availability of an assured amount of Federal funds to subsidize fares and improve services.

The legislation which we have before us today contains several titles which cover a broad range of mass transit issues. Included in this bill are provisions which increase and extend authorizations for the capital projects program, establish new procedures for the long-term funding of major capital projects, and requirements for the development of accessibility standards in order to provide a barrier-free environment for persons with mobility limitations. In addition, the bill contains a setaside of funds

for equipment replacement, and a clarification which allows grant funds to be used to cover the substantial preliminary engineering costs incurred in designing mass transportation capital projects.

Although each of these provisions is important, I would like to focus on two sections of the bill which I believe are critical to the continuation of effective mass transit programs in many older urban areas of this country: the emergency commuter rail operating assistance program and the operating subsidy formula grant program.

In 1973 and 1976 the Congress passed the Railroad Reorganization Acts. Under this legislation the Consolidated Rail Corporation, or ConRail, was created. The intent of Congress was to make every possible effort for ConRail to become a profitable corporation. ConRail's primary purpose was to facilitate rail freight transportation. Rail passenger service was to be operated by Amtrak for inter-city service, and by ConRail for local commuter service. The law provides that there is to be no "cross subsidization" between freight and passenger service.

In 1976, with the passage of the Rail Revitalization and Regulatory Reform Act, it was recognized that in many cases the subsidy required to continue local commuter services under the cost allocation plan required by the act and developed by the Rail Services Planning Office—RSPO—of the Interstate Commerce Commission would be significantly higher than the subsidies previously paid by local transit authorities to the private railroads. For example, in the Philadelphia area, the Southeastern Pennsylvania Transit Authority—SEPTA—had been paying the Penn Central and Reading Railroads approximately $26 million a year during fiscal years 1975 and 1976, prior to the start of ConRail operations on April 1, 1976. Based on the RSPO standards, ConRail has now estimated that the present subsidy required for SEPTA will be over $50 million a year.

Congress recognized the financial problems that would be created for local governments and transit authorities in continuing even a minimal level of commuter rail services without some assistance. As a result, section 17 of the Urban Mass Transportation Act—UMTA—was added in 1976. Section 17 provided for emergency operating assistance to local transit authorities for the 2½ year period from April 1, 1976 to September 30, 1978. The Federal share of additional costs over previous subsidy levels is 100 percent through March of 1977, 90 percent through March of 1978, and 50 percent through September of 1978. After that date, the subsidy was to be discontinued.

In addition to financing the basic operating deficit to continue commuter services, Congress provided for the use of section 17 funds for programs to correct deferred maintenance to bring the rail facilities and equipment up to reasonable standards of safety and performance. UMTA has received preliminary requests for over $30 million of such deferred maintenance work as of April, 1977.

Obviously, the level of subsidy is not adequate to meet the operation costs of the ConRail commuter lines. Neither is the subsidy able to allow local transit authorities with ConRail lines to correct long postponed maintenance which would bring the facilities up to reasonable standards.

In recognition of the severe financial burden which would be placed on both state and local governments and the very real possibility of total or partial curtailment of the service provided by commuter lines, the Banking, Housing, and Urban Affairs Committee has proposed a 2-year extension of the commuter rail operating, subsidy program. This extension, contained in section 12 of S. 208, would continue the 50 percent level of subsidy for 2 years. In the Philadelphia metropolitan area this would mean the continuation of services which carry over 30 million commuters annually.

If we fail to approve the extension of the commuter rail operating subsidy program, rail passenger service in Massachusetts, Rhode Island, New Jersey, New York, Delaware, Indiana, and Pennsylvania will be adversely affected. If we have a real commitment to making mass transit a reality, we must provide financial assistance to subsidize existing systems as well as the development of new rail and bus alternatives in areas which do not have them at present.

The second area of critical importance to the development and continuation of viable transit systems are the changes proposed in the section 5 operating subsidy program. Enacted in 1974, the operating subsidy program has played a vital role in subsidizing existing transit systems and in encouraging the expansion of mass transportation services in many parts of the country. However, the present formula for allocation of funds which is based on population and population density has created great disparities among many urban areas. S. 208 contains a major revision of the operating subsidy program which substantially redresses this inequity.

The disparities in operating assistance are substantial. For example, in the 25 urban areas with populations over 1 million, the subsidy per rider ranges from a low of 3 cents in New York to a high of 59 cents in San Jose. In Pittsburgh the per ride subsidy is 5 cents. In Philadelphia it is 6 cents. In Detroit and Dallas, however, the per rider subsidy is 12 cents and in Houston the average subsidy is 19 cents. In the 15 urban areas with populations in the 500,000 to 1 million range, the per rider subsidy ranges from a low of 6 cents in New Orleans to a high of $1.11 in Oklahoma City.

Clearly, if our commitment is to provide an equitable subsidy to all urban areas, this situation cannot be allowed to continue.

I believe that the expansion of the basic formula grant contained in S. 208 brings about a partial resolution of this problem. S. 208 creates a new second tier formula program financed by both newly authorized funds and the reapportionment of unobligated funds. In addition, the bill calls upon the Secretary of the Department of Transportation to develop a new formula which takes into consideration ridership, vehicle-miles, and population weighted by density. The total authorization for this new source of funds for high impact areas will be $295 million over a 3-year period. Under the distribution approach outlined in the bill all urbanized areas would receive additional funds, but the areas which have made a substantial investment in mass transit, those most in need of additional funds, would receive a larger share.

Again, if our commitment is to provide transportation alternatives in our major metropolitan areas, we must move on two fronts. First, we must insure that existing mass transit systems—much of which has been constructed without Federal funds—are maintained. This must include funds for the operation of these facilities and capital grants for their improvement and modernization. Second, we must encourage the development of new transportation systems and the expansion of existing systems in areas of the Nation which have to date not been able to provide transportation alternatives.

I believe that S. 208 addresses both of these issues. The National Mass Transportation Assistance Act of 1977 demonstrates that Congress remains firmly committed to the goals of providing financial assistance for the development of efficient and coordinated mass transportation systems as part of the broad objectives of urban management, development and revitalization.

Today's legislation is another milestone along the road to the achievement of that goal and I strongly urge its adoption.

Mr. MUSKIE. Mr. President, the Senate now has before it S. 208, the National Mass Transportation Assistance Act of 1977. This is a major mass transit bill, authorizing over $5.6 billion in future spending, and I am certain the Senate will want to know how passage of the bill could impact on the fiscal 1978 and future Federal budgets.

As I mentioned, S. 208 provides total authorizations of over $5.6 billion. The bulk of this, $4.8 billion, represents future year authorizations for UMTA's capital grant program. An analysis by the Congressional Budget Office indicates that it likely will not be necessary to appropriate any of this until fiscal 1980. The reason is that there still is approximately $3.9 billion in contract authority available from funds provided by the Federal-Aid Highway Act of 1973 and the National Mass Transportation Assistance Act of 1974. This remaining contract authority must be fully utilized before there will be any need to appropriate from the $4.8 billion capital grant authorization contained in S. 208.

Of the remaining $0.8 billion in authorizations, $0.5 billion represent a ceiling authorization for miscellaneous UMTA research and administrative expenses for the next 3 years. These expenses are already authorized under current law, but not at any specific amount. The remaining $0.3 billion provide additional authorizations for UMTA's formula grant and rail commuter subsidy programs. These funds would be expected to be appropriated during fiscal 1978 through fiscal 1980.

The portion earmarked for fiscal 1978 is $60 million.

Obviously, enactment of S. 208 would have minimal impact in the fiscal year immediately ahead of us. In fact, enactment of the bill as reported, and full funding of its new fiscal 1978 authorization, would result in additional fiscal 1978 budget impacts of only $60 million in budget authority and $85 million in outlays. These impacts would fall in function 400, the Commerce and Transportation category of the budget.

The fiscal 1978 first budget resolution includes targets of $20 billion in budget authority and $19.4 billion in outlays for Commerce and Transportation. Given the outlook for spending in this budget function, I believe it is safe to conclude that funding of S. 208's minimal new authorizations for fiscal 1978 would not result in any excessive pressure on the fiscal 1978 first budget resolution targets.

Mr. President, as I mentioned, the great bulk of the authorizations in S. 208, $4.8 billion, is intended to permit future year appropriations for UMTA's capital grant program. What the bill therefore does, is to provide some assurance to the Nation's cities that the UMTA capital grant program is going to continue into the long-range future. I agree with the authorizing committee that the cities need long-term assurance in order to plan effectively for their future transportation needs.

Having said this, however, I feel I should remind the Senate that unlike the Mass Transportation Assistance Act of 1974 which provided contract authority, the bill before us provides authorizations for appropriations. Therefore enactment of the bill we are considering today will result in new budget authority and outlays only to the extent provided in appropriation acts. Further, as I indicated earlier, the great bulk of these appropriations will be for UMTA's capital grant program and will not be needed until fiscal 1980 and beyond.

This means that although it may pass S. 208 today, the Senate will not be forfeiting its opportunity to control the level of funding of the captal grant program through future budget resolutions and appropriations bills. This is fortunate, I feel, for it appears that there are a number of important questions concerning the capital grant program which need to be resolved.

The questions to which I refer go to the issue of what type of mass transit project financed with Federal assistance can best and most economically solve the cities' transportation-related problems. S. 208, as I understand it, proposes an authorization level sufficient to allow a heavy emphasis on major fixed rail projects, including the construction of costly new fixed rail systems and major extentions of existing rail systems in a few selected cities. This is the most expensive type of capital project.

On the other hand, there seems to be a growing number of people—including President Carter, in a much publicized note to Transportation Secretary Adams—who believes the cities' transportation objectives can be adequately served by more emphasis on bus purchases, preferential bus lanes, priority access highways, minor rail system improvements, and similar projects which have as their basic objective improving the productivity of the existing transportation network. These types of capital projects cost must less than major fixed rail projects, and in consequence would involve much less budget impact, both for the Federal Government and for the cities.

Fortunately, we are not required today to choose among these alternative mass transit investment strategies. S. 208 provides sufficient authorizations for the discretionary capital grant program that either a high- or low-cost capital project strategy can be adopted. Hopefully, we will know much more about alternative mass transit strategies and their comparative costs and benefits before the appropriations committee is required to recommend levels of funding for this legislation.

As a final comment, I would add only that I feel it is unfortunate that the Senate is being asked today to take a position on the long-range authorization future of the capital grant program, when it appears there is no necessity for, or prospect of enacting, legislation this year. The questions surrounding the cost and effectiveness of alternative capital grant strategies are sufficently important that the Senate could profitably use additional time to acquire better information for making legislative decisions on this important program. And there is such time available—if we were to choose to use it.

As I pointed out earlier, no new authorization for appropriations is needed for the capital grant program for fiscal 1978, and likely will not be necessary until fiscal 1980. In addition, the House authorizing committee has indicated it has no intention to report legislation this year. The administration has stated that it does not intend to submit its proposal until early next year, and also has said that it believes enactment of legislation this year is premature and unnecessary. I note further that the distinguished chairman of the Banking Committee, Senator PROXMIRE, has filed dissenting views on S. 208 in which he agrees with the administration on these points. I am sorry the Banking Committee chose not to accept the counsel of its chairman.

Mr. President, I believe the major capital grant program provisions of S. 208 should be held over until next year. However, enactment of S. 208 would not necessarily commit the Congress to any specific capital grant strategy. Rather, it would provide an authorization level that gives the Appropriations Committee the flexibility to fund whatever specific types and mix of capital grants finally are determined to be most appropriate. For this reason, although I would prefer to have another year to study the issue, I have decided to vote in favor of S. 208. I encourage my colleagues to do likewise.

URBAN MASS TRANSPORTATION

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the National Mass Transportation Assistance Act with my colleagues, Senators WILLIAMS and HEINZ. I think that this act represents a great step forward in providing mass transit as a truly viable alternative to private one-in-a-car conveyance. Creating such a system is of such benefit—to save energy, cleanse the air, end the isolation of the elderly, handicapped, and rural poor, and unclog our cities—that it must always remain a legislative priority, until, in setting out for the office each morning most workers decide to leave the car in the driveway to board a quick comfortable bus.

