By Mr. CORMAN (for himself, Mr. ANDERSON of California, Mr. BLOUIN, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. FLORIO, Mr. HAMILTON, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HOWARD, Mr. HUGHES, Mr. LEGGETT, Mr. LENT, Mrs. MEYNER, Mr. MINETA, Mr. MOFFETT, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. ST GERMAIN, and Mr. SCHEUER):

H.R. 2270. A bill to amend XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. JOHN L. BURTON, and Mr. SISK):

H.R. 2271. A bill to amend XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. HOLT:

H.R. 2272. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 2273. A bill to amend title 38, United States Code, to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries, and to provide for transportation of bodies to a national cemetery; to the Committee on Veterans' Affairs.

By Mr. YATES:

H.R. 2274. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2275. A bill to establish a national adoption information exchange system; to the Committee on Education and Labor.

H.R. 2276. A bill to designate the Indiana Dunes National Lakeshore as the "Paul H. Douglas National Lakeshore"; to the Committee on Interior and Insular Affairs.

H.R. 2277. A bill to amend subchapter XVIII, chapter 7, 42 U.S.C. to provide for the administrative and judicial review of claims (involving the amount of benefits payable) which arise under the supplementary medical insurance program; to the Committee on Interstate and Foreign Commerce.

H.R. 2278. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

H.R. 2279. A bill to incorporate Recovery, Inc.; to the Committee on the Judiciary.

H.R. 2280. A bill to prohibit commercial flights by supersonic aircraft into or over the United States until certain findings are made by the Administrator of the Environmental Protection Agency and by the Secretary of Transportation, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 2281. A bill to amend chapter 1 of 26 U.S.C. to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

H.R. 2282. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 2283. A bill to amend title 42, United States Code, chapter 7, subchapter II to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2284. A bill to encourage increased use of public transit systems by amending chapter 1 of title 26, United States Code, to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

H.R. 2285. A bill to amend title 42, United States Code, to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 2286. A bill to amend title 42, United States Code, chapter 7, subchapter II to reduce from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record; to the Committee on Ways and Means.

H.R. 2287. A bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes; jointly, to the Committees on Interior and Insular Affairs, the Judiciary, Merchant Marine and Fisheries, and Science and Technology.

H.R. 2288. A bill to provide that a finding of permanent and total disability under title II or XVI of the Social Security Act, chapter 13 or 15 of title 38, United States Code, or the Railroad Retirement Act of 1937 will be considered as a finding of disability under any of such programs, and for other purposes; jointly, to the Committee on Ways and Means, Veterans' Affairs, and Interstate and Foreign Commerce.

By Mrs. HOLT (for herself, Mr. DICKINSON, Mr. MARTIN, Mr. ROUSSELOT, Mr. BAUMAN, Mr. BYRON, Mr. BURGENER, Mr. SIMON, Mr. DEVINE, Mr. WAMPLER, Mr. CLEVELAND, Mr. VANDER JAGT, Mr. RUDD, Mr. JOHN T. MYERS):

H.J. Res. 188. Joint resolution to amend the Constitution of the United States to require a balanced Federal budget; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.J. Res. 189. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 190. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. YATES:

H.J. Res. 191. Joint resolution prescribing model regulations governing implementation of the provisions of the Social Security Act relating to the administration of social service programs; to the Committee on Ways and Means.

By Mr. DELANEY:

H. Res. 151. A resolution to designate January 22 as Ukrainian Independence Day; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 2289. A bill for the relief of Teresa Rodriguez De La Torre; to the Committee on the Judiciary.

H.R. 2290. A bill for the relief of Ma Ho Lui; to the Committee on the Judiciary.

H.R. 2291. A bill for the relief of Carmen Cecilia Blanquicett; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 2292. A bill for the relief of Boulos Stephan; to the Committee on the Judiciary.

By Mr. YATES:

H.R. 2293. A bill for the relief of Phyllis T. Pontrelli; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

33. The SPEAKER presented a petition of Dennis L. Nygren, Royal Oak, Mich., relative to the Child and Family Services Act; to the Committee on Ways and Means.

SENATE—*Thursday, January 20, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

God of our Fathers, and our God, make sacred to all of us this solemn day of dedication. We pray especially for our President and for him who will preside over this Senate. Give them an understanding of our times, wisdom beyond themselves, and health of mind and body sufficient for their tasks. May the truths of the Bible on which their hands are placed be the guide of this Republic in the years to come. And may the oath of office taken by two men be for every citizen a new pledge of allegiance and a fresh dedication to "one nation under God," striving to set forward Thy kingdom on Earth.

We pray in the name of our Redeemer and Lord. Amen.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, January 19, 1977, be approved.

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

MESSAGES FROM THE PRESIDENT

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

REPORT ON EMPLOYMENT AND TRAINING—MESSAGE FROM THE PRESIDENT—PM 30

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

To the Congress of the United States:

I am transmitting to the Congress the annual *Employment and Training Report of the President*, pertaining to employment and training requirements, resources, and utilization, as required by sections 705(a) and 705(b) of the Comprehensive Employment and Training Act of 1973, as amended. This *Employment and Training Report of the President* also includes reports required by sections 209 and 413 of the same act.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 31

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

To the Congress of the United States:

I am transmitting to the Congress the annual report of the Corporation for Public Broadcasting, describing its activities for the year ending June 30, 1976.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

EC–441. A communication from the President of the United States transmitting a draft of proposed legislation entitled "Energy Independence Authority Act of 1977"; to the Committee on Interior and Insular Affairs.

EC–442. A communication from the President of the United States, transmitting the 16th annual report of the U.S. Arms Control and Disarmament Agency (with an accompanying report); to the Committee on Foreign Relations.

EC–443. A communication from the President of the United States, transmitting an alternative nuclear program, ship design characteristics (with accompanying papers); to the Committee on Armed Services.

EC–444. A communication from the President of the United States, informing the Senate of his intention to withdraw the designation of the People's Republic of the Congo as a beneficiary developing country for purposes of the generalized system of preferences; to the Committee on Finance.

EC–445. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic Treaty in order to resist armed attack in the North Atlantic Treaty area (with accompanying papers); to the Committee on Foreign Relations.

EC–446. A communication from the President of the United States, transmitting an alternative nuclear program ship design, cost, and schedule (with accompanying papers); to the Committee on Armed Services.

EC–447. A communication from the President of the United States, transmitting a report on the review of disaster loan authorities mandated in section 101 of Public Law 94–305 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

EC–448. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize appropriations for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and National Wildlife Refuges, and to increase grants to communities to improve park and recreation facilities (with accompanying papers); to the Committee on Commerce and the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, I ask unanimous consent that a communication from the President of the United States, relative to the National Park System and the National Wildlife Refuges, be referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs.

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

EC–449. A communication from the President of the United States, transmitting a report of the National Cancer Advisory Board for calendar year 1975 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–450. A communication from the President of the United States, transmitting a draft of proposed legislation to transfer certain functions from the Secretary of the Interior to the Secretary of Agriculture (with accompanying papers); to the Committee on Interior and Insular Affairs.

STATEMENT OF ACTING MAJORITY LEADER

Mr. CRANSTON. Mr. President, I would like to say that the majority leader is with the group that will lead the President-elect to the inauguration. It is for that reason that I am acting in the capacity of acting majority leader, which is a great thrill for me on this great day for our country when we join in the passing of leadership to the President-elect, Jimmy Carter, of Georgia.

ORDER OF PROCEDURE TODAY

Mr. CRANSTON. Mr. President, I have just a word on what will occur today.

It was originally announced that we would proceed in a body at 10:30 a.m. It will be more like 10:50 a.m. before we gather for that purpose. There will be a quorum call until that point after the present proceedings have been concluded.

The Senate will reconvene at 4 p.m. today to consider, first, the President's Cabinet nominations which are noncontroversial, and on which rollcall votes are not anticipated; and, second, the McGovern motion to refer Senate Resolution 18 on Vietnam draft evaders to the Judiciary Committee. The Executive Calendar presently has two nominations.

The Senate will meet tomorrow; the present plan as I understand it is to convene at noon, though conceivably that could be changed, and vote at 1 p.m. on the cloture motion to close debate on Senate Resolution 18.

This afternoon the Senate will be considering those nominations submitted by the new President on which no rollcall is desired.

Tomorrow the Senate will presumably consider some of the nominations on which rollcalls are desired.

I am informed, although I am not absolutely certain of this, that the Senate will not consider until Monday the nomination of the nominee for Secretary of Labor. I am not certain that that is the plan, but there have been some indications that that will be the case.

I have nothing further to say at this moment.

The PRESIDENT pro tempore. The minority leader is recognized.

COMPLIMENTARY STATEMENTS

Mr. BAKER. Mr. President, I shall not take very long, but I think it would be derelict of me if I did not compliment the distinguished Senator from California for his service today as acting majority leader and for his new position as majority whip of the U.S. Senate.

We are delighted to have the opportunity to work with such a great Member of this body now, as in the past.

Mr. CRANSTON. I thank the Senator very much. It is a great pleasure to work with him and the Senator from Alaska and the other leaders in the minority in the Senate.

COMMENTS ON THE INAUGURATION

Mr. BAKER. Mr. President, this is a solemn event that we are about to witness and in which we are about to participate.

There is no more fundamental and impressive, indeed, there is no more solemn constitutional function than the inauguration of a new President and Vice President of the United States.

In a few moments we will proceed as one of the two Chambers of one of the three coordinate branches of the Government to the inaugural platform where in the presence of all the principal officials of the three departments, the oath of office will be administered and the power of the executive department will pass by orderly transition to new hands.

We will also see the induction of a new President of this body, the Vice President of the United States.

Those of us on this side of the aisle will celebrate fully the inauguration of our new President.

While campaigns are partisan and nominees are designated by the two great parties, inaugurations are na-

tional and constitutional events, and we on the Republican side will join with you on the majority side in fully celebrating this event today and wishing President-elect Carter, soon to be President Carter, and Vice-President-elect Mondale, soon to be our presiding officer, the very best. We wish them well. We wish them Godspeed and God's blessing as they attempt in the next 4 years to direct so much of the affairs of this Republic.

Mr. President, I reserve the remainder of my time under the standing order.

Mr. CRANSTON. Mr. President, I respond to the generous and wise words of the leader of the minority in the Senate by welcoming his statement of intent to work with the new administration and with those on this side of the aisle to see to it that wise and sound steps are taken in connection with the leadership of our country.

I look forward to this opportunity for all of us in this body to work with the new President and do what we can to insure that when he is right he is given support and has the opportunity to lead our country out of the many difficulties and through the many difficulties that face us. At the same time, I know that all of us, both on this side of the aisle and on the other side of the aisle, recognize our constitutional responsibility to differ with the executive branch when that is felt to be in order.

I believe very deeply that our liberties rest most of all upon the Bill of Rights and on the separation of powers among the three branches of Government that insure that too much power never lodges in two few hands in our Government. For those reasons I know that we will see to it that the congressional branch serves fully in the decisionmaking process and makes its views known when it feels that it is necessary to suggest a different course from that proposed in another branch of our Government.

At this point, I am prepared to yield back the remainder of my time, if the Senator from Tennessee is prepared to yield back the remainder of his time.

Mr. BAKER. Mr. President, I have no further comment. I inquire of the acting majority leader if we might not reserve the remainder of our time under the standing order and suggest the absence of a quorum to ascertain further business of the Senate.

Mr. CRANSTON. That is fine.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 4 P.M.

The PRESIDENT pro tempore. The Senate will stand in recess until 4 p.m. this afternoon.

(Thereupon, at 10:48 a.m., the Senate recessed until 4 p.m.)

INAUGURATION OF THE PRESIDENT OF THE UNITED STATES AND THE VICE PRESIDENT

PROCESSION TO THE INAUGURAL PLATFORM

The Members of the U.S. Senate, headed by Senator JAMES O. EASTLAND, President pro tempore, Francis R. Valeo, Secretary of the Senate, and the Reverend Edward L. R. Elson, D.D., Chaplain of the Senate, proceeded to the inaugural platform and were seated in section 4.

The Members of the House of Representatives, headed by Representative GEORGE H. MAHON, Speaker pro tempore, Edmund L. Henshaw, Jr., Clerk of the House, and the Reverend Edward G. Latch, D.D., Chaplain, proceeded to the inaugural platform and were seated in sections 1 and 4.

The Governors of the States were escorted from the south corridor by the secretary of the majority of the Senate, Mr. J. Stanley Kimmitt, to the inaugural platform and were seated in section 3.

The members of the Diplomatic Corps were escorted from the Senate reception room by the Assistant Director of the Joint Congressional Committee on Inaugural Ceremonies, Miss Peggy L. Parrish, to the inaugural platform and were seated in section 2.

The Members of the Cabinet of the president-elect were escorted from the President's room by Mr. Chester B. Sobsey, administrative assistant to Senator CANNON, to the inaugural platform and were seated on the President's platform.

The Chief Justice of the United States and the Associate Justices of the Supreme Court, preceded by Mr. Michael Rodak, Jr., Clerk of the Court and Mr. Alfred Wong, Marshal of the Court, were escorted by Mr. Chester H. Smith, chief counsel of the Senate Rules Committee from the office of the Secretary of the Senate to the inaugural platform and were seated on the President's platform.

Mrs. Ford and Mrs. Rockefeller were escorted to their seats on the Presidential platform by Mrs. O'Neill.

Mrs. Carter and Mrs. Mondale were escorted to their seats on the President's platform by Mrs. Cannon.

Members of the Committee on Arrangements, accompanied by Deputy Sergeant at Arms of the Senate Robert C. Hough, Deputy Sergeant at Arms of the House Elwyn G. Raiden, and Mr. Larry E. Smith, minority staff director, of the Senate Rules Committee, escorted President Gerald R. Ford and Vice President NELSON A. ROCKEFELLER to the inaugural platform in the following order:

The President.

The Vice President.

Senator HATFIELD.

Representative RHODES.

(The U.S. Marine Corps Band played ruffles and flourishes—"Hail to the Chief.")

[Applause.]

Members of the Committee on Arrangements, accompanied by Sergeant at Arms of the Senate F. Nordy Hoffmann and Sergeant at Arms of the House Kenneth R. Harding, escorted Vice President-elect Walter F. Mondale to the inaugural platform in the following order:

The Vice President-elect.

Senator ROBERT C. BYRD.

Representative WRIGHT.

(The U.S. Marine Corps Band played "Stars and Stripes Forever.")

[Applause.]

The Committee on Arrangements, accompanied by Sergeant at Arms of the Senate Hoffmann, Sergeant at Arms of the House Harding, and Executive Director Cochrane, escorted President-elect James Earl (Jimmy) Carter to the inaugural platform in the following order:

The President-elect.

Senator CANNON and Speaker O'NEILL.

Senator ROBERT C. BYRD and Representative WRIGHT.

Senator HATFIELD and Representative RHODES.

(The U.S. Marine Corps Band played "The Navy Hymn.")

[Applause.]

THE INAUGURATION CEREMONIES

Senator CANNON. Mr. President, Mr. President-elect, Mr. Vice President, Mr. Vice President-elect, distinguished guests and fellow citizens:

In the highest tradition of our form of government, we are here today to inaugurate the 39th President of the United States. It is a great honor for me, as chairman of the Joint Congressional Committee on Inaugural Ceremonies, to begin our program by presenting the U.S. Marine Band under the direction of Lt. Col. Jack T. Kline, which will play "America the Beautiful."

(The U.S. Marine Corps Band played "America the Beautiful.")

[Applause.]

INVOCATION

Senator CANNON. For our invocation, I present Bishop William R. Cannon of the United Methodist Church, Atlanta, Ga., will you please stand.

Bishop CANNON. Let us pray.

O God, whom people of different persuasions call by different names, yet on whom we all alike depend for our lives, our land, and the opportunity for happiness: Grant us, we pray Thee, a new and vital realization of Thy sovereignty and our dependence, of what it means to be creatures responsible to their creator, and of our obligations, both as individuals and as a society, to Thee.

Save us as a nation from the arrogant futility of trying to play God: as if we knew everything there is to know; as if our wealth were so great that we could satisfy the needs of people everywhere over the world and buy their favor and support; as if our own power were limitless, so that we could manage and direct the affairs of humankind. The truth is that we are not able properly to manage and control ourselves, to guarantee to every American the full advantage of the fruits of his labor, so that each one of us may sit under his own vine and under his own fig tree, and none shall make us afraid.

The management of the world is Thy business, not ours, O God. Give us the humility and good sense to see this. Help us to deal with others as equals, seeking advice as well as giving it, receiving help from them as well as lending them our aid. Teach us that the only abiding

influence we can ever have in the world is the influence of a good example.

We ask Thy forgiveness for those sins that marred our national character and impaired the effectiveness of our Government in recent times. Help us as a people to confess our sins, not to blame our politicians alone for them. In their evil and wrongdoing Thou dost hold before our face a mirror in which we see our own misdeeds writ large. Teach us that a democracy is not sacred just because it is a democracy, and that a government of the people, by the people, and for the people is no better than the people themselves.

Let this the first administration in the third century of our national existence be the beginning of a new era—a time of rectitude, righteousness, prosperity for all our citizens based on their own toil and productivity, and peace.

Bless our outgoing President, Gerald Ford. Give him the satisfaction of knowing that he rendered inestimable service to our country under trying circumstances.

Bless the Congress of the United States, the newly-designated Cabinet, and all others, either elected or appointed to public office.

Lend Thy favor and Thine aid to our Vice President-elect, Walter Mondale, that he may support and complement in unselfish service the work of the President, and thereby make his own role in government indispensable.

Pour out the abundance of Thy grace, we pray Thee, upon Jimmy Carter, about to be inaugurated President of the United States. We pray for his family, especially Rosalynn, his wife, that they may support him in this most difficult task.

We thank Thee for his brilliant mind, his signal accomplishments in public service, his exemplar Christian life, and his devotion to Thee and to Thy people Give him the wisdom, the strength, and the goodness to take his place among the greatest of our Presidents; and grant him, like Solomon, an understanding heart to govern Thy people rightly.

Make our people governable, O God. Save our Nation from factionalism and from the divisiveness of those who exert pressure on Government for their own interests, seeking selfish gain more than the common good. Make us, we pray, one people under Thee, united for the good of the Nation and for the service of the world. Help us together to build a nation here on Eart that in its manner of life anticipates Thine everlasting kingdom in heaven.

All this we ask in the name of Jesus Christ, Thy Son and our Savior. Amen.

PRESENTATION OF "BATTLE HYMN OF THE REPUBLIC"

Senator CANNON. We will now have the pleasure of hearing the "Battle Hymn of the Republic" sung by selected voices from Atlanta University, Clark, Morehouse, Morris Brown, and Spelman Colleges, and the Interdenominational Theological Center. This chorus is conducted by Dr. Wendell P. Whalum and will be accompanied by the U.S. Marine Band.

(The "Battle Hymn of the Republic" was presented by selected voices from Atlanta University, Clark, Morehouse, Morris Brown, and Spelman Colleges, and the Interdenominational Theological Center, accompanied by the U.S. Marine Corps Band.)

[Applause.]

ADMINISTRATION OF OATH TO THE VICE PRESIDENT-ELECT

Senator CANNON. The Speaker of the House of Representatives, the Honorable THOMAS P. O'NEILL, JR., will now administer the oath of office to the Vice President-elect.

[Applause.]

Mr. O'NEILL. WALTER F. MONDALE, citizen of the State of Minnesota, duly elected Vice President of the United States, are you ready to take that oath of office?

The VICE PRESIDENT-ELECT. I am.

The Speaker of the House of Representatives, THOMAS P. O'NEILL, JR., administered to the Vice-President-elect the oath of office prescribed by the Constitution, which he repeated as follows:

I, Walter F. Mondale, solemnly swear that I'll support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

[Applause.]

(Ruffles and flourishes—"Hail Columbia.")

ADMINISTRATION OF OATH TO THE PRESIDENT-ELECT

Senator CANNON. My fellow citizens, I present the distinguished Chief Justice of the United States, the Honorable Warren Earl Burger, who will administer the oath of office to the President-elect.

[Applause.]

Chief Justice BURGER. Governor Carter, are you prepared to take the constitutional oath?

President-Elect CARTER. I am.

The Chief Justice of the United States, Warren Earl Burger, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

I, Jimmy Carter, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So help me God.

Chief Justice BURGER. Congratulations.

[Applause.]

(Four ruffles and flourishes, "Hail to the Chief," and 21-gun salute.)

Senator CANNON. The President of the United States.

[Applause.]

INAUGURAL ADDRESS

President CARTER. For myself and for our Nation, I want to thank my predecessor for all he has done to heal our land.

[Applause.]

In this outward and physical ceremony we attest once again to the inner and spiritual strength of our Nation.

As my high school teacher, Miss Julia Coleman, used to say:

> We must adjust to changing times and still hold to unchanging principles.

Here before me is the Bible used in the inauguration of our first President in 1789, and I have just taken the oath of office on the Bible my mother gave me a few years ago, opened to a timeless admonition from the ancient prophet Micah:

> He hath showed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God. (Micah 6:8)

This inauguration ceremony marks a new beginning, a new dedication within our Government, and a new spirit among us all. A President may sense and proclaim that new spirit, but only a people can provide it.

Two centuries ago our Nation's birth was a milestone in the long quest for freedom, but the bold and brilliant dream which excited the founders of this Nation still awaits its consummation. I have no new dream to set forth today, but rather urge a fresh faith in the old dream.

Ours was the first society openly to define itself in terms of both spirituality and of human liberty. It is that unique self-definition which has given us an exceptional appeal—but it also imposes on us a special obligation—to take on those moral duties which, when assumed, seem invariably to be in our own best interests.

You have given me a great responsibility—to stay close to you, to be worthy of you, and to exemplify what you are. Let us create together a new national spirit of unity and trust. Your strength can compensate for my weakness, and your wisdom can help to minimize my mistakes.

Let us learn together and laugh together and work together and pray together, confident that in the end we will triumph together in the right.

[Applause.]

The American dream endures. We must once again have full faith in our country—and in one another. I believe America can be better. We can be even stronger than before.

Let our recent mistakes bring a resurgent commitment to the basic principles of our Nation, for we know that if we despise our own government we have no future. We recall in special times when we have stood briefly, but magnificently, united; in those times no prize was beyond our grasp.

But we cannot dwell upon remembered glory. We cannot afford to drift. We reject the prospect of failure or mediocrity or an inferior quality of life for any person.

Our Government must at the same time be both competent and compassionate.

We have already found a high degree of personal liberty, and we are now struggling to enhance equality of opportunity. Our commitment to human rights must be absolute, our laws fair, our natural beauty preserved; the powerful must

not persecute the weak, and human dignity must be enhanced.

We have learned that "more" is not necessarily "better," that even our great Nation has its recognized limits, and that we can neither answer all questions nor solve all problems. We cannot afford to do everything, nor can we afford to lack boldness as we meet the future. So together, in a spirit of individual sacrifice for the common good, we must simply do our best.

Our Nation can be strong abroad only if it is strong at home, and we know that the best way to enhance freedom in other lands is to demonstrate here that our democratic system is worthy of emulation.

To be true to ourselves, we must be true to others. We will not behave in foreign places so as to violate our rules and standards here at home, for we know that the trust which our Nation earns is essential to our strength.

The world itself is now dominated by a new spirit. Peoples more numerous and more politically aware are craving and now demanding their place in the sun—not just for the benefit of their own physical condition, but for basic human rights.

The passion for freedom is on the rise. Tapping this new spirit, there can be no nobler nor more ambitious task for America to undertake on this day of a new beginning than to help shape a just and peaceful world that is truly humane.

We are a strong Nation, and we will maintain strength so sufficient that it need not be proven in combat—[applause]—a quiet strength based not merely on the size of an arsenal, but on the nobility of ideas.

We will be ever vigilant and never vulnerable, and we will fight our wars against poverty, ignorance, and injustice—[applause]—for those are the enemies against which our forces can be honorably marshaled.

We are a proudly idealistic Nation, but let no one confuse our idealism with weakness.

Because we are free we can never be indifferent to the fate of freedom elsewhere.

[Applause.]

Our moral sense dictates a clearcut preference for those societies which share with us an abiding respect for individual human rights. We do not seek to intimidate, but it is clear that a world which others can dominate with impunity would be inhospitable to decency and a threat to the well-being of all people.

The world is still engaged in a massive armaments race designed to insure continuing equivalent strength among potential adversaries. We pledge perseverance and wisdom in our efforts to limit the world's armaments to those necessary for each nation's own domestic safety. And we will move this year a step toward our ultimate goal—the elimination of all nuclear weapons from this Earth.

[Applause.]

We urge all other people to join us, for success can mean life instead of death.

Within us, the people of the United States, there is evident a serious and purposeful rekindling of confidence, and I join in the hope that when my time as your President has ended, people might say this about our Nation:

That we had remembered the words of Micah and renewed our search for humility, mercy, and justice;

That we had torn down the barriers that separated those of different race and region and religion, and where there had been mistrust, built unity, with a respect for diversity;

That we had found productive work for those able to perform it;

That we had strengthened the American family, which is the basis of our society;

That we had insured respect for the law, and equal treatment under the law, for the weak and the powerful, for the rich and the poor;

And that we had enabled our people to be proud of their own government once again.

[Applause.]

I would hope that the nations of the world might say that we had built a lasting peace, based not on weapons of war but on international policies which reflect our own most precious values.

These are not just my goals, and they will not be my accomplishments, but the affirmation of our Nation's continuing moral strength and our belief in an undiminished, ever-expanding American dream.

Thank you very much.

[Applause.]

BENEDICTION

Senator CANNON. The Benediction will be offered by the Most Reverend John R. Roach, archbishop of St. Paul-Minneapolis, Minn.

Archbishop ROACH. May we join in prayer.

God our Father, we thank You now for this Earth, for its fertility and strength, for the green hills, the windy plains, the pounding of the sea and mountain forests, for the Earth's resources and its fragile beauty.

We thank You for the gift of life: May we reverence it and protect it: We thank You for the gift of peace which You have placed in our earthen hearts.

In our struggles to become a people You have given us in each age the leadership of men and women whose noble daring and peaceful ways have brought us to this time. We thank You for those who have gone before us. From many walks of life, and from many races and nations You have fashioned a country whose cultures have unfolded ever broader patterns of life, each reflecting its own brilliance and hope. For this variety we thank You.

We thank You, Lord, for the freedom we enjoy, to worship, to learn, and to use Your gift of talents to their full; for simplicity of life, to live our days in the company of friends, to work in peace in our homes, on our farms and in our cities. We remember, Lord, all these blessings You have given to us in the past. And we thank You.

Today we have come to celebrate our future. Each of us, Father, sets out a hope before You—for the days to come.

We beg Your special blessing on President Carter and Vice President MONDALE and their families. There is loneliness on the mountain. Grace that loneliness with Your presence.

Give us the strength to struggle beyond pain, to reach out our hands to the alienated and to the poor.

Where suffering and weak voices cry out, may we be present to nourish.

Where injustice speaks, may we have the courage to change it.

Where proper dissent is present may we have ears to listen.

Watch over the leaders of this Earth. Give them hearts for compassion and the fire of freedom. Give them the courage to speak out and to listen quietly.

Give them the humility of sincere faith and the vision of future good. And especially today, we ask You to watch over our new leaders, set them upon the right way.

For You are the Lord in whom we trust. You are the God of our faith. To You be praise and glory forever and ever. Amen.

PRESENTATION OF THE NATIONAL ANTHEM

Senator CANNON. Concluding the program, the National Anthem will be sung by Cantor Isaac Goodfriend of Atlanta, Ga., accompanied by the U.S. Marine Band.

(The National Anthem was sung by Cantor Isaac Goodfriend, accompanied by the U.S. Marine Corps Band, audience standing.)

[Applause.]

(The U.S. Marine Corps Band presented a medley of patriotic selections.)

The Committee on Arrangements, accompanied by Sergeant at Arms of the Senate Hoffmann, Sergeant at Arms of the House Harding, and Executive Director Cochrane, escorted the President and the Vice President from the President's platform in the following order:

The President and Vice President.

Senator CANNON and Speaker O'NEILL.

Senator ROBERT C. BYRD and Representative WRIGHT.

Senator HATFIELD and Representative RHODES.

(The U.S. Marine Corps Band played ruffles and flourishes—"Hail to the Chief.")

(The inaugural ceremonies were concluded at 12:25 p.m.)

(Following the conclusion of the inaugural ceremonies, the Senate reassembled at 4 p.m., when called to order by the Presiding Officer (Mr. FORD).)

QUORUM CALL

Mr. ALLEN. 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.

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

[Quorum No. 4 Ex.]

Allen	Glenn	McClure
Anderson	Hansen	Melcher
Baker	Hatch	Metzenbaum
Byrd, Harry F., Jr.	Helms	Morgan
	Humphrey	Moynihan
Byrd, Robert C.	Jackson	Nunn
Chafee	Javits	Proxmire
Chiles	Johnston	Sarbanes
Cranston	Long	Schmitt
DeConcini	Lugar	Scott
Domenici	Magnuson	Sparkman
Eastland	Mathias	Stennis
Ford	McClellan	Talmadge

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators, and 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 clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. BAKER. I announce the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 69, nays 1, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—69

Allen	Byrd, Harry F., Jr.	Cranston
Anderson		Danforth
Baker	Byrd, Robert C.	DeConcini
Bayh	Case	Dole
Bentsen	Chafee	Domenici
Bumpers	Chiles	Durkin
Eagleton	Javits	Proxmire
Eastland	Johnston	Randolph
Ford	Laxalt	Riegle
Glenn	Long	Sarbanes
Gravel	Lugar	Sasser
Hansen	Magnuson	Schmitt
Haskell	Mathias	Schweiker
Hatch	Matsunaga	Scott
Hatfield	McClellan	Sparkman
Hathaway	McClure	Stennis
Hayakawa	McGovern	Stevenson
Heinz	Melcher	Talmadge
Helms	Metzenbaum	Thurmond
Hollings	Morgan	Wallop
Huddleston	Moynihan	Williams
Humphrey	Nunn	Zorinsky
Inouye	Packwood	
Jackson	Percy	

NAYS—1

Biden

NOT VOTING—30

Abourezk	Garn	Pearson
Bartlett	Goldwater	Pell
Bellmon	Griffin	Ribicoff
Brooke	Hart	Roth
Burdick	Kennedy	Stafford
Cannon	Leahy	Stevens
Church	McIntyre	Stone
Clark	Metcalf	Tower
Culver	Muskie	Weicker
Curtis	Nelson	Young

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

ORDER OF BUSINESS

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend?

Will Senators take their seats? If they want to conduct their conversations they shall do that in the cloakroom.

The Senate will be in order.

The Senator from Tennessee.