The act we are considering today is a vital element in continuing advances in mass transit. It provides much needed authorization for capital assistance so that the effort to provide mass transit systems in new area of the country can proceed. About $5 billion is provided for a 5-year period, through 1982. The vast majority of the current authorization is already pledged to a series of projects. Many more worthy projects will be coming in and there must be funds available for them. This act provides those funds.

In addition this act regularizes the procedure by which the Department of Transportation pledges funds for ongoing projects. It does not leave municipalities in the position of wondering whether they will be frozen out in the middle of a multiyear project. The fear of initiating a project without the assurance of continuing Federal funds may be a great deterrent to localities when they consider making their investment.

The bill also provides for operating subsidies of $500 million for rural systems, for the first time, to supplement the capital funds we have already provided. It allows for an annual set-aside of $400 million for the purchase of new buses; stimulates transportation managerial training; allows for the funding of the preliminary engineering of mass transit systems and provides commuter rail assistance.

Mr. President, I want to spell out for a moment some of the benefits of a mass transportation system and to emphasize that people will in fact use such a system if it compares to the convenience of their own cars.

The most immediate savings of course, is in energy. The energy requirements of the private automobile are enormous. A quarter of all the energy used in the United States, and half of the petroleum, is used for transportation. Over 43 percent of this is used for urban mass transit and all but 2 percent of this is fed into, and coughed out of, cars.

The Office of Technology Assessment has estimated that if the ridership of mass transit were doubled, by diverting auto users, as much as 100,000 barrels of oil a day could be saved.

The same benefits are clear when we look at the effect of public transportation and the commuters' own buggy on the air.

In cities in Europe and Japan, where auto traffic has been kept out of downtown areas, the concentration of carbon monoxide has been reduced by 50 to 80 percent. Even a downtown parking ban

alone reduced carbon monoxide by 40 percent in Marseilles, France.

Mr. President, I think one of the greatest benefits of increased public transportation comes in the ambulatory advantage given to the handicapped, the elderly and the rural poor. There are now 22.5 million people over 65 in this country. There are 12 million people who are physically handicapped—including 5 million who are cardiac patients who cannot walk long distances or climb stairs, and 250,000 who are wheelchair bound. Finally, there are the rural poor and elderly who have not been able to get around at all, let along in comfort, since in many rural areas there simply is no public transportation.

Secretary Adams has displayed his sensitivity to the problems of this group when he recently mandated that cities which receive Federal transit funds must convert to buses which are engineered to make their use easier for the elderly and handicapped. Of course, increasing the availability of these buses, as well as improving the design, is particularly important to this group which is especially dependent on them. They will especially enjoy the public transportation system that we are helping to put together today.

Finally, cities will become more enjoyable places to live and work when they are not clogged with cars to watch out for, cars to sound horns, and cars to fill the streets.

Cities and States all over the country have realized the tremendous advantages of mass transit. This is nowhere so evident as in their great transfer of funds from the interstate highway system to local mass transit programs.

In 1973 the Federal Highway Act first made it possible for localities to cancel nonessential links of the Interstate Highway System and to use the money for mass transit projects. In Massachusetts, Boston has won approval for $197 million worth of projects that will be funded with moneys formerly set aside for the highway system. These projects include extending the South Shore rapid rail line, building two new stations, and purchasing about 140 new cars. In Philadelphia, authorities have cancelled an expressway and put the funds into buying 88 commuter rail cars, and redoing five subway stations. Philadelphia also plans to purchase 190 new buses and 100 light-rail vehicles and trolley buses.

In Portland, Oreg., a 5-mile stretch of interstate was withdrawn and $150 million has been set aside for bus lanes, car lanes, car pools, and a possible light-rail line.

This focus on mass transit has been rewarded with a strong response from the people who live in these areas. Time and time again, improved mass transit has met with a sure response in increased ridership. The impressive figures are pointed out in the committee report—increases in Los Angeles, San Francisco, Washington, D.C., Seattle, Atlanta, Cincinnati, Denver and Phoenix, among many other cities.

Rail transit increases should be even more impressive in the next few years since most of the money that has been granted for rail commuting in the last 10 years has gone into projects which have not yet been finished. When they are, we should see sizable jumps in mass transit ridership.

Mr. President, I think that this act will greatly facilitate starting and improving mass transit systems, and I urge my colleagues to give this bill favorable consideration.

Mr. PELL. Mr. President, I am delighted today to add my support to S. 208, the Urban Mass Transportation Act amendments. As a long-time proponent of mass transit in this country, I am pleased that the Senate—under the effective leadership of Senator WILLIAMS—has taken the initiative to meet the problem of lack of funding in this vital area. S. 208 meets this need most commendably by adding $5.3 billion in new grant authority for discretionary capital grants over the next 5 years, and by increasing to $900 million by fiscal year 1980 the authorization for capital and operating costs, thereby creating a more equitable funding distribution in this vital area. Of crucial importance is the high priority attached to mass transit as we face an energy crisis of alarming proportions. Mass transit is clearly the best long-term investment we can make to meet this crisis and so I am pleased to lend my voice in support of this measure.

Of special concern to us in Rhode Island is section 8 of S. 208, concerning the Federal Government's forgiveness of outstanding capital loans made under the now defunct mass transit loan program. The Rhode Island Public Transit Authority's outstanding obligation of $3.8 million—based on a $3.1 million original loan—came about under the old loan program deactivated in 1970 due to congressional passage of the capital grant program. Currently there are two outstanding loans in the country and this bill, if enacted, would bring RIPTA and Philadelphia into parity with all other public bodies that received grants under the much more generous grant program.

We in Rhode Island are proud of the excellent job RIPTA has done to increase ridership. Between 1971 and 1975, we saw a 17 percent increase in the number of public transit riders in our State capital and we look to an expanded role for mass transit as we face an energy-deficient future.

Mr. DOMENICI. Mr. President, I wish to associate myself with the remarks earlier today by the distinguished chairman of the Senate Budget Committee, Senator MUSKIE. In my opinion, it is entirely proper that Senator MUSKIE, in his capacity as chairman of the Budget Committee, look beyond the immediate budget impacts of multi-year authorization bills.

S. 208 does not present immediate budget problems, but it does give cause to reflect on the process by which we in the Congress establish long-term policies dictating the pattern and extent of expenditures of public moneys in future years. In my own mind, there are serious questions about the heavy emphasis this bill places on fixed rail systems as the favored recipient of Federal assistance to cities for mass transit purposes. I am concerned, as well, about the prospect that enticing or encouraging metropolitan areas to concentrate on the construction of fixed rail systems through massive Federal grants may cause those cities, with good reason, to feel that the Federal Government must be as active a partner in sharing the inevitable operating losses.

In short, I am apprehensive that this bill may be premature, an apprehension I note is shared by the distinguished chairman of the Banking, Housing, and Urban Affairs Committee, Senator PROXMIRE. As the chairman of the committee of jurisdiction, Senator PROXMIRE noted in additional views in Senate Report 95-183, that additional funds are not needed at this time. In his views, the chairman fully explains his position in this regard and, in addition, explains why he feels that program levels contained in this bill may well be excessive.

It is my hope and expectation that these issues will be addressed and resolved satisfactorily in the remainder of the legislative process related to the future of Federal urban mass transit programs and in any case, prior to the time appropriations are required.

Mr. WILLIAMS. Mr. President, we are under controlled time. I have no requests for Members indicating that they have any further amendments from the committee. Our amendments are completed. I am ready to yield back my time.

Mr. BROOKE. Mr. President, there are no further amendments on our side that I know of. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendments 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, was read the third time, and passed, as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Mass Transportation Assistance Act of 1977".

SEC. 2. Section 4(c) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(c)(1) To finance grants and loans under sections 3, 7(b), and 9 of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,925,000,000, as may be approved in an appropriation Act, less amounts appropriated pursuant to section 12(d) of this Act and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91-168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation upon the effective date of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection such sums as are necessary. Sums so appropriated shall remain available until expended. After September 30, 1977, amounts remaining unobligated shall be available to finance grants and loans under section 3 only. Of the total amount available to finance activities under this Act (other than section 5) on and after the date of enactment of the

National Mass Transportation Assistance Act of 1974, not to exceed $500,000,000 shall be available exclusively for assistance in areas other than urbanized areas (as defined in section 5(a)(3)), and such $500,000,000 may be used in such areas for the payment of the cost of construction projects or for the payment of subsidies for operating expenses. Grants for assistance in other than urbanized areas under the preceding sentence shall be subject to such terms, conditions, requirements, and provisions (similar as may be appropriate to those applicable to grants under section 5) as the Secretary may determine to be necessary or appropriate for other than urbanized areas.

"(2) To finance grants and loans under section 3 of this Act, there are authorized to be appropriated not to exceed $4,750,000,000 for the period ending September 30, 1982.

"(3) The aggregate amounts obligated under section 4(c)(1) and appropriated under section 4(c)(2) may not exceed $1,450,000,000 prior to October 1, 1978; $3,100,000,000 prior to October 1, 1979; $4,850,000,000 prior to October 1, 1980; and $6,700,000,000 prior to October 1, 1981, and $8,650,000,000 prior to October 1, 1982. Appropriations pursuant to paragraphs (1) and (2) may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available until expended.".

SEC. 3. Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is authorized to announce an intention to obligate for a defined capital facilities project through the issuance of a letter to the project sponsor. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative reservation, but the letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this Act. At the time of such an announcement, the Secretary shall set aside, from the amounts authorized under section 4(c), an amount not to exceed the amount stipulated as the Secretary's financial participation. No obligation or administrative reservation may be made pursuant to such letter of intent except as funds are provided in appropriation Acts. The total estimated amount of future Federal obligations covered by such letter of intent shall not exceed the balance of funds, previously authorized under subsection (c)(1) and authorized to be appropriated under subsection (c)(2) which have not been obligated, appropriated, or made available for obligation through appropriation Acts.".

SEC. 4. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(1) The first $400,000,000 appropriated and available for obligation under this section for each fiscal year beginning after September 30, 1977, shall be available only for grants to assist State and local public bodies in financing the acquisition of equipment for use, by operation, lease, or otherwise, in mass transportation service in urban areas. To permit applicants to develop adequate plans for the utilization of such sums, the Secretary shall advise the appropriate local officials in each urbanized area of the amount that is expected to be available each year not later than ninety days prior to the beginning of the fiscal year in which sums will be available.".

SEC. 5. Section 5 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

"(2) There are authorized to be appropriated to finance grants under this section not to exceed $125,000,000 for the fiscal year ending on September 30, 1980. Appropriations pursuant to the authority of this paragraph may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.";

(2) by inserting at the end of subsection (c) the following new paragraph:

"(3) Sums apportioned under paragraph (1) of subsection (b) shall be available for obligation by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall be added to the sums available for obligation under subsection (d) for the next succeeding fiscal year.";

(3) by redesignating subsections (d) through (n) as subsections (f) through (p), respectively, and by inserting after subsection (c) the following new subsections:

"(d)(1) To finance additional grants under this section, there are authorized to be appropriated not to exceed $150,000,000 for the period ending on September 30, 1980. Appropriations for such purpose under this subsection shall not exceed $50,000,000 in any one year. Sums so appropriated shall remain available until expended. Appropriations under this subsection may be included in the appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be made available for obligation.

"(2) The Secretary shall apportion in fiscal years 1978 through 1980 the sums authorized by paragraph (1) and made available under subsection (c)(3). Such sums shall be made available for expenditures in urbanized areas or parts thereof on the basis of a formula which the Secretary shall develop and publish not later than June 30, 1977. Such formula shall take into account each eligible area's share of the national total of revenue passengers, vehicle miles, and population weighted by density and assure an equitable distribution of funds.