VISIT TO THE SENATE BY GOVERNOR AND RESIDENT COMMISSIONER OF PUERTO RICO

Mr. BAKER. Mr. President, it is my privilege to announce that today in the Chamber is present with us the distinguished Governor of the Commonwealth of Puerto Rico, Gov. Carlos Romero Barcelo, accompanied by the Resident Commissioner of the Commonwealth of Puerto Rico, Mr. BALTAZAR CORRADA DEL RIO.

I hope as a mark of respect to our fellow citizens of the Commonwealth of Puerto Rico that we might extend our greetings, and I would like to introduce the Governor and then to ask the majority leader if we might stand in recess briefly so we may greet him.

Mr. President, I introduce to the Senate His Excellency, the Governor of the Commonwealth of Puerto Rico, Carlos Romero Barcelo.

[Applause.]

RECESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess for a period of 5 minutes while we pay our respects to our distinguished guests.

There being no objection, the Senate, at 4:49 p.m., recessed until 4:52 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session.

The motion was agreed to and the Senate proceeded to the consideration of executive business.

MESSAGES FROM THE PRESIDENT

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

The Presiding Officer laid before the Senate the following messages from the President of the United States:

To the Senate of the United States:

I nominate the following-named persons to the positions indicated:

Cyrus Vance, of New York, to be Secretary of State.

W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Harold Brown, of California, to be Secretary of Defense.

Griffin B. Bell, of Georgia, to be Attorney General.

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Ray Marshall, of Texas, to be Secretary of Labor.

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Brockman Adams, of Washington, to be Secretary of Transportation.

JIMMY CARTER.

I nominate Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

JIMMY CARTER.

I nominate Charles L. Shultze, of the District of Columbia, to be a Member of the Council of Economic Advisers.

JIMMY CARTER.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of ANDREW J. YOUNG, of Georgia, to be the Representative of the United States to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States in the Security Council of the United Nations, which was referred to the Committee on Foreign Relations.

SECRETARY OF DEFENSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Mr. Harold Brown of California to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

The legislative clerk read the nomination of Harold Brown of California to be Secretary of Defense.

Mr. STENNIS. Mr. President, after 3 days of hearings on this nomination, the Committee on Armed Services unanimously voted in favor of recommending the confirmation of Harold Brown as Secretary of Defense.

There are 16 members of that committee, and all 16 are recorded in favor of this report.

The resolution that passed the committee was that when the nomination came in, the chairman was authorized to say that testimony had been taken and the vote I have just referred to was made and that the chairman was authorized to make a report to the Senate, which I now do. I have a written copy of the resolution here should anyone wish it.

Mr. President, in anticipation of the nomination of Dr. Harold Brown to be Secretary of Defense, the Armed Services Committee has carefully and thoroughly examined his credentials. Open hearings were held on January 11, and a classified, executive session was held on January 13, during which time committee members questioned Dr. Brown at length on a variety of defense issues. Subsequent to those hearings the committee voted on the expected nomination of Dr. Brown, and I am pleased to report to the Senate that the committee vote to support Dr. Brown's confirmation was unanimous.

I think a word on the conflict of interest situation as it applies to this most important nomination is in order. There are, of course, statutes requiring responsible government officials to take certain actions to avoid conflict of interest situations. Very recently, President Carter has set forth his own new guidelines which go far beyond current law. However, the Armed Services Committee has traditionally applied a set of conflict of interest guidelines far more stringent than required by law or even by the new Carter guidelines.

We have done this because the decisions made by our key Defense Department civilian leadership cannot be made in an environment that would permit even the appearance of a conflict of interest. The committee guidelines require that a nominee divest himself of all securities in firms which during the last year received contracts of $10,000 or more with the Department of Defense. In addition, the committee has required that nominees resign from all posts in firms which during the last year received contracts of $10,000 or more with the Department of Defense. And finally, the nominees must not receive any compensation for services performed during their term of office from firms which during the last year received contracts of $10,000 or more with the Department of Defense.

Mr. President, Dr. Harold Brown, who is currently the President of the California Institute of Technology, is no stranger to Washington and the Defense establishment. He served as the Director of Defense Research and Engineering from 1961 to 1965 and as Secretary of the Air Force from 1965 to 1969. He brings with him to this post an excellent knowledge, not only of how the Defense Department operates, but also an understanding of the most important role that our national defense must play in world affairs. He has complied completely with committee guidelines regarding conflicts of interest.

Mr. President, Dr. Brown has the unanimous support and confidence of the Committee on Armed Services, and I predict he will be an excellent Secretary of Defense.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to just say a word or two on behalf of the nomination of Mr. Brown.

He is an outstanding citizen of California with a remarkable background in the field where he will have responsibilities in the Department of Defense. He has formerly held a very high position in the Department of Defense which he handled with great distinction.

He is presently the president of California Institute of Technology in California and has wide background in all the matters for which he will bear responsibilities as DOD Secretary.

I recommend him very, very highly.

Mr. PROXMIRE. Mr. President, I shall be brief. Although I intend to vote for the confirmation of Secretary of Defense-designate Harold Brown, I do so with a number of reservations in mind. These reservations have nothing to do with his personal integrity or his very extensive experience in defense affairs.

But I am concerned about three matters. The Fitzgerald case, the B–1 bomber decision, and the pledge to cut $5 to $7 billion in defense funds.

THE FITZGERALD CASE

First is the Fitzgerald controversy. When Ernest Fitzgerald testified before the Joint Economic Committee on November 13, 1968, he committed one of the cardinal sins against any bureaucracy—he told the truth and it was embarrassing. The Secretary of the Air Force at that time was Harold Brown. Secretary Brown subsequently called Fitzgerald into his office and told him that his testimony has created a political problem.

After that meeting a series of calculated reprisals were lodged against Fitzgerald. He lost his tenure. His submissions for the record of the Joint Economic Committee were tampered with. He lost his job function. Secretary Brown requested a memorandum from his personnel officer Thomas Nelson on the subject of "what are his rights?" In testimony on May of 1971, this phrase was explained to mean "How can I fire him?" The resulting memorandum offered three methods to fire Fitzgerald.

Since that time, the courts have reinstated Fitzgerald to a position in the Pentagon. But administrative actions have denied him the right to carry on where he left off—examining wasteful practices in procurement and research and development.

In my opinion he should promptly be reinstated to his former position, with his former responsibilities and with the same chances for advancement. To do less is to further penalize this fine civil servant.

President Carter has offered a four-point program for improving the working conditions and rights of civil servants. In his point 4, the President's statement reads: "The Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns, must never be repeated."

Who was the Secretary who first tried to fire Fitzgerald? Harold Brown, the man whose nomination is now before the Senate.

It is time for the new Secretary of Defense, Mr. Brown, to carry forthwith that pledge that the President has given us and reinstate Fitzgerald to his former position.

Mr. President, my second reservation deals with the much-debated B–1 bomber program.

Not since the ABM debates of 1969–70 has a defense issue created so much controversy. And not in recent memory has a major weapon decision been opposed by so many defense experts.

The President campaigned on the pledge that the B–1 was an example of a wasteful system that should not be funded.

President Carter was about as explicit and definite in his statement against the B–1 bomber as he could be.

The new Secretary of Defense-designate, however, does not display the same questioning quality about the B–1. In a letter to me of last summer, Harold Brown stated that he thought the Defense Department had the best arguments for the B–1. This was a strong signal that he probably will approve a decision to go ahead with full-scale production of the B–1 which according to the budget of the outgoing administration will cost at least $2.15 billion just for fiscal year 1978, and more than $20 billion over the next few years.

This would be a most unwise decision which actually could result in a less capable defense than other bomber-related alternatives. At $24 billion, the B–1 could price us out of an adequate military posture.

CUT IN THE DEFENSE BUDGET

The final item is the now questionable commitment to cut $5 to $7 billion out of the defense budget. From what appeared to be a clear statement of intent, that phrase has now become almost unrecognizable. The Secretary of Defense-designate has further confused the issue by speaking of savings in other years, or savings out of increases, or savings by efficiency that do not really show up, or savings by productivity. It no longer is clear whether or not the original concept of savings will be adhered to or not.

Certainly savings can be made in the defense budget. Congress finds a way each year to make savings and yet to

increase the capabilities of our fighting forces. In fact certain savings, by cutting out wasteful practices or reordering priorities, may of themselves improve our military capability.

In the days ahead I will be detailing just where a number of significant savings can be made in this year's defense budget. In the meantime, however, the statements by the Secretary of Defense-designate on the issue of potential savings do not give one cause for optimism.

At this time, Mr. President, I do not oppose this nomination, but I do have these serious reservations which I thought I should call to the attention of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I wish to speak in behalf of Dr. Brown as Secretary of Defense.

I became acquainted with him over the last few years as part of my association with the California Institute of Technology, which was a continuation of a long association with that institute.

I think probably the most important qualification that he has is a very modern and up-to-date understanding of not only the threat that we face from potential adversaries abroad, but the base of scientific research and technology that now exists within this country is partly the result of his administration of the California Institute of Technology, a base of research and technology that will allow us, if we properly use that base, to withstand threats to our security and to the security of free men everywhere in the world, if those threats are ever made a reality.

I urge all of us to support his nomination, to look very carefully at what he proposes, as we will in all nominations submitted by the President, but I hope that that base of research and technology which now exists in this country will, in fact, insure the survival of the country and free men everywhere.

Mr. President, I recommend the confirmation of Dr. Brown.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, last week, the Committee on Armed Services conducted closed hearings to inquire into the nomination of Dr. Harold Brown to be Secretary of Defense. During those hearings I had the opportunity to advise Dr. Brown of my strong belief in the need to make the Defense Department much more business-like and cost effective.

While I intend to vote to confirm Dr. Brown, I would like to insert an edited version of the remarks I made during those closed hearings into the RECORD.

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

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

REMARKS ON CONFIRMATION OF HAROLD BROWN

(By Hon. HOWARD METZENBAUM)

I intend to vote for your confirmation. But having said that, I think I ought to advise you of my thinking because I don't want to spend your next four years, maybe my next six years in a constant confrontation with you.

Now frankly, I don't know nearly as much as the other members of this committee do about some of the matters about which they have been speaking. They are far more knowledgeable. They have expertise, and it has been a good learning lesson for me.

But I do have pretty good knowledge with respect to how to spend a dollar, and since your Department will be the largest spender of the American taxpayer's dollars, I am very much concerned about wastefulness in that Department.

You are opposed to waste. Of course we all are. You want to cut the budget. We all do.

But the fact is when it comes down to the hard questions: cost overruns, competitive bidding, military personnel winding up on the other side of the table three weeks after they leave the military department, protecting individuals who are willing to speak up about waste, frankly, Dr. Brown, your answers were less than what I had hoped they would be.

There are two ways improvement can be made. One is the way it should be done. And that is by you as the head of the Department, issuing orders within the Department saying DOD will require competitive bidding; the Department of Defense is not going to approve cost overruns; the Department of Defense is not going to continue old practices which have caused overruns.

The alternative method is for a Member of Congress to offer an amendment to a pending bill, ordering you to do that which you should have done in the first instance anyhow.

I just wanted to say that I would prefer not to have to force you to do your job. But I am determined that you can make cuts in the military budget if you eliminate some of the practices which presently exist. It is not a question of five billion or eight billion—it could be more—much more. But if you meet the problem squarely, then there will be no need for me to be a thorn in your side.

I would hope that while you are resolving some of the problems concerning the various matters that have been discussed by other members of the committee, that you would understand that there is one Senator out there on that floor who is going to be on you for a long period of time to see if we can't make this Defense Department more businesslike than it has been.

It is not an easy task. MacNamara tried it and failed. You are fighting an uphill battle, but I wanted you to know how strongly I feel about the subject before you are confirmed.

Mr. STENNIS. Mr. President, I will not detain the Senate. We had 1 day of closed hearings and two sessions of open hearings.

With reference to the $5 billion to $7 billion, that was discussed some there, and Dr. Brown was asked questions. But after that, as I have said, the committee voted unanimously, 16 to 0 in favor of the confirmation.

On the matter of the B–1 bomber, some on our committee oppose the B–1 bomber. That was discussed, as I said, as well as the $5 billion to $7 billion reduction. Still the vote was unanimous.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Harold Brown to be Secretary of Defense?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

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

SECRETARY OF THE INTERIOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

The legislative clerk read the nomination of Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, this nomination was reported unanimously. Governor Andrus has been a distinguished Governor of the State of Idaho and is in his second term. He was reelected by the largest margin in the State's history.

I believe he is uniquely qualified to serve as Secretary of the Interior. He is familiar both by his experience as Governor and as a distinguished citizen of the West with at least some of the fundamental problems facing the Department of the Interior.

We had a number of outside witnesses. There was no opposition to him. I urge the unanimous support of his nomination.

Mr. President, I ask unanimous consent that at this point there be printed in the RECORD an excerpt from the committee report on the nomination.

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

COMMITTEE ACTION

President-elect Carter has publicly indicated that, upon taking the Office of President, he intends to nominate Mr. Andrus to be Secretary of the Interior. In anticipation of that nomination, the committee held public hearings on January 17 and 18, 1977. After full consideration of his record and credentials, the committee found Mr. Andrus qualified for the position of Secretary of the Interior. On January 18, 1977, the committee voted unanimously to report favorably on the nomination of Mr. Andrus, when received.

BIOGRAPHICAL SKETCH

Governor Cecil D. Andrus was born in Hood River, Oregon, on August 25, 1931, to Hal and Dorothy Andrus.

Following a year at Oregon State, the Governor served in the Navy during the Korean war, then returned with his wife, Carol, to Orofino, Idaho. They have three daughters, Tanna, Tracy, and Kelly.

Elected as Idaho's 25th Governor and inaugurated on January 4, 1971, Governor Andrus was re-elected on November 5, 1974, to a second term by the largest margin in the State's history.

As a freshman Governor, he was named to the Executive Committee of the National Governors' Conference. He served as chairman of the Rocky Mountain Federation of States (1970–1972) and until recently was chairman of the National Governors' Conference.

COMMITTEE HEARINGS

The committee held 2 days of public hearings on the proposed nomination of Governor Andrus. The Governor testified on January 17, 1977. A copy of his prepared statement follows:

STATEMENT OF HON. CECIL D. ANDRUS, GOVERNOR OF IDAHO, TO BE SECRETARY OF THE INTERIOR

Mr. Chairman, Distinguished Members of the Senate Interior Committee, and other Distinguished Guests:

My name is Cecil D. Andrus. I presently hold the Office of Governor of the State of Idaho. I have been Governor for the past six years.

I am deeply honored to have been nominated by President-elect Carter to be Secretary of the Interior. I am aware of the responsibilities given to the Secretary in administering the duties of the Interior Department. I am hopeful that you will judge my background and experience as a western Governor as positive qualifications for the Secretary's position.

I do not view my selection as a mandate to do as I please anymore than I viewed my election as Governor to be a mandate of this type. Rather, I accept it as an obligation to work with the President, the Congress, and the people in making the tough decisions and hard choices facing this nation.

The Department of the Interior, more than any other Department or agency of the Federal Government, can best be called the steward of our resource heritage. It is a heritage given us to use and to enjoy wisely, and yet to protect and pass on to future generations.

The Department is not only the steward of the country's natural resources, but also discharges trust responsibilities for large numbers of people.

I take these people responsibilities very seriously; they will have a high priority in my administration of the Department.

As Governor of Idaho, I consistently stressed one theme—that we must protect the quality of life we have in Idaho—and I have had full support of the people of Idaho on that concept.

If I am confirmed, my goal as Secretary of the Interior will be to protect and enhance the quality of life for all in the United States.

In Idaho, we have found ways to protect the environment while selectively developing our mineral wealth; to set aside wilderness areas while at the same time harvesting timber; and to manage our rangeland not only for livestock but for wildlife and other resource values as well.

You should know that I believe that conservation is no longer a pious ideal, it is an element of our survival. Many resources are limited and precious. My efforts will be focused on curbing old habits of overconsumption and misuse, seeking instead to use less and to use better.

I share the deep concerns of our citizens who want to know what our nation will be like when our children and grandchildren reach adulthood.

I support and believe in the National Park System and the Wild and Scenic Rivers of this Nation. Parks, wilderness and wild rivers are meaningful gifts for future generations and I intend to advocate these programs on behalf of the American people.

It is only in recent years that we have come to realize that too much of our environment has been wasted or destroyed or misused—and that we have not been good stewards.

Only as we began to near the end of the second century of this Nation's history did we begin to realize that we had been foreclosing an option that we should have been saving for our children and grandchildren—the option to place high values on clear air, on pure water, on wildlife, on outdoor recreation, and on unscarred nature. We were taking away from generations yet unborn the ability to make important decisions about their stewardship of the land, the water and the air.

I am hopeful that we are now entering an era when the concept of multiple use will be better understood.

That has not always been the case.

The problem is that multiple use does not mean that every acre should be logged, mined or grazed. Some areas are best used for one purpose, some for another. And, this is compatible with the intent of the multiple use concept.

In the era just beginning, I hope that confusion about the meaning of multiple use will be resolved.

It will be, *if* we get the broad vision of those who can see the entire horizon; not the tunnel vision of those who see only the portion of the horizon that is desirable to them.

In essence, we can, and we must, make certain that our natural resources are developed or not developed for the benefit of everyone and through such use, keep our nation strong and our quality of life high.

I am pleased to be part of the new Administration, particularly when our next President is a man who himself personnally has been involved in the protection of the heritage of America. We can all look forward to his personal involvement in decisions we make to protect clean air, clean water and uncluttered landscapes, but yet at the same time providing a progressive society where we can all make a living and have a living that is worthwhile.

I look forward to serving the American people. It is a noble challenge to attempt to maintain that delicate balance between progress and preservation. With your guidance and support, we are going to get the job done.

On January 18, 1977, the committee heard testimony from representatives of the following organizations: National Congress of American Indians, Sierra Club, American Horse Protection Association, Alaska Federation of Natives, Inc., U.S. Labor Party, Fusion Energy Foundation, and Defenders of Wildlife.

FINANCIAL STATEMENT AND ADDITIONAL INFORMATION

The committee rules require each Presidential nominee to submit a financial statement sworn to by the nominee as to its completeness and accuracy. Mr. Andrus agreed to the committee's request that his own financial statement be made public. A copy of the statement and the nominee-designate's responses to a standard series of specific questions is set forth below:

Financial statement of Cecil and Carol Andrus,[1] December 31, 1976

Assets:	
Cash on hand and in banks	$3,500
U.S. Government securities:	
Listed securities	23,000
Unlisted securities	18,850
Real estate interests, including mortgages	45,000
Personal property	20,950
Life insurance—cash value	3,300
Other assets: State of Idaho Pension Plan Employee Contributions	12,855
Total assets	127,455
Liabilities:	
Notes payable to others	10,000
Accounts payable	
Unpaid income tax[2]	840
Other unpaid tax and interest	
Real estate mortgages payable	7,800
Chattel mortgages and other liens payable	1,000
Other debts: Household expenses	200
Total liabilities	19,840
Net worth	107,615

[1] Carol Andrus and her sister, Sally Bouregois, are Co-Guardians for their Mother, Mildred May. In that capacity, they are responsible for the management of their Mother's assets totaling approximately $85,000. All of these funds are invested in time certificates of deposit.

[2] State and Federal taxes for 1976 which are due and payable Apr. 15, 1977.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

Answer. I participate in the State of Idaho's Pension Plan. The value of my contributions to the Plan (as of January 1, 1977), is approximately $12,850.00. Under the Plan, I have earned an accrued retirement benefit at age 65 of $680.65 per month. The total potential value of my retirement benefit at age 65 is $121,537.00. I intend to maintain this retirement program. A total lump sum settlement is not available to me at the present time under this pension plan.

2. Are any assets pledged? (Add schedule.)

Answer. Yes. 2,000 shares of common stock of Sunshine Mining Company.

3. Are you currently a party to any legal action?

Answer. I am a party to various legal actions in my capacity as Governor of Idaho. I am not involved in any legal actions personally.

4. Have you ever declared bankruptcy?

Answer. No.

AFFIDAVIT

----------, being duly sworn, hereby states that he/she has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

CECIL D. ANDRUS.

Subscribed and sworn before me this ____ day of --------, 19--.

_____ _____,

Notary Public.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Andrus, Cecil Dale.

Position to which nominated: Secretary of the Interior.

Date of nomination: January 20, 1977.

Date of birth: August 25, 1931.

Place of birth: Hood River, Oregon.

Marital status: Married.

Full name of spouse: Carol M. Andrus.

Name and ages of children: Tanna Lee, 25; Tracy Sue, 20; and Kelly Kay, 16.

Education:

Eugene, Oreg.; high school, 1943–48.

Oregon State University, 1948–49. Degrees received none. Honors and awards:

Honorary Doctorate of Law, Gonzaga University.

Honorary Doctorate of Law, University of Idaho.

Idaho Man of the Year, 1971 and 1972.

Idaho Conservationist of the Year, 1972.

Many other lesser awards as Governor.

Memberships:

Veterans of Foreign Wars, past commander.

American Legion, AF/AM Lodge 69, Orofino, Idaho.

El Korah Temple, Boise, Idaho.

B.P.O.E. Lodge 96, Lewiston, Idaho.

The Poachers Club, Boise, Idaho.

Ducks Unlimited.

Arid Club, Boise, Idaho.

Crane Creek Country Club, Boise, Idaho.

Hillcrest Country Club, Boise, Idaho.

Idaho Taxpayers' Association.

Board of Directors of Idaho Youth Ranch.

Employment record:

1951–55—U.S. Navy.

1955–61—TRU-CUT Lumber Co., Orfino, Idaho, Lumberjack, woods work, equipment operator, sawmill construction, millright, production manager.

1961–63—Self-employed—Small wood by-products firm.

1963–67—Assistant Manager, Workmen's Compensation Exchange, Lewiston, Idaho. Managed self-insurance programs for Idaho firms in the lumber and logging industry.

1967–70—General Manager for the State of

Idaho for the Paul Revere Insurance Companies. Home office in Worcester, Massachusetts.

1970–77—Governor of the State of Idaho.

Government experience:

Member of Idaho Senate, 1961–67; 1969–70.

Governor of the State of Idaho from January 4, 1971 to the present.

President of the Idaho State Land Board 1971–77. Served on many other boards and commissions as Governor of Idaho.

Chairman of the Federation of the Rocky Mountain States, 1972–73.

Chairman of the National Governors' Conference, 1976–77.

Published writings: Inaugural Addresses, 1971 and 1975, published in "Great American Speeches"; other articles in various periodicals in my capacity as Governor.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Shares of stock in the various mining companies listed on attachment 1.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the post 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

As a part of my duties as Governor of Idaho, I have been extensively involved in dealing with legislative matters at all levels of Government.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

See attachment 2.

ATTACHMENT 1

Schedule of securities

[Value at January 1, 1977]

Shares of common stock and company:	
Listed: 2,000, Sunshine Mining	$23,000
Unlisted:	
6,000, Silver Syndicate	13,500
25,000 Silver Buckle Mines	2,250
40,000, Placer Creek Mining	1,600
Investors Diversified Services Mutual Fund	1,500

SCHEDULE OF LIABILITIES

Notes payable: Piper, Jaffery, a brokerage firm. This is a margin loan secured by 2,000 shares of Sunshine Mining Co. stock	10,000
Real estate mortgages: Balance payable to Floyd Loomis, Cascade, Idaho, under a real estate purchase contract [1]	7,800
Chattel Mortgages, etc.: Automobile loan payable to Idaho Bank & Trust Co	1,000

[1] I own approximately ⅛ acre of land in Valley County, Idaho, adjacent to the Cascade Reservoir. The land was purchased from Lloyd Loomis and a summer cabin was constructed on the site several years ago (value $45,000).

ATTACHMENT 2

I will divest myself of all mining stocks listed in Attachment 1. The values of these securities are currently depressed because of a strike at the Sunshine Mine. Consequently, I will place these securities in a blind trust with instructions to the Trustee to sell these securities in an orderly way, with sales to be complete no later than six months from the date of my confirmation. A copy of the Trust is attached.

APPENDIX C

Trust agreement

We, Cecil D. Andrus and Carol M. Andrus, husband and wife of Boise, Ada County, Idaho (hereinafter called "Settlors"), hereby assign, set over, and transfer unto the Idaho Bank and Trust Company, Boise, Idaho, all of our interest in and to the marketable securities listed on Exhibit A attached hereto and incorporated herein, to hold the same as Trustee in Trust as hereinafter provided.

Article I

Settlors reserve the right at any time or times after six months from the date hereof, to amend, alter or revoke this trust, in whole or in part, or any provision hereof, by an instrument in writing signed by either of the Settlors and delivered to the Trustee during the lifetime of such Settlor.

Article II

During the existence of this Trust, the Trustee shall pay the net income of the Trust to the Settlors at least as often as quarterly. Upon the death of a Settlor, the income thereafter shall be so paid to the survivor.

Article III

Upon the termination of this Trust for any reason whatsoever, the Trustee shall pay the then remaining principal and any undistributed net income of the Trust, as follows:

(1) To the Settlors jointly, if both Settlors are then living;

(2) If only one Settlor is then living, then to such Settlor;

(3) If neither Settlor is then living, then to the issue of Settlors, then living, per stirpes.

Article IV

This Trust shall terminate, thirty days after the first of the following events to occur:

(1) upon revocation of the Trust as provided in Article I hereof;

(2) upon the death of Cecil D. Andrus;

(3) at such time as Cecil D. Andrus is no longer Secretary of the Interior.

Article V

During the existence of this Trust, the Trustee shall manage and invest the assets of this Trust as follows:

(1) The marketable securities listed in Exhibit A attached hereto shall be sold by the Trustee in an orderly manner in such a way as to realize the best possible price for such investments taking into account the limited markets for some of such investments and the status of operations at the respective companies; provided, however, that all of said securities shall be sold no later than six months from the date hereof.

(2) The proceeds of the sale of said securities shall be reinvested by the Trustee, in its sole discretion and without consultation with or notification to Settlors, in any one or more of the following:

(*a*) certificates of deposits issued by commercial banks;

(*b*) instruments of the United States Government;

(*c*) well diversified, no load, mutual funds.

Article VI

During the existence of this Trust, the Trustee shall not provide Settlors with any listing or accounting of the investments held in Trust provided, however, that Trustee shall provide Settlors annually and at such other times as Settlors may request, the total market value of the Trust assets. Trustee shall also provide to an accountant designated by Settlors such information as may be necessary for the preparation of Settlors' tax returns.

Article VII

In extension and not in limitation of the powers given by law or other provisions of this Trust, Trustee shall have the following powers with respect to the Trust created hereby and to the Trust property, to be exercised from time to time in the discretion of the Trustee, without order or license of Court and without the knowledge or consent of Settlors:

(1) To sell, exchange, transfer, convey and make contracts concerning the Trust property for such considerations and upon such terms as the Trustee may determine; to execute any instruments with regard thereto.

(2) To hold bonds, shares, or other securities in bearer form, or in the name of the Trustee or in the name of a nominee, without indication of any fiduciary capacity.

(3) To deposit cash in a checking account, savings account or certifications of deposit in a bank, including the Trustee bank, without indication of any fiduciary capacity. Trustee shall have custody of all Trust assets.

(4) To give general or special proxies or powers of an attorney for voting or acting in respect of shares of securities which may be discretionary and with power of substitution.

(5) To employ and pay custodians of Trust property, brokers, agents and attorneys.

Article VIII

The following provisions shall apply to the extent that they are not inconsistent with any of the preceding articles:

(1) Income or principal payable to any minor or to any other person who in the opinion of the Trustee is incapacitated through illness, age, or other cause may be applied by the Trustee at its discretion for the beneficiary's maintenance, support or education, by direct payment of such beneficiary's expenses or by payment to such beneficiary's legal guardian.

(2) Whenever distribution is to be made to designated "issue" on a per stirpes basis, the property shall be distributed to such persons by right of representation and not per capita.

In Witness Hereof, Cecil D. Andrus and Carol M. Andrus, Settlors, have hereunto set their hands and seals, and the Idaho Bank and Trust Company, Ada County, Boise, Idaho, in token of its acceptance of the Trust hereby created, has hereunto set its hand and seal, as of this __ day of _____, 1977.

CECIL D. ANDRUS,
CAROL M. ANDRUS.

IDAHO BANK AND TRUST COMPANY, BOISE, IDAHO.

By _____ _____.

Attest:

_____ _____.

EXHIBIT A—*Shares of common stock*

Company:	
Sunshine Mining	2,000
Silver Syndicate	6,000
Silver Buckle Mines	25,000
Placer Creek Mining	40,000

CONFLICT OF INTEREST

As indicated in Attachment 2 of the information submitted above, Governor Andrus agreed to divest himself of all mining stocks by placing the securities in a blind trust with instructions to the Trustee to sell them in an orderly way, with sales to be completed no later than six months from the date of his confirmation. The committee accepted the Governor's actions as a method to avoid the appearance of any conflict of interest, and in view of the uncertain market for the securities involved, extended the time for divestment to nine months.

CONCLUSION

The Committee agrees that Governor Andrus is qualified in all respects to serve as Secretary of the Interior and recommends that he be confirmed by the United States Senate, if nominated.

Mr. McCLURE. Mr. President, I would like to second what the distinguished chairman of the committee has said.

As members know, the nominee is the Governor and has been the Governor of my State. But beyond that, I have known him for a number of years, having been elected to serve in the State legislature at the same time in 1961 and having worked with him.

I was pleased to appear before the committee as a witness on his behalf, and I certainly support this nomination. I believe it was a fine choice on the part of the President.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Cecil D. Andrus to be Secretary of the Interior.

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President of the United States be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be notified.

SECRETARY OF THE TREASURY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Mr. W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Mr. LONG. Mr. President, the Committee on Finance had the opportunity to interrogate Mr. Michael Blumenthal in depth. Almost all members of the committee were present. Each member interrogated him on about three occasions, and we were enormously impressed by Mr. Blumenthal. The Senate has read about his life. It is a modern Horatio Alger story and an inspiration to all members.

The vote of the committee was unanimous. We recommend that his nomination be confirmed.

Mr. JAVITS. Mr. President, I support the nomination of Michael Blumenthal. I would not take the Senate's time if I did not fully know him but also worked with him during his work in Europe in connection with the European community and the tariff and trade problems which exist there.

He brings with him an unusual dimension of experience, skill, and very high standing with the leaders of Europe who have negotiated with him. I believe that his appointment is one of the very fine appointments that have been made in the course of the history of this office. I commend it highly to the Senate.

Mr. MOYNIHAN. Mr. President, I support the nomination of W. Michael Blumenthal.

I had the privilege to serve with him on a three-man group that negotiated for President Kennedy the long-term cotton textile agreement of 1962.

Mr. Blumenthal is known, properly so, as a man greatly and wholly committed to the principles of expanding world trade. Yet, on that occasion he showed a most vigorous concern for the jobs of American workers who were in situations of particular disadvantage and need. He carried out that assignment by President Kennedy with the greatest distinction.