(4) by striking out "subsection (e)" in subsection (f)(2), as redesignated, and inserting in lieu thereof "subsection (g)"; and

(5) by striking out "under this section" in the first sentence of subsection (h), as redesignated, and inserting in lieu thereof "under subsection (c)".

SEC. 6. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10 The Secretary is authorized to make grants to States, local public bodies, and agencies thereof and private mass transportation operators to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation fields. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the urban mass transportation industry. The recipient of a fellowship under this section shall be selected on the basis of demonstrated ability and for the contribution which he can reasonably be expected to make to an efficient mass transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $12,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the educational institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient.".

SEC. 7. Section 12(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following:

"(6) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation, including designing, engineering, location surveying, mapping acquisition of right-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing.".

SEC. 8. (a) The Secretary of Transportation shall convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 1492) to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) of the Urban Mass Transportation Act of 1964 shall provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to mass transportation projects in the urbanized area, on a schedule acceptable to the Secretary of Transportation, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for projects eligible for funding under section 3(a), and may not be used to satisfy the local matching requirements for any other grant project.

SEC. 9. Section 4(d) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "To assure orderly planning and program development under section 3, the Secretary shall report to Congress on or before February 1, 1980, a detailed estimate of the cost of grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1980 and ending with fiscal year 1984. On or before February 1, 1982, the Secretary shall report to Congress a detailed estimate of the cost of grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1978 and ending with fiscal year 1986.".

SEC. 10. Section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "180-day" in subsection (d)(4) and inserting in lieu thereof "30-month" each place it appears;

(2) in the last sentence of subsection (d), by striking out "beyond the time specified in subsection (d)(3)" and inserting in lieu thereof "for the last 12 months within the period specified in clause (4); and

(3) in subsection (f), by striking out "$125,000,000" in the first sentence and inserting in lieu thereof "$185,000,000" and by amending the second sentence thereof to read

as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977, $125,000,000 by September 30, 1978, $155,000,000 by September 30, 1979, and $185,000,000 by September 30, 1980.".

SEC. 11. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.

"(b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b)); and (2) rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)).

"(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each eligible rail pasenger service, except that (1) for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per centum of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the Federal fiscal year for which the distribution is made, and (2) no Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of such service.

"(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

"(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

"(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed $20,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $20,000,000 by September 30, 1978, such sum to remain available until expended.".

SEC. 12. Section 12(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated not to exceed $545,000,000 to carry out the functions under this Act. Any amount appropriated pursuant to this subsection shall remain available until expended. The aggregate amounts appropriated may not exceed $145,000,000 prior to October 1, 1978; $345,000,000 prior to October 1, 1979; and $545,000,000 prior to October 1, 1980.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, again, I compliment the managers of the bill (Mr. WILLIAMS and Mr. BROOKE) on their very fine presentation of the bill, on their skill in developing the legislation through the subcommittee and committee process, and on a splendid performance with respect to the way they have managed the bill on the floor today. I salute them and I am sure that the Senate does, likewise.

Mr. WILLIAMS. Mr. President, we receive those words with great gratitude.

Mr. BROOKE. I thank the majority leader.

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

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

TIME-LIMITATION AGREEMENT—H.R. 7554

Mr. ROBERT C. BYRD. I ask unanimous consent that, at such time as the HUD bill be called up and made the pending business, there be the following agreement as to time: 1 hour on the bill to be equally divided between Mr. PROXMIRE and Mr. MATHIAS; that there be a time limitation on any amendment of 30 minutes, on any debatable motion or appeal or point of order, if such is submitted to the Senate for its consideration, of 20 minutes; and that the agreement with respect to control of time be in the usual form.

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

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7554 (Order No. 260), an act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 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 or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Maryland (Mr. Mathias): *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, debatable motion, appeal, or point of order.

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

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

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:35 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

TRANSPORTATION DEPARTMENT AND RELATED AGENCIES APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, under the order authorizing the leadership to call up H.R. 7557, the transportation appropriations bill at any time, I ask the Chair to lay before the Senate Calendar No. 250, H.R. 7557.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. The time limit on this bill is 1 hour, and a half hour on each amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. 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. BAYH. Mr. President, the Department of Transportation Subcommittee has held extensive hearings on the fiscal 1978 budget of the Department of Transportation and the related agencies which are under the subcommittee's jurisdiction.

Thus, the bill is here before us, having been reported from our subcommittee and the full Committee on Appropriations.

Before proceeding, I want to express my personal thanks to the other members of our Transportation Subcommittee for their assistance throughout the

hearings. I especially appreciate the efforts of the ranking Republican member, Senator CASE, with whom I have had the pleasure of working on the Transportation Subcommittee since I became chairman three budgets ago.

Senator CASE not only assisted in chairing several hearings, but also he and his staff, directed by Mr. Wally Berger, worked very closely with me and my staff.

I also compliment Mr. Jim English and Mr. Tim Leeth, members of my staff on the Appropriations Committee, for the excellent cooperation we had all working together in developing the recommendations which are now before the Senate.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without waiving points of order?

Mr. BAYH. Without waiving points of order.

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

Mr. BAYH. The subcommittee considered budget estimates totaling $6.28 billion in new budget authority and $8.58 billion in liquidating cash. The committee's recommendations total $14.42 billion, of which $6.277 billion is new budget authority and $8.14 billion is liquidating cash. That puts our recommendations below the budget by $6 million in new budget authority and $437.9 million in liquidating cash.

Mr. President, the committee report which accompanies the bill contains a summary of major recommendations on pages 1 and 2, so I will not repeat all of them at this time. I would, however, like to highlight just a few of them:

IN NEW BUDGET AUTHORITY

First. For FAA's operations personnel, an appropriation of $1.815 billion, plus $209 million for their facilities and equipment activities, $81 million for R. & D. and the full $15 million authorization for airport planning grants.

Second. For the Coast Guard:

A sum of $879 million for operating expenses; and

A sum of $256 million for their acquisition and construction activities.

The $5 million involved in the amendment of the Senator from Oregon is contained in this and does not increase the amount. It just moves it from one category to another.

Third. For the Federal Highway Administration, the full $75 million authorized for making safety improvements at rail-highway crossings off the Federal-aid system is appropriated, as well as $90 million for making off-system roads safer.

We have tried to emphasize the expenditure of funds in those areas where we can insure safer roads and more secure lives for those who use our highways.

Fourth. For Amtrak, $680 million is recommended—that includes the full $130 million authorized for making improvements to their facilities and equipment.

Fifth. Other appropriations for rail programs include $400 million for the Northeast corridor program, $200 million for rehabilitation work nationwide, $84 million for rail assistance to the States, and $45 million in commuter subsidies.

Sixth. For public transit programs of UMTA:

The sum of $70 million is appropriated for their research programs; and

The sum of $469 million for interstate substitution projects.

IN OBLIGATION CEILINGS ON CONTRACT AUTHORITY PROGRAMS

First. For Federal-aid highway construction, up to $7.445 billion in obligations can be incurred in fiscal year 1978.

Second. For UMTA's programs—$2.415 billion, including $1.45 billion in capital grants.

Third. For airport development aid grants—$540 million.

Fourth. For rail loan guarantees—up to $600 million in loans can be outstanding at any one time.

Fifth. For highway safety grants to the States—$200 million, which, again, is an emphasis that our committee has tried to place on how we can make our highways safer.

Sixth. For interstate transfer contract authority programs—$350 million can be obligated.

IN LIQUIDATING CASH

First. Appropriations of funds to liquidate obligations incurred under contract authority programs total $8.143 billion, as follows: Federal-aid highways, $5.85 billion; UMTA grants, $1.76 billion; airport development grants, $0.33 billion; NHTSA highway safety, $0.12 billion; miscellaneous others, $0.08 billion.

Mr. President, this is a well-balanced budget for fiscal 1978 for the programs of DOT and the related agencies funded under the bill that will enable them to effectively conduct their programs during fiscal 1978. At the same time, we have succeeded in bringing the bill to the Senate floor under the budget requests and within the subcommittee's allocation under the congressional budget resolution.

OFFICE OF THE SECRETARY OF TRANSPORTATION

For the Office of the Secretary of Transportation, we recommend appropriations totaling $61,400,000. Of that amount, $28,000,000 is for transportation planning, research, and development, including the full request of $12,600,000 to be used to analyze such important transportation policy matters as: The upper Mississippi system of locks and dams, impacts of waterway user charge legislation, export expansion, port policy development, coal slurry pipeline issues, domestic airline route structure and pricing, and transportation regulatory changes. We were very pleased with the testimony of Brock Adams before the subcommittee. He has an excellent background in transportation matters and demonstrated a keen grasp of the many complex issues facing us. I am convinced that he will work with us here in the Congress in making substantial improvements in the Nation's transportation system. I particularly appreciate the Secretary's early attention to the Minority Business Resource Center. He has taken several key steps that should insure better results for that important effort in the future.

COAST GUARD

For the Coast Guard, the bill contains appropriations totaling $1,368,312,023. Of this amount, the largest amount, $879,365,000, would go to fund the operating expenses of the Coast Guard and authority is provided for employment of 37,641 military and 5,539 civilian personnel. Positions above the number requested are provided for 200-mile fisheries enforcement and for tanker inspection.

For the Coast Guard's acquisition, construction, and improvements activities, an appropriation of $256,302,000 is provided. The full budget request of $82,848,000 for the procurement of medium-range surveillance aircraft; $55,300,000 for the medium endurance cutter program; $27,000,000 for three 140-foot harbor tugs with icebreaking capability; $5,600,000 for two short-range helicopters and facilities for Cordova, Alaska; and $10,000,000 for the Puget Sound Traffic Control System are the major items funded in this activity.

The full budget requests are provided for the Coast Guard's bridge replacement program, retired pay, reserve training, and State boating safety assistance programs, as well as $20,000,000 for research and development. No funds are provided for the pollution fund—there appears to be an adequate balance in the fund at this time, but we will keep a close watch on it throughout the year and will provide additional funds, if necessary.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we recommend $1,814,750,000, of which $5,600,000 will be derived by transfer, for operations. This amount will fund 55,022 positions, including 29,716 for air traffic control, 13,161 for systems maintenance, and 4,677 for flight standard personnel.

For facilities and equipment for the National Airspace System, $209,000,000 is provided, of which $9,000,000 is to be derived by transfer. Of this amount, $15,000,000 may be used to replace the oldest VOR/VORTAC's with solid state equipment. This is $8,000,000 above the House allowance and $5,000,000 below the amount requested.

For research, engineering, and development, $80,000,000 is appropriated. No funds are included for continuation of the Aerosat program other than $1,000,000 for a study of the need for such technology. Traffic forecasts for the North Atlantic are down and cost estimates for such a satellite program are higher than originally anticipated for this program, so we feel it should be looked over again.

For airport development grants and airport planning grants, the full amounts authorized for fiscal year 1978 are provided—$540,000,000 and $15,000,000, respectively.

FEDERAL HIGHWAY ADMINISTRATION

For the Federal Highway Administration, the largest activity is the Federal-

aid highway program. The bill provides for obligations in that contract authority program of up to $7,445,000,000 in fiscal 1978. Also, $5,850,000,000 is appropriated to provide liquidating cash for the obligations incurred under this program. Other liquidating cash appropriations are provided as follows: highway beautification, $45,000,000; highway-related safety grants, $20,000,000; off-system roads, $45,000,000; national scenic and recreational highway, $10,000,000; and right-of-way revolving fund, $20,000,000.

Appropriations of new budget authority are provided for motor carrier safety, $8,000,000; highway safety R. & D., $9,000,000; highway beautification, $19,150,000; railroad-highway crossing demonstration projects, $5,100,000; access highways to public recreation areas on certain lakes, $8,650,000; highways crossing Federal projects, $20,000,000; overseas highway, $17,000,000 plus $8,000,000 in contract authority; project acceleration demonstration program, $5,000,000; intermodal urban demonstration project, $2,250,000; and highland scenic highway study, $1,700,000.

Also, the full $75,000,000 authorization is appropriated for the off-system railway-highway crossings program and $90,000,000 for the safer off-system roads program for which no budget request was received. Both of these programs are important in providing funds for safety improvements to roads that are off the Federal-aid system. Much of the work done with these funds will be low-cost, high payoff improvements that will result in fewer fatalities and more efficient use of those highways.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the traffic and highway safety activities of the National Highway Traffic Safety Administration, $80,000,000 is appropriated. This is $2,747,000 above the House allowance and $3,540,000 below the budget. In addition, 28 of the 31 positions reduced by the House have been restored.

For NHTSA's portion of the highway safety grant program, $172,000,000 in obligations can be incurred in fiscal 1978. That amount, coupled with $28,000,000 from the FHWA, will allow a program level of $200,000,000, which is $50,000,000 above the budget and the House allowance. These funds are to be used to continue to maximize State investments in such high payoff areas as alcohol countermeasures and selected traffic enforcement with emphasis on the demonstrated life-saving and fuel-saving elements of the 55 mph speed limit. Past increases in this program have yielded excellent results and I am certain this year's level will produce even greater benefits in these vital highway programs.

FEDERAL RAILROAD ADMINISTRATION

For the programs of the Federal Railroad Administration, $1,446,650,000 is appropriated. Of this amount $19,100,000 is for rail safety programs. A field inspection staff of 331 positions is provided which is 21 more than last year and 9 above the budget request.

For railroad R. & D. $53,600,000 is provided, of which $12,800,000 is to be used in connection with the transportation test center at Pueblo, Colo.

For rail service assistance programs, $84,000,000 is provided, including $6,000,000 for the Minority Business Resource Center. Also, the full request of $400,000,000 for the Northeast Corridor improvement program is recommended. That program has gotten off to a slow start, as have several of the rail programs established under the Quad R Act, but they appear to be proceeding much better recently.

For Amtrak, $680,000,000 is appropriated, of which $500,000,000 is for operations, $130,000,000 is for improvements to plant and equipment, $25,000,000 is to reduce indebtedness, and $25,000,000 is for payments on the purchase of the corridor.

For rail rehabilitation programs, $200,000,000 is appropriated and provisions for up to $600,000,000 in federally-backed loans to be outstanding at any one time are included in the bill.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the programs of the Urban Mass Transportation Administration, we have included a general provision in the bill allowing up to $2,415,000,000 to be committed from the urban mass transportation fund. Of this amount, $1,450,000,000 is for capital grants including $430,000,000 for bus and bus-related programs; $545,000,000 is for improvements at existing fixed rail facilities at eight metropolitan areas—New York, northern New Jersey, Chicago, Cleveland, Pittsburgh, Boston, Philadelphia, and San Francisco.

For new fixed rail starts, most of the $475,000,000 provided will be allocated for ongoing construction of projects at Atlanta, Baltimore, and Philadelphia.

A total of $775,000,000 may be committed for formula grants, $55,000,000 for technical studies, $45,000,000 for commuter rail subsidies, and $20,000,000 for administrative expenses.

For R. & D., we have included $70,000,000, which is $3,000,000 above the House allowance and $3,100,000 below the budget request. Language in the report indicates that $10,000,000 is recommended for phase II of the advanced group rapid transit program, $6,900,000 for bus and paratransit research, and $5,000,000 for continuation of the R. & D. work being done on the people mover system at the Dallas-Fort Worth Airport.

In addition to those programs, which are funded from the urban mass transportation fund, the bill includes $469,000,000 from the general fund of the Treasury for projects substituted for interstate system projects. The report accompanying the bill recommends allocation of that appropriation as follows: WMATA, $275,000,000; Chicago, $132,000,000; Baltimore, $30,000,000; northern New Jersey, $15,000,000; Denver, $12,000,000; and Salem, $5,000,000.

Also, an additional $350,000,000 in contract authority may be used for interstate substitution grants, with $200,000,000 estimated to be needed for Boston, $90,000,000 for Philadelphia, $50,000,000 for Portland, and $10,000,000 for Hartford.

For the Materials Transportation Bureau, the bill includes an appropriation of $8,100,000, the same as the House allowance. This bureau now handles the grants-in-aid for pipeline safety and operations and R. & D. done in this area under the Office of the Secretary.

Finally, for the St. Lawrence Seaway, we included the full $1,114,000 requested and included by the House for the limit on administrative expenses.

RELATED AGENCIES

The following appropriations are provided for the related agencies funded in the bill:

National Transportation Safety Board	$14,710,000
Civil Aeronautics Board:	
Salaries and expenses	23,367,000
Payments to air carriers	72,510,000
Interstate Commerce Commission	61,566,000
Panama Canal Zone Government:	
Operating expenses	70,500,000
Capital outlay	2,130,000
Panama Canal Company (Limit on general and administrative expenses)	(26,231,000)
U.S. Railway Association	10,000,000
Washington Metropolitan Area Transit Authority:	
Federal contribution	2,700,000
Interest subsidy	60,900,000
National Transportation Policy Study Commission	2,000,000

Mr. President, this is a bill that is well balanced and I believe provides adequate funds, within the President's budget requests, to enable the DOT and related agencies to pursue their programs vigorously during fiscal year 1978. I am confident that we will see substantial progress made in fiscal year 1978 toward improving our national transportation network.

Before yielding the floor, let me express my thanks and gratitude to the distinguished chairman of the Appropriations Committee (Mr. McCLELLAN). He has done a remarkable job again this year in providing the leadership necessary to keep the appropriations process moving so that the many schedules and deadlines are being adhered to.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

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

Mr. BAYH. Mr. President, I understand the request has already been made and agreed to, that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I would like to repeat once again what I said earlier, that the subcommittee chairman is indebted to his distinguished ranking member, the distinguished Senator from New Jersey. I do not know what relationship other chairmen have with their ranking members, but I do not know how it is possible to have a better working relationship, a more amicable relationship, than the Senator from Indiana has with his colleague from New Jersey. It has been a great asset to the efforts of the committee

that he and his staff and myself and my staff have been able to approach these programs with the kind of attitude and with the kind of spirit of cooperation which I believe represents the best of the legislative process.

I am prepared to yield the floor. I yield the floor at this time.

Mr. CASE. Mr. President, I do not know whether it has already been done or not, but if not, I ask unanimous consent that Mr. Berger of the committee staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. CASE. Mr. President, as the ranking member of the subcommittee responsible for this bill, I associate myself completely with the remarks made by our chairman, and I associate myself most particularly with the remarks he made about our happy relationship. It has been an enormous privilege to work with him and our staffs on both the Republican and Democratic side. His considerations and the diligence of his staff made possible the completion of the job in a satisfactory fashion, within the time limits imposed by the necessities of our Budget Act, and also with regard to the request of our chairman (Mr. McCLELLAN), whose cooperation has also been most important.

Mr. President, as ranking member of the subcommittee responsible for this legislation, I would like to associate myself with the remarks made by our chairman, Senator BAYH. The bill contains $6.27 billion in budget authority and outlays of $15.12 billion. It is, therefore, approximately $425 million below the first concurrent resolution in budget authority and $375 million below in outlays. The bill as it currently stands is also $6 million below the budget request.

I would just like to take a moment to touch on some of the provisions I believe are important.

In the area of commuter and mass transit services the bill further strengthens the Federal commitment to mass transit by providing $45 million for commuter service to communities in the Northeast and Midwest. This sum is $15 million above the administration's budget request. These funds are badly needed for renovation and repair of commuter rail equipment. Many of the commuter cars are more than 30 years old and require extensive renovation and repair if they are to provide acceptable service.

The appropriations bill provides an additional $100 million for upgrading existing subway systems and for the purchase of transit buses. The funds earmarked for subway systems are needed to halt the further deterioration of services which carry the urban commuter to and from his office and his home. Thirty percent of these funds will go to subway systems such as those in New York, Chicago, and Philadelphia. About $70 million will go for the purchase of new buses to assist communities that do not have subway systems.

Two smaller transit items included in the bill are the addition of $1 million over the House bill for the development of energy conservation systems for buses and $600,000 for the demonstration of an accelerated moving walkway. This walkway will be the first operational accelerated walkway in the world. The new energy systems for buses employ flywheel devices to capture the energy generated during braking. Such systems have been successfully demonstrated on subways and have great promise for saving energy in mass transit.

In another area, the appropriations bill provides $400 million in continuing improvements for the Northeast rail corridor linking Washington and Boston. When completed, the corridor will carry passengers at speeds of up to 120 mph.

The Senate version of the appropriations bill also restores $11.5 million in operating expenses for Amtrak service, bringing to $500 million the amount allocated to Amtrak operations in the 1978 budget. The bill includes $130 million for capital improvement for Amtrak. These funds are $25 million above the budget request and will permit Amtrak to purchase new passenger cars and increase its capability of performing maintenance on the existing fleet.

Some of the safety related items included in the bill include:

A $200 million State and community highway safety grants program, an increase of $50 million over the House. The program will provide funds to States for such high priority items as the 55 mph speed limit enforcement, emergency medical services and alcohol safety. These programs have proven effective at increasing traffic safety at both State and local levels.

The addition of $1,230,000 for 177 new positions in air traffic control work. These posts are necessary to accommodate increases in air traffic in a safe and efficient manner.

The committee also directed the Federal Aviation Administration to prepare a plan of the action to reduce the incidence of noncompliance with standard procedures by air traffic controllers and pilots. Information presented to the committee indicates that 90 percent of the aviation accidents can be attributed to human error. Additionally, the National Transportation Safety Board has found that 77 percent of the voice tapes show some degree of noncompliance with established flight procedures.

The report also instructs the Coast Guard to strengthen its leadership role in providing assistance for State boating safety programs. During hearings, information available to the subcommittee indicated that the Coast Guard fails to exercise its leadership role and fails to evaluate the effectiveness of its programs in this area.

The Transportation Subcommittee has also pointed out that the Department has failed to assign a leadership role for transit safety to any one agency. The committee directed the Office of the Secretary to expedite a study on transit safety and report back to the committee by April 1, 1978.

In the area of environmental protection, the committee strengthened the Coast Guard's inspection program of foreign oil tankers entering U.S. ports. The Coast Guard fulfills a vital function in protecting all coastal States from oil spills. Recent evidence shows that a majority of these tankers entering U.S. ports have one or more defects that might contribute to oil spills, therefore the bill includes 150 positions for inspectors. This is 100 more than requested in the budget.

The Transportation Subcommittee also believes that the Office of the Secretary of Transportation should provide full funding for its noise abatement, environmental protection, and energy conservation programs.

The committee has increased by $6.275 million the amount recommended by the House for airport planning These funds will assist in development of noise abatement programs and long-range site and facilities planning.

Several additional items deserve note. The committee has increased the funding for the minority business resource center—$5 million over that recommended in the House version. This brings the center up to the $10 million level requested in the budget. The committee recognizes that one of the major impediments to the involvement of minority firms in the rail reconstruction effort is their inability to secure venture capital. The $5 million provided in our bill, through the use of leverage, generates an additional $25 million in venture capital for minority-owned businesses.

One of the more controversial issues encountered during the markup of the transportation bill was the interstate transfer provision. The Federal-Aid Highway Act of 1976 provided that projects substituted for interstate roadway segments would be treated as budget authority and require appropriations action. This year, we received requests for some five programs. The House, in an effort to greatly increase the funds available for one of these programs and add two additional nonbudget programs, deleted the funding of three programs requested by the administration. None of the programs added nor the one substantially increased had, at the time of our subcommittee markup, progressed to the point of receiving approval for the interstate transfer or the substitute projects. I do not dispute the concept that these funds, in effect, "belong" to the localities even though they do come from the General Treasury. However, in exercising our oversight responsibilities we must have assurance that the money so appropriated will be spent to implement those programs that will best serve the communities involved. Therefore, this committee was reluctant to recommend funding for these programs that had not undergone the scrutiny from both the executive and legislative branches. Therefore, I am pleased that the administration has agreed to send up a revised budget request to resolve this difficult issue. It has been estimated that approximately $6 billion in interstate transfers are possible given the present configuration of our interstate system. Certainly we intend to continue to exercise considerable care in appropriating funds for these programs.