One of Mr. Blumenthal's monuments, we might say, was the Trade Expansion Act of 1962, which has served world trade well and has served this Nation well.

Mr. JACKSON. Mr. President, I have known W. Michael Blumenthal since he served as President Kennedy's trade negotiator. Mr. Blumenthal certainly has unique qualifications. He brings to the Treasury Department a background as a scholar. He received his Ph. D. in international trade at Princeton University.

He has been an outstanding and a most effective business leader of the Nation. He has a keen understanding of labor-management relations. He has a keen understanding of economics. I believe he will bring to the Treasury a much needed talent, both in the domestic area of finance-economics and the international side. I think the Nation is most fortunate.

Mr. BAYH. Mr. President, I am delighted to lend my strong support to the confirmation of W. Michael Blumenthal as Secretary of the Treasury. In recent years Mike Blumenthal has been the chief operating officer and then the chief executive officer of the Bendix Corp. Because the Bendix Corp. is a major corporate constituent in Indiana I was fortunate enough to develop an acquaintanceship with Mike Blumethal some years ago. He is a brilliant executive, a compassionate human being, a respected economist, and a public servant of proven skills.

The nomination of Secretary-designate Blumenthal by President Carter is strong testimony to the fact there not be the traditional tension between the business community and those concerned with providing necessary public services to the American people. The Secretary-designate has earned a just reputation as a businessman of great acumen. Similarly, he is highly regarded as an individual sensitive to the concerns and needs of working people.

Not only will Mike Blumenthal provide an important bridge between interest groups that are sometimes at odds, he will be a forthright member of the Cabinet who commands respect abroad as well as at home. The respect that Mr. Blumenthal commands abroad, largely on the basis of his role as chief U.S. negotiator at the Kennedy round of tariff negotiations in the 1960's, is extremely important because of the importance of international economics and foreign trade to U.S. foreign policy in the years ahead.

Increasingly the issues that confront our Nation in its relations with both our allies and our adversaries are economic issues. Under those circumstances we could scarcely hope for a more qualified person to serve as Treasury Secretary than Mike Blumenthal. Not only has he received both his undergraduate and graduate degrees in international economics, he has directed a major international corporation.

Among the more difficult tasks that the Secretary-designate will face will be the fulfillment of President Carter's pledge to achieve thoroughgoing tax reform. As President Carter has said, this is an issue about which we have talked the most and about which we have acted least. I am hopeful that the Carter administration will finally end the lipservice and provide the action necessary to correct gross inequities in our tax system, and look to Secretary-designate Blumenthal to provide key leadership in this regard.

I look forward to Mr. Blumenthal's tenure as Treasury Secretary with great optimism, and the sincere conviction that his selection by President Carter will prove to be one of the best, early decisions of the new administration. I am delighted to advise and consent to Mr. Blumenthal's confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of W. Michael Blumenthal to be Secretary of the Treasury?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

SECRETARY OF STATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Cyrus R. Vance of New York—of West Virginia—to be Secretary of State.

The PRESIDING OFFICER. The Senator may designate the residence of the nominee.

Mr. ROBERT C. BYRD. West Virginia.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read as follows:

The nomination of Cyrus R. Vance, of New York and West Virginia, to be Secretary of State.

Mr. SPARKMAN. Mr. President, I do not want to enter into debate as between West Virginia and New York.

I believe the record shows that our committee voted to confirm the nomination of Mr. Cyrus R. Vance of New York.

Mr. ROBERT C. BYRD. I withdraw my reservation for the moment.

[Laughter.]

Mr. SPARKMAN. We had extensive hearings on Mr. Vance's nomination. First, we handled it in a not completely usual manner. We decided to have Mr. Vance 1 day with the committee. We called it a get-acquainted meeting. We had him come before us so that the members could make such comments as they wished and could ask questions. This was just the committee. The next day, we had a formal hearing on his nomination.

It was a thorough and a rather lengthy hearing. He was straightforward in stating his principles and in answering the questions, and the committee was pleased with the testimony of Mr. Vance.

When Governor Carter—he was Governor then—called me to tell me that he was thinking of naming Cyrus Vance as Secretary of State, I had known Mr. Vance over the years. I told Governor Carter that I thought it would be an excellent choice, and he made this comment, which I thought was rather pertinent:

What we need in this position is a man who can negotiate.

Of course, we all know that Mr. Vance has carried on some of the most difficult negotiations we have had in recent years. We are getting an excellent negotiator. We are getting a hard working Secretary. I am glad to say that the committee was convinced, and we voted 15 to 0, a unanimous vote, in favor of the confirmation of his nomination.

Mr. JAVITS. Mr. President, again, I would not take the Senate's time, except that I know this man very well and have known him for many years. Hence, it is my duty to speak.

Of all the lawyers in New York—and we are a city of eminent lawyers—there is no one more eminent than Cyrus Vance, not only because of his legal ability but also because of his civic virtue. He has been critically important to our bar associations, to many areas of work in New York City which are the very essence of what is called decency.

I have had personal contact with him as a negotiator for Presidents. He has been splendid, always very outgoing and informative, so far as we are concerned. I think Senators will find that there are very few secrets with Cyrus Vance—certainly, from us.

To fill the shoes of Henry Kissinger, one of the most brilliant and historic Secretaries of State we have ever had, is an enormous job. Yet, considering the style of President Carter, which is very different from the style of former President Ford and former President Nixon, I believe that Cyrus Vance, within that context, can be as historic—not necessarily the same, not necessarily the same style, but as historic—and brilliant a Secretary as was Henry Kissinger.

Mr. PERCY. Mr. President, I have not known Cyrus Vance as long as my distinguished colleague from New York has, but it has been my pleasure to have known him for two decades.

Henry Kissinger is a hard act to follow, but I do not think anyone could have been appointed who would be more perfectly suited for the times in which we now live than Cy Vance.

The distinguished Senator from Connecticut (Mr. RIBICOFF) while he was in the Middle East, stated his hope that the new administration would make use of the skill and talent and extraordinary creativity of Henry Kissinger. I say to my colleagues that whenever I have heard this suggestion discussed, it has immediately elicited a favorable response and a remarkable enthusiasm.

The American people would like to see Henry Kissinger continue to make a great contribution. Cy Vance appreciates Dr. Kissinger's many fine qualities and I know he would want to draw upon his talents. Cyrus Vance is an excellent choice for Secretary of State. We all are most enthusiastic about it, and I commend the President for his selection of Mr. Vance.

Mr. MOYNIHAN. Mr. President, I most emphatically associate myself with the remarks of the chairman of the Committee on Foreign Relations, my colleague, Senator JAVITS, and the Senator from Illinois.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Cyrus R. Vance, of New York, to be Secretary of State?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of Mr. Cyrus Vance, of West Virginia, to be Secretary of State.

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

SECRETARY OF AGRICULTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of BOB S. BERGLAND of Minnesota, to be Secretary of Agriculture.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of BOB S. BERGLAND of Minnesota, to be Secretary of Agriculture.

Mr. TALMADGE. Mr. President, on behalf of the Committee on Agriculture and Forestry, I support the nomination of BOB BERGLAND to be Secretary of Agriculture.

On Tuesday, January 11, 1977, the committee voted without objection to authorize the Chair to inform the Senate, at such time as the nomination is received, that the committee recommends confirmation.

Permit me to add that the committee's recommendation is an enthusiastic recommendation.

For nearly 4 hours, Secretary-designate BERGLAND met with the committee, and responded to questions from 17 Senators. It is likely that more than 200 questions were put to BOB BERGLAND, and his responses indicated that he has a detailed grasp of every facet of the Department of Agriculture and with the issues which will face the new Secretary.

Moreover, Secretary-designate BERGLAND's harmonious relationship with the committee demonstrates the poise and skill which he can bring to the leadership position in the Department of Agriculture.

Of course, he was no stranger to the members of the Committee on Agriculture and Forestry.

During the 6 years in which he has served as a Member of Congress, BOB BERGLAND had many occasions to work on conference committees with Members of this body.

Always, we found him eager and willing to listen, perceptive and reasonable, and able in a salutary way to help fashion the compromises which brought results in many legislative endeavors.

His background helps demonstrate how he has come to this role.

BOB BERGLAND is the son of Minnesota farmers of Norwegian heritage and is a farmer himself who, early in his adult life, assumed a leadership role in the farm organizations and political life of his community and his State.

He was chairman of the State committee of the Agricultural Stabilization and Conservation Service, and later served in an executive capacity with ASCS in the Department of Agriculture here in Washington.

His farm background, his experience in the executive branch, and his tenure in the House of Representatives qualify him for the nomination we consider today.

This nomination has won the support of the members of the House Committee on Agriculture, two of whom testified in his favor at the committee's confirmation hearing.

He has the warm endorsement of numerous farmers and farm organizations, of commodity and livestock organizations, of consumer groups and many others.

I urge that the Senate add its endorsement by confirming the nomination of BOB BERGLAND to be Secretary of Agriculture.

Mr. President, on January 11 the Committee on Agriculture and Forestry had extensive hearings on the qualifications of Mr. BERGLAND to be Secretary of Agriculture.

Some 17 or 18 Senators interrogated him for several hours. He responded to probably 200 to 300 questions in the area of agriculture. Some of them were highly complex, some controversial.

The nominee displayed enormous knowledge of every facet of American agriculture.

He himself is a farmer, the first farmer that has been nominated for the Secretary of Agriculture in more than 20 years, since I have been a Member of the Senate.

For the past 6 years he has been a member of the House Committee on Agriculture and Forestry.

Most of the members of our committee are acquainted with him, having dealt with him in conferences between the Senate and the House of Representatives. He is a man of enormous ability,

enormous capacity. Our committee voted unanimously to recommend to the Senate that his nomination be confirmed, and I urge the Senate to do so.

Mr. HUMPHREY. Mr. President, I shall just take a moment of the Senate's time.

I thank the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Georgia (Mr. TALMADGE), for his comments concerning ROBERT BERGLAND.

I have known Mr. BERGLAND for approximately 20 years, and I have known him not only as a man in public life, but as truly a fine gentleman, a good family man, and as has been said here, a farmer, a family farmer, from the northern part of our State, who has understood the pains and the sufferings of people in rural America as well as some of the achievements and accomplishments of family farmers.

Mr. BERGLAND also has had experience in the administrative areas of agriculture, having served for some years as a member of what we call the ASC committee system, the Agricultural Stabilization Committee, and, as the distinguished chairman noted, he served 6 years on the Committee on Agriculture.

It is a good appointment. He will do a remarkable job for us, and I am sure that the Senate will find out that he is easy to work with, he is a man who is open, he is characterized and known for his integrity and his basic sense of honesty and decency.

I hope the Senate will unanimously confirm him.

Mr. BAKER. Mr. President, I understand that the distinguished senior Senator from Oklahoma may wish to be heard on this nomination, I believe not in opposition, but to comment on it. I do not wish to delay unduly, but for the moment 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. BAKER. 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. BAKER. Mr. President, it is my understanding that the Senator from Oklahoma has no further remarks in this respect and whatever remarks he may wish to elaborate and extend he will do at a later time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of BOB S. BERGLAND, of Minnesota, to be Secretary of Agriculture?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

SECRETARY OF COMMERCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Mr. MAGNUSON. Mr. President, the Committee on Commerce held extensive hearings on Mrs. Kreps' nomination. The vote for her confirmation was unanimous. We found her to be a woman of great experience, great capabilities, and I am sure that she is going to make a good Secretary of Commerce.

I ask unanimous consent that other members of the Committee on Commerce as well as the Senator from North Carolina be permitted to have their remarks printed in the RECORD on this nomination.

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

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the constitutional duty of a Senator to give advice and consent to the principal appointments of the President of the United States is a duty which must be taken with great deliberation. I have always attempted to make this duty a serious attempt to assess the value and meaning of such nominees in the national interest.

Some Senators have said that they feel that it is their obligation to approve the nominee of any President unless that nominee is totally disqualified by reason of grave character defect or dubious conduct. Such a theory seems to hold that a President has the right to select persons with whom he is compatible in temperament and confident in judgment, and that such nominees ought to be approved forthwith by the Senate.

The Senator from North Carolina does not hold that view. I believe that the constitutional obligation is to give advice as well as consent, and I have, on a number of occasions and with different Presidents, withheld my consent whenever I thought that an appointment was wrong for the Nation. Sometimes a nominee may be not qualified for technical reasons, but sometimes a nominee may be symbolically wrong as well.

Therefore, it is not in a spirit of partisanship or in a desire to contest a new President that I wish the record to show that I am opposed to three of President Carter's Cabinet nominees: Cyrus R. Vance, Harold Brown, and W. Michael Blumenthal as Secretaries of State, Defense, and Treasury, respectively. When the nomination of Representative Andrew Young to be Ambassador to the United Nations comes up, the Senator from North Carolina also will vote "nay" if a rollcall vote is conducted.

I make these announcements all at one time because it is the pattern of the appointments which is disturbing, as well as the individual qualifications of the gentlemen in question. All of these will be directly concerned with shaping and executing U.S. foreign policy. They will help determine our role in the world, and the financial and military security of this Nation. In the present disorder of international affairs, their decisions could be crucial to the future survival of our Nation. Without assured national survival, all of our hopes and dreams will be in vain.

President Carter, if I understood him correctly, has promised us a new spirit, a new commitment, a new America. To millions of southerners who believe in a conservative political philosophy, the President's promises were interpreted to mean an end to the trends that have dominated our conduct of foreign affairs for years—the tendency toward concessession and surrender of our rights and of our leadership role, the giveaway of our assets, and the erosion of our military strength. Many believed that President Carter would put an end to the erosion of our strength and leadership.

But no sooner was the President elected than he began to sound different themes—themes hardly different from those of preceding Presidents. He appears to be ready, now, to give away the Panama Canal. He is anxious to conclude a SALT agreement with the Soviet Union and, indeed, to hasten into complete nuclear disarmament. He seems prepared to put the squeeze on Rhodesia, and to force South Africa to knuckle under to the United Nations.

If such policies seem no different than we had before, and, indeed, even a little more hasty in execution, the reason is not hard to find. The advisers and nominees whom he has chosen are chosen from a rather small group of potential candidates. They are chosen from the same circle of Wall Street bankers, lawyers, and establishment professors that has always seemed to dominate our foreign policymaking, and, in the opinion of the Senator from North Carolina, has always dominated it for the worse.

Once again we get the same old faces, the same old jobseekers, the same old so-called experts, that this Nation has learned to distrust from bitter experience. Thus we have Dr. Brown, the right-hand man of Robert McNamara in the Kennedy era; Mr. Vance, who was Deputy Secretary of Defense under McNamara during the development of the concept of the no-win war in Vietnam; Mr. Blumenthal, who, as president and chairman of Bendix, has been a leading proponent of trade with the socialist nations, including both the Soviet Union and mainland China; and Mr. Young, who began his career under the tutelage of organizations officially labeled as subversive.

Now it is true that men can learn from their past mistakes; but the statements these men have been making suggest that they will continue to make the same mistakes under the illusion that they are achieving success. Dr. Brown seems to think that the cruise missile can be dispensed with in a SALT agreement; Mr. Vance has pledged to give away the Panama Canal as soon as possible; Mr. Blumenthal has said that his goal is "zero" unemployment, which tends to confirm his subsequent statement that he does not know enough about the causes of inflation; Mr. Young is already acting as though he is the Third World Ambassador to the United Nations, instead of the U.S. Ambassador, and exhibits no

understanding of the strategic importance of southern Africa to the Soviet Union, and certainly to the West.

It is not simply that I disagree with these positions. The fact is that the American people have a right to expect something different. They were promised something different, but they are getting the same old thing. And it is not just the gentlemen mentioned already; we see other reruns from the past such as Joseph Califano, Zbigniew Brzezinski, Charles Shultze, Paul Warnke, and Theodore Sorensen, now withdrawn.

What is happening is that the will of the people is being set aside, now that the election is over, and a few Wall Street bankers, foundation heads, establishment lawyers, well-paid professors, and directors of multinational corporations are being brought in to control the Nation. It is an interest group that seems long ago to have given up on America, and seeks to have our independence subordinated to international trade and monetary agreements, multinational cartels, arms control, and restricted commodity distribution arrangements.

The role of the people—that is, the electorate—in this process was described as "irrelevant" over 2 years ago by Prof. Samuel P. Huntington of Harvard University. "Irrelevant" is the word, Mr. President, used by Professor Huntington who is even now being considered for high-level positions in the Carter administration—perhaps even for Deputy Secretary of Defense; yet his arrogant contempt for the ordinary voter is evident in his statement to the so-called Trilateral Commission organized by David Rockefeller:

> Since the 1930's . . . the demands on government have grown tremendously and the problems of constituting a governing coalition has multiplied commensurately. Indeed, once he is elected President, the President's electoral coalition has, in a sense, served its purpose. The day after his election the size of his majority is almost—if not entirely—irrelevant to his ability to govern the country. What counts then is his ability to mobilize support from the leaders of the key institutions in society and government. He has to constitute a broad governing coalition of strategically located supporters who can furnish him with the information, talent, expertise, manpower, publicity, arguments, and political support which he needs to develop a program, to embody it in legislation, and to see it effectively implemented. This coalition . . . must include key people in Congress, the Executive Branch, and the private Establishment. The governing coalition need have little relation to the electoral coalition. The fact that the President as a candidate put together a successful electoral coalition does not insure that he will have a viable governing coalition.

Mr. President, this is one of the most remarkable statements I have seen explaining what happens after every election, including the most recent. Notice carefully what Professor Huntington says:

> Once he is elected President, the President's electoral coalition has, in a sense, served its purpose. . . . The governing coalition need have little relation to the electoral coalition.

What he is saying is that once the election is over, the people no longer have any right or any say in governing the country. He is saying that the elite will take control away from the people, and the President will not be able to govern unless he allows the elite to make all the decisions—or, in the professor's words:

> He has to constitute a broad governing coalition of strategically located supporters who can furnish him with the information, talent, expertise, manpower, publicity, arguments, and political support which he needs to develop a program, to embody it in legislation, and to see it effectively implemented."

Mr. President, words were never clearer than these to explain what is already happening to the Carter administration; it is even more remarkable that they were written almost 2 years ago. This so-called governing coalition—as opposed to what the voters wanted—has seized control. The very narrow base of this so-called governing coalition is seen in the closely knit group of friends and acquaintances involved in the selection process.

For example, the Trilateral Commission, which is just one organization involved, has but 65 American members; yet those 65 include the President himself, the Vice President, the Cabinet nominees just mentioned, and nearly a dozen others who have been named or talked about for high position including Professor Huntington. In fact, it is not just that the Secretaries of State, Defense, and Treasury were all members of the Trilateral Commission; the runners-up in the competition for those posts were also members of the Trilateral Commission.

But the Commission itself is probably irrelevant to the process of selecting from such a narrow base. The network of friends, decisionmakers, and power brokers that has grown up in past decades is in itself small. The result has been well described recently by William Greider, one of the more independent and perceptive reporters now writing for the Washington Post. Mr. Greider writes:

> The Democratic Party traditionally harangues big business during campaign, but then turns to Wall Street and corporate boardrooms in search of administrative talent. Carter may have taken this practice a bit further than his predecessors.
>
> Two of his lawyers, for instance, are from law firms which have represented General Motors (Bell and Sorenson) and two are from firms which represent Coca-Cola (Bell and Califano).
>
> The Coca-Cola connection demonstrates what a small world Carter has selected from. Carter's good friend in Atlanta is J. Paul Austin, chairman of the Board of Coke. Coke is represented in Atlanta by Griffin Bell's law firm. Austin serves on the board of Cal Tech. The president of Cal Tech is the new Secretary of Defense. The new deputy secretary of defense is the former president of Coke. Coke's lawyer in Washington is the Secretary of HEW.
>
> If that leaves you a bit dizzy, drink a Dr. Pepper and consider the Carter administration's connections with important institutions of the news media. The Secretary of State-designate is a director of the New York Times. The Secretary of HEW-designate is lawyer for the Washington Post. The Secretary of Defense-designate is a director of the Los Angeles Times.
>
> The most interesting linkage among these people is neither soft drinks nor newspapers. It is Rockefeller philanthropy. The connection is so compelling in the foreign policy sphere that a cynic might suggest that this transition is not so much from Ford to Carter, but from Nelson to David.

Mr. President, I cannot challenge the President's right to seek advisers with whom he is compatible, men and women of a liberal political philosophy. Some of his nominees will exercise independent judgment. I can disagree with such people and know that I and others of all philosophies will get a fair hearing. I was delighted, for example, to join in commending the nomination as Secretary of Commerce of Mrs. Juanita Kreps, a distinguished North Carolinian, who is able, dedicated, and conscientious. I expect that Thomas B. Lance will have a distinguished career at the Office of Management and Budget. Dr. James R. Schlesinger is an able man who was inexplicably rejected by the previous administration. I do not anticipate that I will agree with everything that such public servants will propose, but I know that their proposals will be based upon their understanding of the Nation's needs.

Mr. President, it may be that some will feel that the Senator from North Carolina has been speaking too candidly of the President's nominees. I want to make it clear that I am not opposing them for personal reasons. But just as I was strongly opposed to the policies of former Secretary of State Kissinger—because they represented the policies of this small establishment elite—so, too, I must speak out against the continued control of our national destiny by such a tiny, inbred group. With a change of personalities, there naturally may be shifts of emphasis or tone. But there certainly will be no basic shift of direction, no new spirit, no new commitment in foreign policy. The Senator from North Carolina, therefore, cannot appear to agree to these nominations as they are being hastily approved by voice votes.

Mr. BAYH. Mr. President, it is with great pleasure that I will vote to confirm the nomination of Juanita Kreps as Secretary of Commerce. Her unanimous approval on Wednesday by the Senate Commerce Committee is an indication of the high level of confidence in this excellent Cabinet appointment.

I am particularly pleased with Dr. Kreps' appointment, not just because she is a symbol of the President's promise to seek out and appoint women to his Cabinet, but because she is also representative of his other campaign commitment—to seek out the best.

Dr. Kreps' testimony before the Senate Commerce Committee on a broad range of issues reflects her career-long devotion to social concerns. Her assurance before the committee that the Commerce Department under her direction would be more generous in administering Federal economic development and public works jobs programs; her commitment to an environmentally sound oceans policy; her stress on supporting the interest of consumers in the marketplace, all show her determination to revitalize the goals of the Department. Perhaps most significant was Dr. Kreps' pledge to support legislation which would bar U.S. companies from

cooperating in any way with the Arab boycott of Israel.

Juanita Kreps is used to being the "first woman to." She was the first woman to serve on the board of directors of the New York Stock Exchange. She has been the first and frequently only woman to serve on the boards of some of the Nation's largest industries. Throughout her career, she has demonstrated an independence of thought and commitment to serve the disadvantaged in the marketplace—particularly women and minorities. In addition to her corporate and academic posts at Duke University, she has served on the National Council on Aging, the North Carolina Manpower Commission, and the National Commission for Manpower Policy. When she is approved as Secretary of Commerce, she will again be making another historic first—the first woman to hold that position since the Department was created in 1913. I am delighted to have an opportunity to confirm her in that role.

Mr. RANDOLPH. Mr. President, as chairman of the Committee on Public Works it is a privilege to recommend the confirmation of President Carter's nominee, Mrs. Juanita M. Kreps, to be Secretary of Commerce.

The committee has a vital interest in the Commerce Department and in Mrs. Kreps' stewardship. Principal economic development programs are housed in that Department, in the Economic Development Administration as are the seven, soon to be eight, title V regional planning commission. These programs have been under the jurisdiction of the committee since their inception in 1965.

I attended the Commerce Committee's confirmation hearing of Mrs. Kreps last week and I was gratified to hear her say that she considered economic development to be one of the more important functions of the Department of Commerce. That, unfortunately, has not been the case in recent years. Evidence that she meant what she said seems apparent from the appointment this week of Robert Hall to be the new Assistant Secretary for Economic Development as one of the first sub-Cabinet appointments within the Department.

I am impressed that Mrs. Kreps has quickly grasped the importance of convening a White House Conference on Balanced National Growth and Economic Development by early 1978. Members recall that the Public Works and Economic Development Act Amendments of 1976 that became law on October 12, requested and authorized the President to convene a much needed conference on these issues within a year.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Mr. PROXMIRE. Mr. President, Patricia Roberts Harris came before the Committee on Banking for confirmation, and I speak in two capacities.

Mr. President, with considerable reluctance I rise to oppose the nomination of Patricia Roberts Harris as Secretary of the Department of Housing and Urban Development.

Mrs. Harris has been recommended to this body by the Banking Committee by a 14 to 1 vote. I was the only member of the committee to oppose the nomination.

I oppose the nomination although Mrs. Harris is unusually intelligent, has achieved remarkable distinction as a lawyer, has impressive character, is enthusiastically committed to housing and urban development and was a smash hit in her appearance before our Banking Committee at her confirmation hearings.

Why then do I oppose her?

Because she clearly lacks the housing experience that I think is commensurate to HUD's success.

I do this for the same reason I opposed her two predecessors: James Lynn and Carla Hills. Both had backgrounds similar to Mrs. Harris. Both were brilliant lawyers. Both were bright, hardworking people of fine character. But in their administration of HUD the agency failed dismally to do its job.

The central responsibility for HUD, the touchstone by which its success or failure can be measured is whether it succeeds or fails in building the houses families with modest incomes in this country need.

In the Housing Act of 1968, the Congress set a goal of 600,000 such publicly assisted starts per year. The year before Mr. Lynn took office, 1972 we constructed 338,000 such starts. Then came the secretaries who were brilliant lawyers but lacked housing experience. Result: 1973, 234,000 publicly assisted housing starts; 1974, 84,000; 1975, 56,000; and last year 1976 for all America's millions of low- and moderate-income families—not the 600,000 the law calls for, but an incredible, pathetic 41,000 publicly assisted housing starts from HUD in the entire country.

Why this failure? A major reason, Mr. President is that this country needs a Secretary of HUD who not only has the experience, the track record in housing, the knowledge of the programs, the painful years of making mistakes as well as winning successes that alone can shape a Secretary that can do the job. We also need a Secretary in whom the President and the President's top economic advisers have full confidence as a housing expert with a winning record—one who can do the job and who knows from experience the economic as well as the social consequences of housing.

For all their fine qualities neither Mr. Lynn, nor Mrs. Hills had that experience or winning record in housing. They had virtually no experience. The result: they did not and they could not sell to the President a vigorous housing program—even though the times called out for it.

And while I hope Mrs. Harris will succeed where her predecessors failed, I doubt if she will, because she too—for all her fine qualities also has no real record in housing.

Anyone who thinks we will not have this kind of problem with President Carter and Mrs. Harris has only to open his eyes and see what happened with the first economic package recommended by the President. The purpose of that package was to stimulate the economy without inflation. A housing program is tailormade for such a purpose. Such a program could provide a million jobs at relatively little cost with very little inflationary risk and could do the job promptly. But where is the housing component in the 2-year $25 to $30 billion Carter economic program? Answer: it is not there.

And who was in the group of economic advisers that consulted with President Carter and advised him what it should contain? The Secretary of the Treasury-designate was there. The Director-designate of the Office of Management and Budget was there. The chairman-designate of the Council of Economic Advisers was there. Other advisers and consultants were there.

But Mrs. Harris, the Secretary-designate of HUD was not there. So this is not just speculation that Mrs. Harris will lack the kind of clout and believability to sell the kind of housing program to the new President. This judgment is based in part on the hard fact that President Carter has already omitted housing—which should be the centerpiece, from his first major economic initiative, and he did so after Mrs. Harris became his prime housing adviser.

The principal reason for my opposition is because I think that Mrs. Harris lacks any significant experience in housing.

We have had two Secretaries in a row now, Mr. Lynn and Mrs. Hills, both of whom had the same kind of background and ability as Mrs. Harris. They both are fine lawyers, both brilliant scholars, both knew nothing about housing and HUD is in a shambles and our housing program has failed.

I think it is vital that we have somebody with experience, with a winning record, not only so that he can do the job in HUD but far more important so they can sell the job to the President of the United States. That is what was lacking in the Lynn and Hills positions.

Mrs. Harris may be able to do that, but it is interesting that in the one meeting that Mr. Carter has had to put together an economic package there was no housing components. There should have been. It was a serious mistake by the President, and Mrs. Harris was not there and she should have been there.

So for that reason, I am going to indicate my opposition, although I would

hope that she will be confirmed. I must say that I must in all candor oppose the nomination.

Mr. President, I ask unanimous consent to print in the RECORD a copy of my opening statement at Mrs. Harris' nomination hearings. This opening statement spells out in more detail just why I oppose the nomination. And in fairness to Mrs. Harris I ask unanimous consent that her remarkable and eloquent response at the hearings to a question I asked her about the degree of her commitment to underprivileged citizens be printed in the RECORD at this point, too.

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

PROXMIRE OPENING STATEMENT AT HEARING ON CONFIRMATION OF MRS. HARRIS AS SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mrs. Harris, we are honored to have you before us for consideration of your appointment by President-elect Carter to be Secretary of the Department of Housing and Urban Development.

Frankly, your nomination troubles me. It troubles me although you have an impressive record as a scholar, an author, a lawyer, a person who has been honored by many universities with their degrees, a strong and consistent advocate of civil rights, a fighter for a better opportunity for minorities and a record of support over the years for programs that would help the poor.

What troubles me about your nomination is the absence of any really significant experience in housing or urban development. You have no real record on which we can judge your performance.

Two years ago when Carla Hills, your predecessor, was before this committee, she was opposed by Mrs. Cushing Dolbeare, who was head of the National Rural Housing Conference. She was opposed on the grounds that the Secretary of HUD should have years of experience in housing. Learning is the long, tough, painful process of making mistakes as well as achieving successes. Mrs. Dolbeare said, "It took me at least 10 years before I felt any real confidence in my capacity to make judgments from conflicting advice and conflicting recommendations. Mrs. Hills will be given conflicting advice from her own staff, from industry and from public interest groups . . . Then she will be charged with giving advice and recommendations to the President and others in the Administration, acting as an advocate for housing. It is simply not responsible, nor reasonable, nor fair, in my view, to ask any amateur to carry out such responsibilities. Being an expert does not necessarily make a person right, but being an amateur much more likely one will be wrong."

As you may know, James Lynn preceded Carla Hills as Secretary. Both were brilliant lawyers. Both had fine academic backgrounds. Neither had any significant background or experience or training in housing or urban development. Both were amateurs. I voted against both. And in my judgment, both were failures.