The committee report contains language requiring the Federal Rail Administration to study the consequences of using concrete versus wooden ties on the Northeast corridor improvement project. Preliminary evidence indicates that while concrete ties may be more expensive on a per-tie basis, the overall installation costs and life cycle costs are less expensive than their wooden counterparts. The major issues, however, relate not so much to cost as they do to ride quality, maintenance, and future use of the corridor.

In the event that corridor service is upgraded beyond 120 mph it will be necessary to install concrete ties in order to assure that the track gage meets the necessary tolerances. All of the ultra-high speed rail systems currently use concrete ties and we certainly do not intend that the report language be interpreted to restrict the use of such ties on the Northeast corridor. Since the committee has consistently stated its desire to have the Northeast corridor serve as a model rail system for the Nation, it would now be inconsistent to restrict the designers from using the best performing materials, whatever they are.

The committee report also contains language taking exception to the House's attempt to restrict rail services assistance for the reconstruction and upgrading of branch lines to FRA class I standards. The committee believes that in certain instances, upgrading beyond class I standards is desirable. Experience has shown that branch line rehabilitation can significantly improve both service and revenue. Therefore, the committee directed FRA to fund such rehabilitation projects at whatever level is required if significant increases in transportation services would result or the need for Federal subsidy would ultimately be decreased.

The committee also took exception to the House report language imposing a formula for the determination of route discontinuances on the Amtrak system. The committee believes that the revenue and cost formula suggested by the House does not give sufficient consideration to the social and environmental implications of passenger train service. The committee feels that the criteria and procedures for making route and service decisions approved by Congress should be the basic vehicle for the determination of route and service decisions. The committee agrees that Amtrak should carefully reconsider its route structure and apply the criteria in order to optimize the system.

In closing, I would like to compliment the senior Senator from Indiana (Mr. BAYH) for his efforts in ably seeing this legislation through to this point and to urge my colleagues to support this bill.

I have no further statement to make. I yield the floor.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague, the floor manager of this bill.

Mr. President, I should like to address myself to the rail service assistance appropriation. Most of this appropriation will fund the rail service continuation program for freight branchlines that otherwise would have been abandoned. The program was authorized by title IV of the Regional Rail Reorganization Act and title VIII of the Rail Revitalization and Regulatory Reform Act. The programs are administered by a designated State agency in each State. In particular, I note that the authorizing law establishes a variety of mechanisms for States to use in coping with the problems of threatened rail service: Operating subsidy, rehabilitation, acquisition, construction of alternate facilities. It is the view of the States that each State should have considerable flexibility in administering its program to spend the funds on those measures which are best suited to the State's objective and the local rail service needs.

I ask the distinguished floor manager what is the committee's view?

Mr. BAYH. Mr. President, I respond to our colleague from Massachusetts that the committee concurs with his assessment, and I appreciate his bringing this matter to specific focus. This is still a pioneering program. That is the purpose for its existence. The States should be given considerable flexibility within the bounds, of course, of reasonable fiscal responsibility and financial management to devise programs that are best suited to each State and each locality's needs.

Mr. BROOKE. I also call to the Senate's attention that this rail service continuation program is not, as many apparently still believe, being used to save political face or to ease the transition by forestalling abandonment and gradually phasing out the branchlines not included in the ConRail System. Rather, the States have largely bitten the tough bullet in the beginning, allowed many lines to be abandoned at the outset and concentrated their resources on branchlines which stood a reasonable chance of becoming permanent contributors to the U.S. rail system. For instance, my own State of Massachusetts has used this Federal assistance program to continue only six of the 18-line segments not included in the ConRail final system, only about half of the mileage. It is concentrating its resources on revitalizing these six lines physically and service-wise and on stimulating industrial development along them.

Mr. BAYH. I say to my colleague that the committee is aware of this and point out that of the some 6,000 miles that were originally to be abandoned under the ConRail system the States have only subsidized about half of this. So I think a good faith effort is being made only to subsidize those portions of the system not included in ConRail as was necessary in the State's judgment.

Mr. BROOKE. I thank the Senator. I was particularly pleased to see the committee's report language addressing the standards for rehabilitation of branchlines under this program. This is a vital concern to many States. For instance, Massachusetts is intensely pursuing industrial expansion and new development along the lines it is continuing. But in order to convince business that such investments are well justified, the State must be able to assure the relative permanence of rail service. One of the best ways to do this is to rehabilitate the lines to a standard compatible with permanent service. This is generally substantially above the minimum safety standards embodied in the FRA class I standard. Such improved rehabilitation pays off in many operational ways but a big advantage is the stimulus it can give to industrial development. I want to be sure that the committee recognized this when it composed its report.

Mr. BAYH. The committee does recognize industrial expansion as a legitimate reason for the rehabilitation of branch lines beyond class I.

In fact, if the Senator will look at the committee report, he will find that we directed FRA to not take a narrow view of such rehabilitation projects, but rather to support the legitimate economic stimulus and rail service improvement objectives of the States.

What we want is to have a broad front, and certainly one of the legitimate reasons for rehabilitation projects is to support legitimate economic stimulus which this proposal would provide for economic recovery and overall economic health.

Mr. BROOKE. I thank the Senator for his response to my question. I think it will be very helpful in making legislative history which will be of importance to those who are concerned with this legislation.

Mr. BAYH. As usual, I find the distinguished Senator from Massachusetts very sensitive to critical problems, and I appreciate very much his assistance here.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to make a brief comment concerning funding for the proposed Norfolk Downtown People Mover program.

Last year, the Department of Transportation named Norfolk as one of the 11 finalist cities in the Downtown People Mover project, stating that its application had considerable merit.

Ten of the 11 finalist cities will have received some kind of funding or funding commitment for their Downtown People Mover programs.

On page 31 of the report accompanying H.R. 7557, the Appropriations Committee directs the Urban Mass Transit Administration to include the cities of Jacksonville, St. Louis, Indianapolis, and Baltimore into the full Downtown People Mover program upon application by the proper authorities in those cities. This language was intended to insure funding for those People Mover programs which were determined as meritorious by the Department of Transportation, but which are not among the four finalists initialy receiving grants.

It is my understanding that the distinguished Senior Senator from Indiana had no objection to the inclusion of the Norfolk program in the language of the report, and if Norfolk's expression of interest had been received prior to the report being printed, Norfolk would have been included.

In view of this fact, I would request the assurance of the Senator from Indiana that the Appropriations Committee

would have no objection to the funding of the Norfolk Downtown People Mover program upon submission of a satisfactory application.

Mr. BAYH. The Appropriations Committee, at least the Subcommittee on Transportation, of which the Senator from Indiana is chairman, would have no objection. I think the Senator from Virginia states the case accurately.

The Senator from Indiana has no objection whatsoever to the inclusion of Norfolk. The Senator from Virginia accurately describes the situation as it was; in fact, Norfolk was among the 11 finalists.

As a word of explanation as to why Norfolk was left out, the Senate has been on the point, leading the charge in this area, and the House of Representatives has been very reluctant to include any programs.

In fact, as my colleague will note, there were no provisions in this area when the bill came over from the House of Representatives, and we were afraid that we could get so much done in this area before it would be more than the traffic would bear, and we would not be able to reconcile our differences with the House and would end up with nothing.

The Norfolk interest was not conveyed to us until we were in the full committee markup, when a letter was hand-delivered, and that was very late in the game.

I would be glad to say not only that there is no opposition on my part, but if the Senator from Virginia would like, I would be willing to pursue this actively and express my favorable position.

Mr. HARRY F. BYRD, JR. Mr. President, I am very glad to have the assistance of the Senator from Indiana, and I appreciate his comments for the RECORD very much.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I would like to address a question to my friend from Indiana. Regarding page 36 of the report, in the second paragraph, it indicates that the committee directs USRA to study the effect of ConRail's purchasing power relative to American versus foreign manufacturers. In particular, the committee requests that USRA determine the impact on U.S. employment associated with ConRail's current purchasing policy.

I commend the committee, and both Senator BAYH and Senator CASE, for the work on the bill and for this particular request of USRA in the report.

I am very interested in what it is we really are looking for as a result of this language. In my own State of Pennsylvania, there has been a lot of concern expressed about ConRail's purchase of some 33,000 wheels from French manufacturers. Perhaps both the Senator from Indiana and the Senator from New Jersey have received similar comments. As a result, I would particularly like to know to what extent ConRail intends to continue this policy of foreign purchase, and what procurement procedures they will be following in the future.

My particular question is this, I say to the Senator from Indiana: The committee directs USRA to study the effects of these purchases and this purchasing policy. Are we also asking them to give us a report after they have done a study?

Mr. BAYH. By all means. We have discussed this matter, the staff and I, with USRA. I think the Senator from Pennsylvania concurs with me that there is very little reason to be studying it unless we get the product of that study. We are anxious to have the report back to us to see how widespread this business of purchasing commodities and parts and whatnot outside of this country is going to be, what impact it has on our economy. We are talking about ConRail being appropriated over $2 billion. That ought to have a significant impact on the economy. Of course, we want that impact to be on our economy in this country.

Mr. HEINZ. Will the report also give us a clear idea of how ConRail is applying whatever criteria it now applies to purchases, what factors they take into consideration, so that we really understand the way they are currently making up their mind? And if, as a result of that self-analysis and examination, they feel that it is wise to change that, will they also lay out for us the direction in which they intend to go? Is that the Senator's understanding?

Mr. BAYH. That is accurate. We want to know not only what they are doing, but how they reached that conclusion. I assume that, because of the interest expressed by some of our colleagues, including the Senator from Pennsylvania, they will probably take a closer look than they might otherwise at this particular practice.

Mr. HEINZ. I certainly hope so, I say to the Senator from Indiana.

One other question: When are the study and report due?

Mr. BAYH. I must say to my colleague from Pennsylvania that I do not know. We have urged them to get involved. The USRA will now be involved in studying it. They are studying a number of other things, like the impact of the Minority Business Resource Center, and some other matters in which they are keeping a public eye over what ConRail is doing, what the economic health of ConRail is, so we have a true picture of what is going on.

I frankly was more interested in getting them started and urging them to proceed at full speed than I was in finding out how long it will take. I shall be glad to go back and get an estimate from them as to how long it will take, now that they have started, and report back to my colleague.

Mr. HEINZ. I should appreciate that, because everybody with responsibilities finds much more on their plate than they either can or want to do. I should hate to see ConRail inadvertently—or advertently, for that matter—procrastinate. I hope, though I shall certainly leave this to the excellent judgment of the Senator from Indiana, that such a study could, in fact, be completed in 6 months. That would seem to be enough time. I am more than willing to leave that to the Senator's judgment.

Mr. BAYH. I should think that would be, at upper level, 3 to 6 months. It should not take too long to find out, first of all, what the facts are, and giving them a chance to reassess what they might want to do in the future could take a bit longer, I should think. But I think a 6-month target would be a very fair one.

Mr. HEINZ. One other question: Why did the committee decide not to give the same direction to Amtrak, which also has been known to make purchases from foreign suppliers?

Mr. BAYH. We have discussed that with Amtrak at the committee level. The information that they have given us so far, at least, would lead us to believe that they are buying the equipment that provides the best service, buying from those sources that are the most competitive. If the Senator from Pennsylvania would like to have a more careful and thorough report from them, we can ask them to make one of a more formal nature.

Mr. HEINZ. I should be most appreciative if the Senator from Indiana or the Senator from New Jersey could accommodate me in such a request.