After four years of their leadership as successive Secretaries of HUD, HUD is in a shambles. Its morale is low. Its accomplishments are pitifully inadequate. At a time when our cities constitute perhaps our greatest social-economic problem, HUD, the Department with primary responsibility for dealing with those problems is sound asleep. A prime responsibility for HUD is to provide publicly assisted housing starts for the millions of American families who can't afford a home unless the government provides some assistance. This is also the heart, the cornerstone of urban development. Employment is important. Education is vital. Crime prevention is essential. But the heart of HUD's responsibility for urban development is in publicly assisted housing.

In 1968 the Congress decided we needed six million such housing starts over the following ten years, or 600,000 per year of publicly assisted housing. In 1972 HUD had 338,000 such starts, and then came the scholarly lawyers, the amateurs. The results: 1973 234,000 publicly assisted housing starts; 1974 84,000; 1975 56,000; and this year, 1976, for all the millions of low and moderate income families—not the 600,000 the law calls for, but an incredible, pathetic 41,000 publicly assisted housing starts from HUD in the entire country.

Conventional housing has stumbled along erratically. The year 1975 was the worst housing year in the last forty. This year single family starts for housing that averaged over $40,000 each has been much better; but new housing that the average American can afford has almost disappeared.

It is true, of course, that the failure of HUD for the last four years has not been because of the character or intelligence of Lynn or Hills. Indeed, both get high marks in both regards. And both may have been reasonably efficient administrators. What HUD and the country lacked, and the reason housing and urban development have been such disaster areas has been because we didn't have in HUD a Secretary with sufficient knowledge and experience and a solid enough proven record in housing to be able to go to the President and win a vigorous and successful housing program.

I am confident that either President Nixon or President Ford could have been sold such a program if they had had a HUD Secretary in whom they had full confidence as a housing expert, a person who had fought for housing and for the cities and had won, a person who could have argued down Greenspan and Simon and convinced the President that it was in the national economic interest to have a vigorous, expansive housing program.

Such a program would have fitted like a glove the Republican preference for economic activity in the private sector—without inflation and for economic activity providing an urgent need. But neither Hills nor Lynn in my view had a sufficiently deep commitment to housing and urban development to make the fight. I think you may have that commitment, but what you like Lynn and Hills don't have is something else.

Because, Mrs. Harris, with all deference to you, and recognizing you may have a more sympathetic President and economic advisers of the President to confront, this selling of the kind of massive housing program we should have now to the President and his team should be done by someone who knows housing and urban development from long experience and with a track record in the field that will command attention and acceptance. Do you have that kind of track record? Frankly, I can't find it. It won't be easy for you. We already have I think the first major economic mistake by the President-elect. Mr. Carter has already made that mistake in announcing his principal two-year stimulation program and not including housing as an integral part of it as a cornerstone in fact. The housing program of sorts may come along today or tomorrow but that's not enough. Housing construction is a reasonably quick way to provide jobs in the private sector at relatively little public cost. We should have it as a central part of the economic stimulus program.

Mrs. Harris, we have tried twice now—for four years—to turn the management of the Department of Housing and Urban Affairs over to brilliant and scholarly lawyers who were amateurs in the housing field with appalling results.

In my view, you have a much better background, a much better record of commitment in this field than either Mr. Lynn or Mrs. Hills. You have given occasional support, sometimes significant support, to housing and the needs of our cities. You made a beautiful and wise statement of dissent on civil disobedience as a member of the Commission on Civil Disobedience. But you have never had anything to do with administering a housing program of any kind, or any size, or administering anything else except Howard Law School for one month, and about 25 people in the Luxembourg Embassy for two years. You have no experience as a mayor or public official.

You are nevertheless going to be confirmed—in my judgment—by this committee and the Senate overwhelmingly. Because anyone in the Senate these days who calls for qualifications other than brains and character for cabinet officers is regarded as somehow unrealistic, and you certainly have both brains and character.

Well, I take the Advice and Consent responsibility for this body very seriously. If the public business is is to be done efficiently, we need cabinet officers to handle these multi-billion dollar agencies who are able to hit the ground running: to start right out with the confidence that they won't need years of on-the-job training.

One final analogy. I'm an enthusiastic football fan. I played it in college. I have followed it for fifty years avidly. I'm reasonably intelligent. But if I were hired to coach the Washington Redskins or the Green Bay Packers, the country would view it as an outrageous joke. To coach the Skins or the Packers you obviously can't even think of taking an amateur; you need a pro.

And yet when the President nominates, as three Presidents now have, three successive persons who are bright and scholarly lawyers with no visible record or experience in housing and urban development to head HUD—an agency with 15,000 employees and a multi-billion dollar budget—and to run a far more complex and important operation than a professional football team, there is nothing but warm and happy applause. And, Mrs. Harris, from the rest of this committee and the Senate that's about what you can expect to get this morning. This morning I'm sure you will get only that and I'm sure you'll get that from the Senate. As I say. I'm sure you will be confirmed overwhelmingly. I'm happy to yield to the ranking Republican member of the Committee, Senator Tower.

The Chairman. President-elect Carter has said, "Too often in the past the White House has been surrounded by an impervious obstacle which is open to those more powerful and influential. It was not open to the average citizen. It ought to be changed and it will be changed if I'm elected President."

Mrs. Harris, civil rights and other advocates have frequently complained about their lack of access to HUD. You are a person of great accomplishment but the press reports indicate one criticism of you which you may have noted is you are not a "of, by and for the people" person. That may or may not be fair, but they indicate you're not one who has gone out to seek the position and opinion of the average citizen. As I say, I'd like you to defend yourself against that charge if that's not the case, but one of the problems certainly in HUD is that we have somebody who is sympathetic not only to the problems of those who are poor and underrepresented, but to listen to them, to find a way of seeing how they view their problems themselves, to really talk to people individually. I'm very sensitive about this because all of us are up here because we're politicians. We have to get elected. We have to go out and see all kinds of people and talk to them. The distinguished Congress-

man on your left has had that kind of experience, too, and perhaps you can reassure me on this. This is one of the things that troubles me about what I have read about your background.

Will you really make an effort to get the views of those who are less articulate and less represented and certainly less likely to be knocking on your door with outstanding credentials?

Mrs. Harris. Senator, I am one of them. You do not seem to understand who I am. I'm a black woman, the daughter of a dining car waiter. I'm a black woman who even eight years ago could not buy a house in some parts of the District of Columbia. Senator, to say I'm not by and of and for the people is to show a lack of understanding of who I am and where I came from.

The CHAIRMAN. Well, Mrs. Harris, I accept that to a very considerable extent, but I think you would agree perhaps—if not, I'd like to know whether you disagree—it's not enough to be black or to be a woman or to be poor or to have any particular kind of disability to understand the problem of so many people who don't get listened to, don't have an opportunity to represent their viewpoint. We have had in HUD a woman, not a black woman but a woman, who it has been pointed out has great abilities and great competence and yet we have this criticism and I think it's a criticism that has some merit and force, that HUD has not been listening to people who have these problems.

Your answer is that you have no problem with this because you're a black woman.

Mrs. HARRIS. No, that is not my answer.

The CHAIRMAN. Is that right? What is your answer?

Mrs. HARRIS. You spoke of the unrepresented and the poor and I said I'm one of them. I started, Senator, not as a lawyer in a prestigious law firm, but as a woman who needed a scholarship to go to college. If you think I have forgotten that, you're wrong. I started as an advocate for a civil rights agency, the American Council on Human Rights, that had to come before this body to ask for access to housing by members of minority groups. If you think I have forgotten that, Senator, you're wrong. I have been a defender of women, of minorities, of those who are the outcasts of this society, throughout my life and if my life has any meaning at all it is that those who start as outcasts may end up being part of the system, and I hope it will mean one other thing, Senator, that by being part of the system one does not forget what it meant to be outside it, because I assure you that while there may be others who forget what it meant to be excluded from the dining rooms of this very building, I shall never forget it.

The CHAIRMAN. That's a very reassuring and inspiring answer.

Let me ask you one more specific question. How do you propose to make your Department more open? I have heard some good words about the recent efforts of Mrs. Newman to involve HUD consumers in HUD decision making. Would you keep an office like that functioning? Would you try personally to have regular meetings with HUD consumer groups?

Mrs. HARRIS. Senator, starting this week I'm going to be meeting with—what I call for lack of a better term—constituent groups of HUD, on the basis I'm not confirmed and I may not be, but I'm going to start nonetheless, because I want to see what it is they would like and how they would like to identify with the office of HUD Secretary and how they would like to relate to the office. When I've talked to them, when I have talked with the top staff of HUD, I will make the judgment about how we can provide that openness which I happen to think is an essential of government in a democratic society.

Whether I will be the one all the time or whether others will fulfill that function, I do not know.

The CHAIRMAN. Well, that's reassuring, too, and I particularly like the latter point. I wouldn't expect you, of course, to be able to do that yourself. You'd have to delegate much of that authority, but I think it's useful to hear you will do your best to involve HUD in the concerns of consumers. I think they have been neglected and find a way to have them express their position to those who you will talk to as well as you, yourself.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. JACKSON. Vote!

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

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

SECRETARY OF TRANSPORTATION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of BROCKMAN ADAMS, of Washington, to be Secretary of Transportation.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of BROCKMAN ADAMS, of Washington, to be Secretary of Transportation.

Mr. MAGNUSON. Mr. President, former Congressman Adams appeared before the committee on two occasions.

The PRESIDING OFFICER. Will the Senator suspend while we get order?

The Senator may proceed.

Mr. MAGNUSON. He appeared before the committee on two occasions, and the hearings were very extensive.

This is a very extensive, complex job, and the committee voted unanimously to approve his nomination.

I think, if I can sum up what the committee felt about Secretary Adams, it was that he probably was the most qualified nominee for this particular position to appear before the Committee on Commerce since the Department was created.

He brings a background of experience in housing, having served on the Committee on Interstate Commerce in the House of Representatives, and had a great deal to do with the shaping of policy regarding transportation in this country.

It was a pleasure for my colleagues and me because he does come from the State of Washington —to urge his nomination, and the committee did it unanimously.

Mr. JACKSON. Mr. President, will my colleague yield?

Mr. MAGNUSON. I yield.

Mr. JACKSON. Mr. President, I associate myself with the remarks of my senior colleague.

Former Congressman ADAMS was an outstanding scholar in college. He graduated No. 1 out of the entire University of Washington. He was an undergraduate of the class and top graduate of the Harvard Law School, a distinguished lawyer, U.S. attorney for the western district of Washington.

As my colleague pointed out, he served on the Interstate and Foreign Commerce Committee in the House. He pioneered and offered the key legislation in putting together the failing railroad systems in the Northeast.

Not only that, but he was the first chairman of the Budget Committee.

He is an outstanding economist and I think he brings to the office of the Department of Transportation outstanding qualifications.

I hope that this vote will be unanimous.

Mr. RANDOLPH. Mr. President, it is a privilege for me to have the opportunity to join the two able Senators from Washington, the chairman of the Commerce Committee (Mr. MAGNUSON) and the chairman of the Interior and Insular Affairs Committee (Mr. JACKSON), as they speak in positive terms of the ability and experience and understanding of the challenge of the important work that BROCK ADAMS will have.

I, too, strongly endorse approval of the nomination.

Mr. President, the Senate today is asked to confirm Representative BROCK ADAMS as Secretary of Transportation. I expect the Senate will give prompt and unanimous endorsement to this nomination of an experienced public leader, to pilot one of our most important departments. The Public Works Committee has jurisdiction over the Federal highway construction program and certain highway safety and environmental aspects which complement those construction activities. In addition, we are associated to a lesser degree with certain transit activities, of which the rural public transportation demonstration program is an outstanding example. I appreciated the opportunity to participate in his confirmation hearing, before the Senate Commerce Committee on January 7, and to speak on his behalf at this time.

The Members present at Representative ADAMS' confirmation hearing were unanimously satisfied with his responses. Even though some Members disagreed with him on specific issues, he was felt to be distinctly well qualified for this position. His nomination was favorably reported from the Commerce Committee by a vote of 18 to 0.

Transportation may be the single most important developmental aspect of our country over the last 200 years. The United States is the most mobile nation in history, and most Americans enjoy unlimited personal mobility. A good transportation network makes it possible for farmers to get seed to the farm, produce to the market and coal to industry. A sound transportation system enables families in rural and urban settings to get their children to school, wives to shopping centers and people to cultural, religious and medical facilities.

Our transportation system moves more goods and people than any other country more quickly, more efficiently and more safely.

This is possible because of a number of reasons—but the predominant one is the high caliber of people committed to transportation who make up our agencies associated with people and product movement. The man nominated for our next Secretary of Transportation is such an individual. Representative ADAMS is considered one of Congress leading advocates of a sound, coordinated national transportation system.

The Secretary-designate served as the chairman of the House Budget Committee during the 94th Congress, and has been a member of the Interstate and Foreign Commerce Committee and its Transportation and Commerce Subcommittee. Representative ADAMS has been very active in transportation affairs, particularly legislation dealing with railroads. He is the coauthor of the Regional Rail Reorganization Act of 1974, which opened the way to the Government takeover and consolidation of eight bankrupt northeast and midwest railroads into a unified system. He was one of the congressional members of the National Transportation Policy Study Commission, a provision of the 1976 Highway Act.

I believe BROCK ADAMS will approach his duties as Secretary of Transportation with the same seriousness of purpose; the same ability to perceive real issues; the same facility for finding answers to complex problems—in short the qualities that made him a key figure in committee work with which he became involved in the House.

I look forward to working with Representative ADAMS in his new role and exchanging views on such subjects as restructure of transportation financing, reorganization of certain transportation policy and regulatory fuctions within and without the existing Department of Transportation and expediting completion of our Interstate Highway System.

Mr. President, during his years in the House, BROCK ADAMS has served transportation well. I feel confident that the Members of Congress interested in transportation will recognize the Secretary-designate as a man who is both accessible and truly conversant in all areas of transportation.

Mr. BAYH. Mr. President, the Senate is today considering the nomination of Congressman BROCK ADAMS for the position of Secretary of Transportation in the Carter administration. The announcement of BROCK ADAMS' nomination for this position was greeted with almost universal enthusiasm by those people, both in Government and in the private sector, who are concerned with the future of this Nation's transportation policy.

Throughout his career in the House of Representatives, BROCK ADAMS has taken an active role in the development of transportation legislation. As the ranking member of the Transportation Subcommittee of the House Interstate and Foreign Commerce Committee, his legislative skill and vision made innumerable contributions to such landmark legislation as the Regional Rail Reorganization Act of 1973 and the Airport and Airways Development Act of 1970. In recognition of his leadership in this field, he was appointed by the Speaker of the House to the National Transportation Policy Study Commission.

In addition to his experience with transportation issues, Congressman ADAMS served as chairman of the House Budget Committee during the crucial first 2 years of its existence. His leadership on this committee contributed immeasurably to the successful launching of the new congressional budget process. As chairman, he demonstrated his ability to establish spending priorities and coordinate complex budgetary issues. This valuable experience will serve him well as the head of the Department of Transportation.

I am particularly pleased to be able to enthusiastically support this nomination because as chairman of the Subcommittee on Transportation Appropriations I will be working closely with BROCK ADAMS. During the 2 years that I have chaired this subcommittee, I have become increasingly familiar with the problem of developing a sensible transportation policy for this country and with BROCK ADAMS' expertise in these complex matters.

In the more than 100 pages of specific responses to questions posed by the Commerce Committee, BROCK ADAMS displayed his continuing commitment to the goal of a coordinated system of national transportation. I share this commitment and know that we both believe in the necessity to work to improve our Nation's rail network, to provide efficient, affordable mass transportation and to construct and to maintain a safe, efficient highway system. In short, we believe in the importance of the development of a balanced national transportation system so that our citizens, whether they live in the rural, suburban or urban areas of our Nation, have access to the necessary transportation modes to move themselves and their goods in the most effective manner possible.