There was a considerable problem caused in western Pennsylvania, at the Westinghouse Air Brake Corp., about a year and a half ago, when they learned, with regard to some 235 Amtrak railroad cars, that they had lost those contracts to a West German company. And at that point, I ask unanimous consent to have printed in the RECORD this article from our local newspaper, the Pittsburgh Post-Gazette, to bring it to my colleagues' attention.

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

[From the Pittsburgh Post-Gazette, June 20, 1975]

AMTRAK'S GERMAN PACT IRKS WABCO WORKERS

When Westinghouse Air Brake Corp. (WABCO) employes learned they'd lost out on a sizable government contract for 235 Amtrak railroad cars, they wrote it off as the risks of the bidding game.

But when they learned the work was going to a German manufacturer, they started screaming, they were still screaming yesterday and they said they won't stop until they're heard in Washington.

"It's our tax dollars supporting Amtrak," said Dan Marguriet, president of United Electrical Workers District 6. "And then they turn around and use our money to hire German workers to build their cars."

The successful bidder on the Amtrak contract is listed as New York Brake, but WABCO employes said their company learned most of the work was being subcontracted to German manufacturers.

"It's an insult to the entire Pittsburgh area," said Commissioner Thomas J. Foerster.

"It's a slap in the face to WABCO," said William R. Moore, chief union steward at Wabco.

"It's obscene," said Marguriet.

The six union officials who met with Foerster late yesterday said the contract would have enabled Wabco to call back the 139 employes now laid off for lack of work and hire an additional 150 to 300 persons.

"It's not just the loss of jobs to workers here at a time of high unemployment," said Marguriet. "There's also a safety factor. The German equipment has never been tested or inspected in this country. We don't know how dependable it will be. We know ours will work."

The union representatives said they can't find out how much New York Brake bid, how much of the work is being subcontracted to German manufacturers, or what the contract covers.

Edward J. Myers, vice president of United Electrical Local 610, warned that if the German manufacturers get the contract, they'll have an edge on all future Amtrak work.

The present contract is for a 235-car integrated passenger rail service.

"If they build the system, they'll be called for all the parts and service," said Myers. "And if any cars are added, we'll have to do special engineering studies so we can integrate our products with theirs. They'll just have to add on."

Foerster said he would meet with the Greater Pittsburgh Chamber of Commerce today and other local organizations within the next few days to organize "a caravan to Washington" to protect the Amtrak contract award.

"You wouldn't find this happening in Germany," Foerster said.

Mr. HEINZ. Mr. President, I thank Senator BAYH and Senator CASE for their indulgence. I am very appreciative of their cooperation.

Mr. BAYH. I appreciate the Senator's bringing this up and I shall, immediately if not sooner, ask my colleague from New Jersey to join in this request of Amtrak. The response we have had—and perhaps we ought to take a closer look—is that they have had great difficulty in getting some of the more advanced, sophisticated equipment here. That may be an excuse and may not be, but let me say to the Senator—I say this not really to continue this colloquy unnecessarily, because I think the Senator from Pennsylvania and the Senator from Indiana want to go down the same track, to use the terminology of this bill. But our companies in our country had been behind other countries in the development of technology. In fact, we have hundreds of millions of dollars in this bill to try to upgrade our technology.

Be that as it may, although we may have a short-term technological shortfall, I should think that the kind of money we are plowing in there and the kind of emphasis we are putting in there—and I just recited the millions of dollars that we are putting in R. & D.—would soon get us to that place where we do not have that shortfall, if, indeed, we do have one right now.

Mr. HEINZ. I think the committee is to be commended for making available the resources and money. If we are not, however, developing the technology we need—either we are not developing the technology we need or we are not competitive because we lack technology—maybe somebody is not spending money as wisely as they should, or maybe we are not investing enough in research and development.

The Senator from Indiana is to be commended, I think, for leading the way.

Mr. BAYH. I appreciate the thoughts of the Senator from Pennsylvania. I want to see just what is the situation in that particular instance involving his constituency. We are late in getting involved. I think we all realize that we gave orders to start laying down track, we had specifically mandated them to meet certain time schedules and to implement certain lines. It is conceivable that we did that before the technology was available in this country to do certain things; or at least, the technology may not have been quite as far advanced in this country as it was in others. As I say, if that does exist, I hope and expect that that will be a short-term kind of situation and will not be the kind of thing that we keep having to face year after year.

The signals are out now. All signals are go. We are going to make this system work and we are going to require that it utilize the most sophisticated equipment, so that, ultimately, we can have the best system possible. Hopefully, that equipment can be made and manufactured by our manufacturers and our workers here.

Mr. HEINZ. Mr. President, I thank the Senator from Indiana and the Senator from New Jersey.

Mr. BAYH. I am prepared to yield back my time.

Mr. CASE. I yield back my time.

COAST GUARD APPROPRIATIONS

Mr. PACKWOOD. I would like to speak briefly concerning the Coast Guard's enforcement capabilities for the 200-mile fishery conservation zone. In the appropriations bill before us there are an additional 50 positions designated for the Coast Guard for 200-mile enforcement responsibilities. I am sure the chairman and the other members of this committee rcognize the great importance for adequate monitoring and inspection if we are to have a sound fisheries conservation zone. I applaud their efforts to see that that capability is provided. What I want to insure, however, is that the purpose for the additional 50 positions is made clear for the administration. It is my understanding that these additional positions will be used for manning and operation of an additional backup Coast Guard cutter or cutters. Basically, these 50 positions correspond to the additional personnel ceilings established in the Coast Guard authorization bill which the Commerce Committee, on which I serve, passed earlier this spring.

Secondly, I am concerned that the full appropriation for 200-mile enforcement for fiscal year 1977 be spent on enforcement. In the conference report for the Department of Transportation appropriations for fiscal year 1977, the Department of Transportation was given the authority to transfer $5 million from the Coast Guard's "essential acquisition, construction, and improvement projects"—and that the "conferees expect that restoration of those funds ($5 million) will be submitted in a supplemental budget request."

The $5 million which this provision allowed to be transferred was taken out of the "essential" and I stress essential budget which the Coast Guard has for 200-mile enforcement. Therefore I would like to offer an amendment to the bill before us directing the restoration of $5 million from the pollution fund to the 200-mile enforcement fund as Congress originally intended. It is my understanding there are sufficient moneys in the pollution fund to both replace the $5 million for management of our 200-mile zone as well as maintain an adequate budget to meet emergency pollution cleanup. I believe the distinguished Senator from Indiana, chairman of the Appropriations Subcommittee on Transportation and the ranking Member agree with the purpose of this amendment. I thank them very much for their consideration of this important matter.

In summary, I would like to ask the Senator from Indiana if he concurs with my explanation of the 50 additional Coast Guard positions as well as the amendment I have offered to restore $5 million to the Nation's 200-mile enforcement fund.

Mr. BAYH. Mr. President, I thank the Senator from Oregon for his comments regarding the committee's work on the Coast Guard appropriations for next year. I think it very important that these additional positions be provided for 200-mile enforcement and specifically for the manning and operation of back-up vessels. After all, it is only possible to physically inspect foreign fishing vessels by boarding them from another vessel. The need for a strong enforcement team is truly needed and I concur with the Senator.

On his second point, I believe the amendment he has offered directing a transfer of $5 million from the pollution fund to the 200-mile fund is sound. The amendment is consistent with the committee's intent of providing a "temporary mechanism to meet emergency clean-up requirements" and that the "essential" funds for 200-mile enforcement be restored. Again, I thank the Senator for raising these points and continuing to oversee the enforcement activities of our new 200-mile fisheries zone.

Mr. CASE. Mr. President, I would like to associate myself with the remarks of the Senator from Indiana and the Senator from Oregon. For too long we have awaited a 200-mile fishing zone and now that one has been established, we need to insure that it is well managed. In that regard, the additional 50 positions and the restoration of $5 million to the 200-mile budget are well deserved.

UP AMENDMENT NO. 526

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 526: After line 11, add the following: "Pollution fund"—

Mr. PACKWOOD. 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. PACKWOOD. I ask unanimous consent that the amendment be printed in the RECORD.

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

The amendment is as follows:

On page 5, after line 11, add the following:

"POLLUTION FUND"

"There shall be transferred from the appropriation "Pollution Fund, 1977" $5 million to be used for 200-mile fisheries zone enforcement and to be added to the appropriation contained in this measure for "acquisition, construction, and improvements."

Mr. PACKWOOD. Mr. President, this amendment has been cleared on both sides. What it would do is insure that money in this bill will be used to activate one or two new Coast Guard cutters, and allow the personnel to man those Coast Guard cutters, so that the 200-mile zone might be properly patroled.

Mr. BAYH. Mr. President, I am prepared to accept this amendment. We all want to make certain that there will be sufficient money for the water pollution fund. We provided $10 million last year, but because of lack of authorization, those funds were not used.

The fund now contains $13 million. If the amendment of the Senator from Oregon is accepted, we will still have $8 million. The Coast Guard can come back to us for supplemental funds later in the year, and I am certain they would not have a dissenting vote, for additional money that might be needed in this critical water pollution area. We all recognize the additional burden placed on the Coast Guard as a result of the 200-mile limit, and I think transferring that $5 million to that particular component of our bill would be worthwhile.

For that reason, if there be no objection—our colleague from New Jersey, as I understand, has associated himself with this transfer in the colloquy—I am willing to accept the amendment.

Mr. PACKWOOD. Mr. President, I am very grateful to the Senator from Indiana, which has no 200-mile zone, for acquiescing in this amendment.

Mr. CASE. Mr. President, the Senator from Indiana is correct with respect to the position of the Senator from New Jersey.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Oregon is agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 7557, the transportation and related agencies appropriation bill for fiscal 1978. I would like to comment on the relationship between this bill and the first budget resolution. But first, I want to say that I support this bill.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. This bill is under the subcommittee's section 302(b) allocation, and is consistent with the first budget resolution targets.

The Transportation Subcommittee's allocation under section 302(b) of the Budget Act amounts to $6.7 billion in budget authority and $15.5 billion in outlays. The reported bill provides $6.3 billion in budget authority and $15.2 billion in outlays, including $10.9 billion in outlays from prior year authority. In addition, legislative actions concluded in prior years that are included in the Transportation Subcommittee's allocation total $0.3 billion in budget authority and less than $50 million in outlays. Enactment of H.R. 7557 as reported therefore would leave $0.1 billion in budget authority and $0.3 billion in outlays available within the subcommittee's allocation.

There are a number of potential claims on this remaining allocation which could produce supplemental appropriations. For example, there could be additional appropriations required for various highway, rail, and mass transit programs that might require an estimated $300 million in budget authority and $100 million in outlays. However, the first budget resolution anticipated these additional requirements, and therefore their appropriation should not result in a breach of the budget resolution targets.

There is a potential problem in that these supplemental appropriations could cause the Transportation Subcommittee to exceed its section 302(b) allocation for budget authority by perhaps $200 million. I believe that this overage can be accommodated by savings in other areas, but I would point out that such savings will have to come from other subcommittees since the full Appropriations Committee has not held any of its allocation in reserve except a small amount for pay raises.

Finally, Mr. President, I am pleased to note that the reported bill includes obligation ceilings for the highway and airport development programs funded through trust funds. These are valuable programs and it is important that they be adequately funded to satisfy our transportation needs. But it is also important that the Congress apply some practical limitations on program growth in any one year. If it did not, then there would be little protection against an unexpected temporary upsurge in new program commitments that could threaten our budget resolution outlay and deficit targets.

I wish to thank the distinguished chairman, Senator BAYH, for his support of the budget process, and to commend him and the other members of the Transportation Subcommittee for reporting a bill that is consistent with the first budget resolution. I urge my colleagues to join with me in voting for passage of H.R. 7557.

A NEW TRANSPORTATION PLAN FOR CHICAGO

Mr. PERCY. Mr. President, last month, Illinois Gov. James Thompson and Chicago Mayor Michael Bilandic reached an agreement on a transportation plan for the Chicago metropolitan area. This historic agreement, which resulted after months of negotiations among the Governor, the Mayor, Members of Congress, and Federal officials, resolves many years of local controversy over use of Interstate Highway funds in Chicago.

Under the terms of the agreement, Illinois has requested that the Department of Transportation withdraw a $453 million segment of the proposed Chicago crosstown expressway from the Interstate System. Of this amount, $300 would be used to build a new Chicago subway, and $153 million would be used for road and street improvements in the Chicago area.

Once an agreement was reached, sufficient Federal funds were needed for the projects. Today, in passing the Department of Transportation Appropriations Act for fiscal year 1978 the Senate has provided, among other things, an opportunity for the State and the city to begin implementing a major transportation plan for the metropolitan Chicago area. Included in the act, under the Urban Mass Transportation budget for fiscal year 1978, is $132 million in Interstate Highway funds for the Chicago projects. Thirty-two million will be used for preliminary engineering on the Chicago subway; $10 million for right-of-way procurement and engineering for Chicago area street improvements; and $90 million for street construction or rehabilitation.

The Senate's action today reaffirms my belief that cities, States, and the Federal Government can work effectively and swiftly to meet mutual needs.

Last week I had received assurances from the administration that it would move swiftly to approve the State's funding application. In my talks with my Senate colleagues on the Senate Appropriations Subcommittee on Transportation, they too assured me that they would move swiftly on this appropriations request. They have kept that promise. And now, due to the bipartisan support this project has received in both the House and Senate the State and the city will be able to begin implementing their areawide plan for a new subway plus road and street improvements.

Mr. BENTSEN. Mr. President, I rise in support of H.R. 7557 which provides funding for the Department of Transportation and related agencies for 1978. Through my duties with the Public Works Committee, I have become familiar with many of the items covered in this bill, and I congratulate Mr. BAYH and the other members of his subcommittee for their admirable work.

I would like to comment on one particular aspect of this legislation which provides funding for research and development work on an innovative automated transit system—known as Airtrans—which is currently in operation at the Dallas/Fort Worth Regional Airport. It is likely that this demonstration effort will lead to the development of economical automated transit system for the Nation's larger cities. In this controlled airport environment, Airtrans has been shown to be a practical means of mass transit, but it is apparent that continued developments are needed to improve the system's efficiency.

The history of this system is interesting. During the 94th Congress both House and Senate Public Works Committees authorized $7 million research and development for this system. The main objective of the authorization was

to increase the speed of Airtrans from a cruising speed of 9 miles per hour and a top speed of 17 miles per hour to a range of 30 to 35 miles per hour. This hardware R. & D. work is going on now as authorized.

However, the Congress last year approved only $2 million of the $7 million authorized. The remaining $5 million, which the Senate Appropriations Committee has now approved, will allow the R. & D. program to be completed by September 30, 1978. The test vehicle has already reached a speed of 32.1 miles per hour for short distances and the engineers are confident that this additional R. & D. will result in an operational top speed of 30 miles per hour for the automated system.

I might stress this project is an excellent example of business and the Federal Government working together—the contractor has spent $21 million of its own funds on this system, which are not reimbursable.

Mr. President, the original authorization for this project expires September 30, 1977. Because the completion of the R. & D. work will extend beyond that date, the remaining $5 million has been included in this bill as a supplement to the R. & D. funds for the Urban Mass Transportation Administration of DOT. I would like to make it clear to this agency that this supplement is for the continuation of this research effort and that there should be no interruption between the work being completed under the present $2 million contract, which expires September 30, 1977—and the amended contract which should be activated October 1, 1977. I think both the authorizing and appropriating committees would not want any lag in work due to bureaucratic redtape.

Mr. President, for the record I would like to advise the Senate that through March of this year the system has carried 11,506,060 revenue passengers. Currently the system is averaging about 18,000 riders daily. The total vehicle miles is approximately 10,000 miles every 24 hours. During one 6-month period in 1975, when the system was operated by the builder, Airtrans vehicles traveled a distance equivalent to 67 times around the world without an interruption in service.

The system has many attractive economic and environmental features. It runs over a 13-mile fixed guideway on rubber tires which results in only a minimum of noise; it is powered by electricity which does not pollute the air; it is automated which results in an operating and maintenance cost in 1976 of $0.69 per vehicle mile as compared to buses operating in Washington, D.C. in 1974 at a cost of $1.66 per vehicle mile

Mr President, the Senate shows good leadership in funding the R. & D. program with the firm intent the Department of Transportation will cooperate to the fullest extent.

THE FEDERAL HIGHWAY ADMINISTRATION'S ROADSIGN POLICY

Mr. PELL. Mr. President, the Federal Highway Administration recently issued a notice of proposed rulemaking that would have encouraged States to convert mileage and speed limit designations on their road signs exclusively to the metric system of measurement over the next few years. This proposed rulemaking, although in my opinion a legitimate exercise of FHWA authority, was questioned by some who said FHWA was acting beyond the scope of its legislative mandate.

During the June 8 House debate on H.R. 7557, an amendment was offered to prohibit DOT funds from being spent to carry out any such regulation. The amendment's proponents later withdrew the amendment upon receiving assurances that the proposed regulation was being withdrawn by FHWA.

As the Senate sponsor of Public Law 94-168, the Metric Conversion Act of 1975, and as one who has been urging United States conversion to the metric system for many years, I am disappointed that FHWA withdrew its proposal to move forward toward metric. However, I want to join my distinguished colleague in the House, Congressman ROBERT MCCLORY, a longstanding proponent of metric conversion, in emphasizing that this withdrawal of proposed rulemaking should not signal a retreat from the goal of having the Federal Government be an active participant in the metric conversion process.

I think we all realize that metric conversion efforts should receive some sort of central Federal direction, as envisioned by Congress when it established the U.S. Metric Board in Public Law 94-168. However, it has been 18 months since the passage of that act, and no nominations have been sent to the Senate which could be acted on in a timely fashion. We now await President Carter's nominations of 17 individuals to be members of the U.S. Metric Board and we have received encouraging assurances from the White House that these nominations should be coming soon. I want to stress though, that the lack of a functioning U.S. Metric Board does not mean that Federal agencies should halt their plans for dealing with the expected conversion process. This process is going to take years and the sooner that we start to plan for metric conversion the more efficient and less costly it will ultimately be. I hope that FHWA and other Federal agencies will keep pace with the growing number of State and local governments who are meeting this responsibility intelligently by educating citizens about the system our country will soon adopt.

Although I have not spoken directly with Administrator Cox on this issue, I am confident that he is committed to acting responsibly on the question of metric conversion and will continue to assist States to help their motorists become accustomed to metric. The Federal Government cannot keep its head in the sand while the citizens of this country move in increasing numbers to accept the metric system. I believe that FHWA will continue to take a leadership role in this vital area and hope that the coordination among our Federal agencies and among Federal, State, and local governments will continue.

Mr. STEVENSON. Mr. President, the Department of Transportation appropriations bill contains $469 million for interstate transfer projects; $132 million of this amount is allocated to needed mass transit and road rehabilitation and repair projects in the Chicago metropolitan area. I want to thank the members of the Appropriations Committee for their favorable consideration of my request to have this amount for the Chicago area projects included in the bill. I especially appreciate the leadership of the chairman of the Transportation Subcommittee, Senator BAYH, in this matter. He has helped greatly in resolving the difficulties which arose during the committee's consideration of my request. I am grateful for his understanding of the need to appropriate the funds now. I also thank the Secretary of Transportation and the Director of the Office of Management and Budget for their decision to include the full amount needed for the Chicago projects in the administration's budget.

The interstate transfer section of the Federal Highway Act is designed to encourage urbanized areas to decide what mix of transportation projects will make the greatest contribution toward improving their total transportation systems. The city of Chicago and the State of Illinois have agreed on a mix of projects that they believe constitutes the best use of the funds allocated to the interstate segment. Appropriation of the full $132 million will enable them to make a substantial start on these projects in fiscal 1978.

Mr. President, I cannot overemphasize the importance of these projects to the Chicago area transportation system. The agreement between the city and the State to request the withdrawal of an interstate segment in Chicago should make available $453 million in Federal funds. This agreement resolves a longstanding transportation controversy in Illinois. The city and the State propose to use the funds to begin work on the Franklin Street Subway, an important addition to Chicago's mass transit system, and to do a substantial amount of vitally needed road improvement and bridge work in the Chicago metropolitan area.

Mr. President, the grant application for the Franklin Street Subway has been pending at the Urban Mass Transportation Administration since 1971. Engineering grants since 1972 total almost $11 million; another engineering grant of $3.5 million is about to be made. The line, approximately four and one-half miles long, will provide improved mass transit service in the western downtown Chicago area, one of the most rapidly developing areas of the city. It should allow a portion of the elevated structure, known as "the loop," which encircles Chicago's downtown area, to be removed. The Franklin Street line is the first phase of the larger core area project, which is designed to provide improved mass transportation in the central city area.

The road rehabilitation projects have been pending at the Federal Highway Administration since fall, 1976. Included are badly needed intersection improvement, resurfacing, and widening projects on major streets and highways in the Chicago metropolitan area. These

projects can be started quickly and will provide immediate benefits in the six-county Chicago metropolitan area.

HIAWATHA AVENUE IMPROVEMENT PROJECT

Mr. HUMPHREY. Mr. President, I wish to express my sincere appreciation to the members of the Appropriations Committee, particularly the Senator from Indiana (Mr. BAYH), for their support of funding for planning the Intermodal Urban Demonstration Project in the city of Minneapolis.

This project will improve the Hiawatha Avenue Corridor which is the principle connecting link between the Central Business District in Minneapolis and the Minneapolis-St. Paul International Airport. It is the primary radial route continuing to connect the communities of southeast Minnesota and the airport to downtown Minneapolis.

Mr. President, this project is vital to the Minneapolis-St. Paul metropolitan area and I am deeply grateful to Senator BAYH and the other members of the Appropriations Committee for their understanding of its importance.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall the bill pass?

Mr. BAYH. Mr. President, I hate to inconvenience our colleagues, but we are talking about $14 billion here. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. RIEGLE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I also announce that the Senator from Texas (Mr. BENTSEN) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—86

Allen	Gravel	Metzenbaum
Anderson	Griffin	Morgan
Baker	Hansen	Moynihan
Bayh	Hart	Muskie
Bellmon	Haskell	Nelson
Biden	Hatch	Nunn
Brooke	Hatfield	Packwood
Bumpers	Hathaway	Pearson
Burdick	Hayakawa	Pell
Byrd,	Heinz	Percy
Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Roth
Case	Humphrey	Sarbanes
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Clark	Johnston	Schweiker
Cranston	Kennedy	Scott
Culver	Lavalt	Sparkman
Danforth	Leahy	Stafford
DeConcini	Long	Stevens
Dole	Lugar	Stevenson
Domenici	Magnuson	Stone
Durkin	Mathias	Talmadge
Eagleton	McClure	Thurmond
Eastland	McGovern	Tower
Ford	McIntyre	Wallop
Garn	Melcher	Weicker
Glenn	Metcalf	Young

NAYS—0

NOT VOTING—14

Abourezk	Goldwater	Riegle
Bartlett	Inouye	Stennis
Bentsen	Matsunaga	Williams
Church	McClellan	Zorinsky
Curtis	Ribicoff	

So the bill (H.R. 7557) was passed.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. JOHNSTON, Mr. CASE, Mr. YOUNG, Mr. MATHIAS, and Mr. WEICKER conferees on the part of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HART).

UNANIMOUS-CONSENT AGREEMENT—H.R. 7556

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the State-Justice appropriation bill is called up and made the pending business, there be a 1-hour limitation on the bill, to be equally divided between and controlled by Mr. HOLLINGS and Mr. WEICKER; that there be a time limitation on any amendment of 30 minutes, with the exception of one amendment by Mr. HATFIELD, on which there be a 1-hour limitation, and three amendments by Mr. DOLE, on each of which there be a 1-hour limitation; that there be a limitation of 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for consideration; and that the agreement with respect to the control and division of time be in the usual order.

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

Mr. ROBERT C. BYRD. Also with respect to the State-Justice bill, I add this proviso: that there be a 1-hour limitation on an amendment by Mr. HATHAWAY and Mr. MUSKIE, and that the agreement be in the usual form so far as division and control of time are concerned.

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

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7556 (Order No. 263), an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1978, and for other purposes, debate on any amendment (except an amendment by the Senator from Oregon (Mr. HATFIELD), on which there shall be 1 hour; three amendments to be offered by the Senator from Kansas (Mr. DOLE), on each of which there shall be 1 hour; and an amendment to be offered by the Senators from Maine (Messrs. MUSKIE and HATHAWAY), on which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 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 or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Connecticut (Mr. WEICKER): *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, debatable motion, appeal, or point of order.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stands in recess until 8:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR HATCH AND SENATOR STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. HATCH and Mr. STEVENS be recognized for 15 minutes each.

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

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that my staff assistant, Helen Kalk, have the privilege of the floor.

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

MEASURES TRANSFERRED TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the calendar which are eligible for passage by unanimous consent. They are Calendar Nos. 264, 265, and 266. I ask that the clerk transfer those measures to the unanimous calendar.

The PRESIDING OFFICER. They will be transferred.

CORRECTION IN ENGROSSMENT OF H.R. 6161—H. CON. RES. 254

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 254.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 254) authorizing a correction in the engrossment of H.R. 6161.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, this measure authorizes a correction in the engrossment, as the clerk stated, of H.R. 6161, the Clean Air Act amendments.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 254) was agreed to.

QUORUM CALL

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

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

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 7554 AND H.R. 7556 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the orders for the recognition of Senators tomorrow, the Senate proceed with the consideration of H.R. 7554, the HUD appropriations bill, and that it be followed by H.R. 7556, the State, Justice, Commerce appropriations bill with the following proviso:

That no rollcall votes occur before the hour of 12 o'clock noon tomorrow and that if action on the HUD appropriations bill is complete but for the vote or votes in the event rollcalls are ordered prior to 12 o'clock noon that bill then would be set aside until 12 o'clock noon and that in the interim the Senate would proceed with the consideration of the State, Justice, Commerce, and Judiciary appropriations bill.

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

ORDER FOR RECESS, UPON COMPLETED SENATE ACTION TOMORROW, UNTIL 10 A.M., MONDAY, JUNE 27, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the Senate completes action on State, Justice, Commerce appropriations bill tomorrow, which I assume it will, that at the close of business tomorrow the Senate stand in recess until the hour of 10 a.m. on Monday next.

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

Mr. ROBERT C. BYRD. Mr. President, that provides, does it not, that if the Senate should get stalled on State-Justice tomorrow the Senate is free to come in on Saturday?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. But if the Senate completes State-Justice tomorrow, the Senate would go over until Monday at 10 a.m.?

The PRESIDING OFFICER. The Senator is correct.

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

ORDER FOR NO ROLLCALL VOTES PRIOR TO 3 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on Monday prior to the hour of 3 p.m.

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

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the minority for its cooperation in waiving the 3-day rule in connection with these two measures.

I also want to thank certain Senators on the majority side for their cooperation in waiving the 3-day rule so that the Senate could proceed with the consideration of these two measures.

That being the case, if the Senate completes action on State, Justice, and Commerce appropriations tomorrow there will be no session Saturday.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations, beginning with Calendar Order No. 288 and going through the calendar with the exception of Calendar Order No. 296.

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

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

BOARD FOR INTERNATIONAL BROADCASTING

The second assistant legislative clerk read the nomination of John A. Gronouski, of Texas, to be a member of the Board for International Broadcasting.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF COMMERCE

The second assistant legislative clerk read the nomination of Fabian Chavez, Jr., of New Mexico, to be Assistant Secretary of Commerce for Tourism.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of John McGrath Sullivan, of Pennsylvania, to be administor of the Federal Railroad Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of Stuart Evan Siegel, of the District of Columbia, to be an Assistant General Counsel in the Department of the Treasury—Chief Counsel for the Internal Revenue Service.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of John M. Rector, of Virginia, to be Assistant Administrator of Law Enforcement Assistance.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:30 tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Mr. STEVENS) will be recognized, each for not to exceed 15 minutes, after which the Senate will immediately proceed to Calendar Order No. 260, H.R. 7554, an act making appropriations for the Department of Housing and Urban Development. There is a time agreement on that bill. There is also a provision that there will be no rollcall votes before 12 o'clock noon.

In the event that the HUD appropriation bill is completed prior to 12 noon, and rollcall votes are ordered on passage of the bill or on amendments in relation to it, such rollcall votes will begin at 12 noon, but in the meantime the Senate will temporarily set that measure aside, as I say, if action is completed thereon except for rollcall votes, and proceed to the consideration of H.R. 7556, the State-Justice-Commerce-Judiciary appropriation bill, also under a time-limitation agreement.

Rollcall votes will occur throughout the day tomorrow. If the Senate completes its action on the State-Justice-Commerce appropriations, which is anticipated even though it may take us into the evening—hopefully not—then the Senate would go over until 10 o'clock a.m. on Monday. In the alternative, if the Senate cannot reach a final vote on State-Justice tomorrow, the Senate is not locked out of a session on Saturday.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and at 4:32 p.m., the Senate recessed until tomorrow, Friday, June 24, 1977, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 23, 1977:

DEPARTMENT OF STATE

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

NUCLEAR REGULATORY COMMISSION

Kent Forrest Hansen, of Massachusetts, to be a member of the Nuclear Regulatory Commission for the remainder of the term expiring June 30, 1978, vice Edward A. Mason, resigned.

IN THE 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, United States Code, sections 3284 and 3306:

To be brigadier general

Maj. Gen. Richard H. Thompson, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. William E. Eicher, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard L. Harris, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. James G. Boatner, [redacted] Army of the United States (colonel, U.S. Army).

Lt. Gen. Edward C. Meyer, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. William R. Richardson, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward A. Partain, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Roscoe Robinson, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Alexander M. Weyand, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert G. Yerks, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. James M. Rockwell, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Albert B. Akers [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Ernest D. Peixotto, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Morris J. Brady [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Wesley E. Peel, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Benjamin L. Harrison, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Donald E. Rosenblum, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles C. Rogers, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Paul S. Williams, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard E. Cavazos, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. John N. Brandenburg, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Oscar C. Decker, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. John K. Stoner, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Emmett W. Bowers, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William I. Rolya, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Story C. Stevens, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Sampson H. Bass, Jr. [redacted] Army of the United States (colonel, U.S. Army).

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line and staff corps of the Navy, subject to the qualifications therefor as provided by law:

Timothy M. Aspery	Jerome A. Schuller, Jr.
William H. Hagedorn	Michael A. Sloan
Steven W. Hamilton	*William M. Smith
*Warren H. Harner, Jr.	John R. Taylor
Walter F. Lundin	Steven A. Webb
Mark R. Lyons	Donald E. Wilson
William R. Morrison	

The following-named Navy Enlisted Scientific Education Program candidates to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

James T. Glass
Adrian C. McElwee

The following-named temporary Chief Warrant Officer to be appointed a permanent Chief Warrant Officer, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

*CWO-3 John L. Griffin, Jr., USNR

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the Medical Service Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR George W. Robinson, MSC, USN (ret.)

The following-named enlisted candidates to be appointed ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

Robert A. Acklin, Jr.	Denzel E. Garner
Mark E. Babbitt	Craig A. Jimerfield
Stephen F. Blacke	Elwood L. Kephart
Richard L. Bloomquist	Bernard T. Miller
Thomas W. Burden	James A. Moos
Henry M. Chinnery	Charles W. Neefe, Jr.
Robert V. Collins	Bobby D. Nipper
Robert J. Engelhart	Robert P. Owen
John D. Faulls	Herman J. Pagan
Lawrence E. Fowler	Michael W. Ross

The following-named Chief Warrant Officers to be appointed lieutenants (junior grade), for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Francis P. Bryce, Administration.

* Roger T. McManus, Operations (surface).

* Milton E. Moore, Jr., Cryptology.

Alfio J. Vasta, Mess Management (Supply Corps).

The following-named temporary Chief Warrant Officer to be appointed a temporary Chief Warrant Officer, W-3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

* CWO-3 John L. Griffith, Jr., USNR.

The following-named (U.S. Navy Officer (ret.)) to be reappointed from the temporary disability retired list as a temporary Commander in the Medical Service Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

LCDR George W. Robinson, MSC, USN (Ret.)

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

CDR John R. Dooley, MSC, USN.

FEDERAL HOME LOAN BANK BOARD

Robert H. McKinney, of Indiana, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1981, vice Grady Perry, Jr.

* Appointment sent out Ad Interim (During the recess of the Senate) 8 through 17 April 1977.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 23, 1977:

DEPARTMENT OF STATE

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Donald R. Norland, of Iowa, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

John Andrew Linehan, of Maryland, a Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

Herman J. Cohen, of New York, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Donald Gordon MacDonald, of Florida, to be an Assistant Administrator of the Agency for International Development.

BOARD FOR INTERNATIONAL BROADCASTING

John A. Gronouski, of Texas, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1980.

DEPARTMENT OF COMMERCE

Fabian Chavez, Jr., of New Mexico, to be Assistant Secretary of Commerce for Tourism.

FEDERAL RAILROAD ADMINISTRATION

John McGrath Sullivan of Pennsylvania, to be Administrator of the Federal Railroad Administration.

DEPARTMENT OF THE TREASURY

Stuart Evan Seigel, of the District of Columbia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

DEPARTMENT OF JUSTICE

John M. Rector, of Virginia, to be Assistant Administrator of Law Enforcement Assistance.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Garace A. Reynard, to be chief warrant officer, W-2, and ending Jay H. Smith III, to be permanent chief warrant officer, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 1977.

HOUSE OF REPRESENTATIVES—*Thursday, June 23, 1977*

The House met at 10 o'clock a.m.

Rev. Loren White, pastor, East Grand Baptist Church, Dallas, Tex., offered the following prayer:

Dear God, our Heavenly Father, we approach Your gracious throne with humbleness, yet with boldness as Christ taught us.

Please bless these who are making the laws for our beloved Nation. Supply them with divine guidance and wisdom.

As national leaders whose influence touches virtually all the world, help them to realize their inadequacy in order that they might be sensitive and responsive to the leadership You have made available to them through Your Word and Your Spirit.

While we pray for those who govern we would also remember to ask Your blessings upon the governed. Give the people of America a desire to be right with You above all else. Help us to know and to do Your good will.

In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 3849. An act to establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere and to authorize appropriations for the committee for fiscal year 1978.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6655) entitled "An act to amend certain Federal laws pertaining to community development housing, and related programs, disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. MCINTYRE, Mr. CRANSTON, Mr. STEVENSON, Mr. BROOKE, Mr. TOWER, Mr. GARN, and Mr. HEINZ to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S 1539 An act to authorize appropriations for fiscal year 1978 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that Mr. GLENN was appointed as a conferee for the consideration of certain specified issues in S. 826, to establish a Department of Energy.

REV. LOREN WHITE

(Mr. MATTOX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATTOX. Mr. Speaker, it is a real honor for me to introduce to you today, Dr. Loren White, pastor of the East Grand Baptist Church in Dallas, Tex., the church of which I am a lifelong member.

We have with us today a minister who realizes that the church in today's community has many responsibilities. He has the understanding that our Lord was a minister unto the people in the byways and highways and not just to the sanctimonious who enjoy great privilege. He understands that there is more to his responsibility than just preaching sermons. Every day Brother White visits his membership and takes his ministry to the community.

We have with us today a minister who understands the responsibility of the Government in this world and the responsibility of the church and the necessity for the separation of church and state. At the same time, he realizes that