In order to move toward the realization of these goals, we need decisive leadership from the Secretary of Transportation. This leadership should include a continuing dialog with our citizens, State and local governments and the Congress so that all segments of our society are able to participate in the important decisions affecting the direction taken by our national transportation policy. BROCK ADAMS made such a commitment in his opening remarks before the Commerce Committee during his confirmation hearing when he pledged "to seek the greatest amount of public comment and advice possible."

With his experience in transportation and his willingness to involve the public in his decisions, I believe that BROCK ADAMS will be the kind of Secretary of Transportation who can make the hard decisions to establish priorities and lead this country forward to a coherent, efficient, and innovative system of transportation. I look forward to the opportunity to work with him in pursuing this goal and am proud to support his confirmation as Secretary of Transportation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of BROCKMAN ADAMS to be Secretary of Transportation?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nomination.

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

OFFICE OF MANAGEMENT AND BUDGET

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to the consideration of the nomination of Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

Mr. NUNN. Mr. President, just a brief word. I do not know if the chairman of the committee is here, but Mr. Lance was approved by a unanimous vote of that committee after rather lengthy hearings.

I have known Bert Lance for a period of years. He comes from a small town, Calhoun, Ga., where he started as a clerk in a bank there.

He later became president of that bank and later became president of one of the larger banks of Georgia.

In addition to that, he was head of the Department of Transportation for Governor Carter, now President Carter. He brought to that department a sense of management, a sense of planning, a sense of concise goals, adequate effectiveness and efficiency.

He is a man who is very active in religious and civic activity. He is a man of integrity. Most of all, I say to my colleagues, he has an abundance of commonsense and he is the right man for the right job. I urge his approval.

Mr. CHILES. If the Senator will yield, Mr. President, I just wish to associate myself with the remarks of the Senator from Georgia and say that sitting as a member of the Government Operations Committee I had a chance to hear the testimony and the questioning of Bert Lance. I think he has a remarkable aptitude for this job.

I was tremendously impressed by his willingness to work with the Congress.

As all of us know, the Office of Management and Budget has been one in which many of the holders of that have held utter contempt for the Members of the Congress and really could not find any real constitutional role that we had, whether it was in management of funds or in any other area.

Mr. Lance, I think, shows remarkable willingness to understand how our system works and to realize it does work with cooperation. I think we will receive much cooperation from Mr. Lance. I think he has certainly a knowledge of reorganization, a knowledge of management.

I am tremendously impressed that the OMB will have a Director who has the knowledge for management and that it will not be only an office for budget.

So I join with the Senator from Georgia and urge the confirmation of Bert Lance.

Mr. TALMADGE. Mr. President, I associate myself with the remarks of my colleague from Georgia and also the distinguished Senator from Florida.

I have known Bert Lance since he was a $90-a-month teller in Calhoun, Ga., a town of some 5,000 population.

Later, be became president of that bank. He increased the resources of that bank from $6 million to $56 million. It probably has more resources of any bank in a town of its size in the United States.

Some 2 years ago he acquired controlling interest of the National Bank of Georgia. At that time, the National Bank of Georgia had resources of a little more than $200 million. In 2 years' time he brought the resources of that bank to more than $400 million.

I think that clearly demonstrates that he understands something about economics, banking, and fiscal matters.

The Government of the United States is sorely in need of a man of that capacity today. I hope the Senate will unanimously confirm his nomination.

Mr. PROXMIRE. Mr. President, no doubt this nomination will be overwhelmingly confirmed, but it will not be unanimous. I will vote against it.

Mr. President, I rise in opposition to the nomination of Mr. Thomas Lance to be Director of the Office of Management and Budget.

Mr. Lance has some important qualifications for this position which have been stated very well by my colleagues but they are overwhelmed by his lack of other qualifications that in my view are essential.

It is true that Mr. Lance has been an eminently successful businessman. That is not only an indication of his competence, it is highly relevant to his new job as Director of the Office of Management and Budget. I am sure he understands the value of a dollar, the importance of holding down costs and the often painful problem of eliminating jobs and activities that cost more than their worth. Mr. Lance has also been responsible as a banker for saying both yes and no to requests for loans. These experiences will serve him well as the new Budget Director.

Mr. Lance has one other prime qualification. He is an old and trusted friend of the President of the United States. He and the President know each other, trust each other. He has been the President's banker. He will now be his principal adviser on the budget.

Why not?

Mr. President, I will tell you why not.

LANCE WITHOUT EXPERIENCE

Mr. Lance simply has no experience, or record of performance in what is in many ways the toughest job in the administration, except possibly for the President's. Think what the head of the Office of Management and Budget in this Federal Government is responsible for:

The budget of the United States is the priority document for our Nation. The one conscious way this country can move as an organized society is through the budget. How much or how little stress we as Americans put on education, on housing, on defense, on crime prevention, on welfare, on transportation, on health, on economic security is determined by the budget.

And who determines the administration's recommendations on the budget? Answer: The President as the part-time final authority and the OMB Director as the full-time expert. Sure the President is boss. But the President of the United States is an overwhelmingly busy man. He is Commander in Chief of the Army, Navy and Air Force. He is our principal negotiator with foreign countries. He is the head of the Democratic Party. As any Member of the Congress who has been here any length of time will tell you, he is the principal initiator of legislation. Because he is head of state, much of his time must be taken with ceremonial breakfasts, luncheons, dinners, visits, meetings with foreign heads of state.

PRESIDENT MUST DELEGATE BUDGET AUTHORITY TO LANCE

What this means is that the President of the United States—in this biggest job in the world—must delegate authority in a big, emphatic way. There is no way the President can painstakingly review the full details of his budget—vital as that review is. No way can he decide in all cases or in most cases which programs of HEW, or Defense, or HUD, or Transportation, or Housing should push ahead and which should be held back or killed.

Why cannot the Cabinet heads do that? The answer is simple. Most of them are likely to be gung-ho advocates for their agencies. They will want more money for defense, more for housing, more for health. President Kennedy called his Budget Director his "no" man. And that is what an OMB Director has to be.

But he has to be more than that. He has to be a "yes" man too. And when he says "yes" and when he says "no" will determine the course of this country for years to come.

KNOWLEDGE ESSENTIAL

Now what kind of person do you need for this vital decisionmaking? I submit the first quality you need is knowledge—someone who knows something about these programs, someone who has had some experience with these Federal programs, someone who has seen programs win and programs lose, and has observed the difference. We need someone who has worked with Federal programs long enough to make mistakes and learn from those mistakes. We need someone who can give the President options, tell him what the options will cost. Someone who can evaluate and rate the options. Someone who can listen to conflicting, expert advice and know enough to make a reasonable decision on it.

Is Mr. Lance that kind of person? What has been Mr. Lance's experience in the Federal Government?

Mr. President, you will wait a long time for the answer to that question.

He has had none—zero, zip, zilch, not 1 year, not 1 week, not 1 day. He has shown impressive skill in operating a middle-size bank. He has been a candidate for Governor of Georgia. He headed the transportation department in Georgia. And what else?

LANCE'S VERSION OF QUALIFICATIONS

Mr. President I do not want to be unfair to the nominee so I will let him state his experience, as he did not in an impromptu response in a hearing but in an exhibit supporting responses requested in advance by the Government Operations Committee before Mr. Lance appeared before the Committee in connection with this nomination.

This was Mr. Lance's response in writing to questions about his experience:

My experience includes:

a. 25 years in the banking industry, which involved employment by a small bank much of the time and a larger bank for the last two years;

b. government service as Commissioner of the Department of Transportation for Georgia;

c. political campaigns during which I learned a great deal about the people of Georgia.

These experiences have given me considerable ability in dealing with people and handling financial matters. These are the matters most involved in the operations of the Office of Management and Budget.

That is it. And Mr. President, that is an appallingly barren background. Of course, I realize that the President has had and should have great leeway in choosing his man for this particular job. But we in the Congress have found out that this job of Director of OMB has such power, such influence, that the OMB Director so centrally determines the course of this Government that we have wisely insisted that the Senate shall advise and consent to this nomination. We have the authority to say yes or no. And with that pitifully inadequate background, I do not see how we can say yes.

PRESIDENT CARTER INEXPERIENCED

Mr. President, Mr. Lance will not be working for a President with great experience in the Federal Government. President Carter was elected in part because of his great promise as an outsider, precisely because he had no experience in a Federal Government that had become too big, too inefficient, too burdensome; a Federal Government that seemed to throw massive sums of the public's money at problems like crime, inadequate education, substandard housing, wasteful misuse of precious energy resources—only to have the problems get worse.

We needed a change. President Carter was the answer to that call for a change. Of course, President Carter does not have experience in the gross mistakes—the protests against which brought him to the White House.

But what does this mean? It means that we have a President taking over the most complicated and difficult job in the world who has very little preparation. He comes to the White House as one of the most inexperienced Presidents in Federal Government affairs in this century and probably one of the three or four least experienced in our 200-year history. Under the circumstances that is the way the people wanted it and under the circumstances that is the way it

should be. And frankly, I think President Carter may well turn out to be one of the best Presidents. I certainly hope and pray so.

The President has both the strength of no identification with past mistakes and the weakness of no Federal Government experience.

STAFF AND CABINET HAVE LITTLE EXPERIENCE

How about the people surrounding him?

He has surrounded himself with a White House staff that has two conspicuous distinctions. First, they are very young. And second, they have virtually no background, no record, no experience in Federal activities.

The President has appointed a Cabinet of a little less than average experience in the Federal Government. Some of his appointees have none. Some have a little. A few have substantial experience.

The Senate is about to approve all of the Cabinet with one possible exception. And this Government is passing into untried, unproven, unblooded inexperienced hands.

Sure the people—including this Senator—voted for President Carter. I campaigned for him. But did that mean that with a few exceptions here and there the administration should be without any of the kind of training that only experience can provide?

Yes, the people of this country want a new approach. That is why they elected President Carter and a fundamental reason for his election was because millions of Americans felt that a new administration could do a better job of reducing or eliminating the old programs that do not work or are not needed. Certainly a major failure of past administrations has been their failure in managing the budget, in controlling the immense explosion of cost, in having more than the courage and the will to kill or cut programs that should have a lower priority, but also, having the knowledge that can only come from experience in knowing where to cut, and how to cut and how much to cut.

As far as Federal Government programs are concerned, Mr. Lance does not have inadequate experience, he just does not have any experience, none.

EXPERIENCE NEEDED IN PRIVATE BANKING—WHY NOT U.S. BUDGET?

Consider how shocked Mr. Lance—who is president of the National Bank of Georgia, a bank with several hundred millions in assets—would be if his directors replaced him with a man who had never operated a bank, never worked in a bank, knew nothing about Georgia, and whose experience had been confined to doing a great job handling his family charge accounts. Such a selection would be considered outrageous. But this is the kind of selection we confirm if we approve this nomination.

Mr. President, as Director of the Office of Management and Budget, Mr. Lance will not only be the principle architect of the administration's budget, he will also be the traffic cop for the most significant bills every Senator and Representative introduces. How often a promising legislative conception has been aborted by the one or two page memo of disapproval by the Office of Management and Budget. Frankly this is exactly what the OMB should do. The administration helps greatly in bringing order and discipline out of the vast number of legislative proposals the Congress engenders. The OMB recommendation—not always but usually—determines the life or death of major legislation. This will be particularly true when the President and the Congress are of the same party.

And the recommendation of the Director of the OMB to the President often is the vital determining factor in whether legislation is passed or vetoed. Now seriously, my fellow Senators, should we approve a man to make this decision who has absolutely no experience in the Federal Government, none?

IMMENSITY OF BUDGET

Finally, Mr. President, there is the enormity and complexity of the budget—this $400 billion monster.

Mr. President, can any one honestly believe that Director-Designate Lance has the experience that is so necessary to cope with the plethora of highly complex and abstruse budget issues confronting the Office of Management and Budget? No doubt he will come to grips with the importance of distinguishing new budget authority from obligations and obligations from outlays. In time he will learn the characteristics of permanent indefinite budget authority, revolving funds, liquidating cash accounts, apportionments, allotments, rescissions, deferrals, trust funds, supply funds, contract authority, and the like.

But is Mr. Lance really in a position to resolve the inconsistency of treating housing contract authority on a multiyear basis in arriving at budget authority totals while continuing to treat similar long term commitments for Maritime Administration operating differential subsidies and purchase contract payments under the Federal buildings fund on a year by year basis? I hardly think so. Does he comprehend the problem of rolling over long term contract authority following the expiration of existing contracts? I doubt it.

How about the issue of including loan guarantee authority within the budget so as to more clearly define Federal obligations? Does Mr. Lance understand the distinctions among full faith and credit guarantees, conditional or partial guarantees and indirect guarantees? How about the treatment of debts and loans of Government-sponsored credit enterprises, deposit insurance for financial institutions, and guarantees of special risks? Does Mr. Lance understand the subtle economic implications of these various types of Federal involvement in financial markets?

Mr. President, I could go on and on. I could cite the inaccuracy of treating the total long term contract commitment of the Federal Government under our assisted housing programs as budget authority when in fact the tenant pays part of this commitment. I could point out the fairly subtle but important budget distinction between funding FHA losses through Treasury borrowing as opposed to direct appropriations. I could point out the many groups excepted from budgetary consideration, including the Board of Governors of the Federal Reserve System and the Federal financing bank, despite massive budgetary impacts. I am trying to point out this is an enormously complicated job.

The question here is, does Mr. Lance really understand the problems, distinctions and occasional inequities involved in all of these and many more areas, despite his complete lack of Federal budget experience? The answer seems clear to me. It is an emphatic and resounding "no."

The first Carter budget, the 1978 budget—the first budget for which Mr. Lance will be principally responsible—will be crowding half a trillion dollars. In 1960, 16 short years ago that was the entire gross national product of this country. The budget has immense effect on the number or jobs in our economy. And it may have the most profound effect on inflation.

So Mr. President, by any measure, Mr. Lance is simply not qualified.

WHAT OMB NEEDS

We need a competent trained economist—in view of the vast economic effect of the budget. Mr. Lance is not.

We need a person who has had experience with legislation that has succeeded and legislation that has failed, legislation designed to cost little that has exploded in cost with over-runs that heavily burden the taxpayer. Mr. Lance has not had that experience.

We need a person who understands the complicated world of the Federal budget from long, hard experience.

Mr. Lance has had not 1 minute of such experience.

We need a person who has gone through the painful process of working on the budget of at least one and preferably several Federal Government agencies, either in the agency, in the Congress or as an outside expert analyst.

Mr. Lance has had no experience budget or other way with any Federal agency.

The first month or two or three of this administration is crucial. Mr. Lance is undoubtedly a highly intelligent, able man. But there is no way he is going to learn this for months, perhaps for years.

Of course, the budget is not everything. The spirit, the will, the inspiration of the President may enable him to be a good President even with a lame performance in Presidential determination of this Nation's priorities. But in my view the Lance appointment will handicap President Carter and this country seriously. The Lance nomination is a mistake. The Senate should not consent to it.

I could go on and on. I am trying to point out this is an enormously complicated job, a job for a veteran expert who knows what he is doing.

Mr. SCOTT. Mr. President, I am going to vote for the confirmation of the President's nominee, and yet I would commend to our newly elected President the remarks that were just made by the distinguished chairman of the Committee on Banking. I would express the hope that the new President will look to expertise and guidance from some of these

subordinate officers in the various departments and agencies of the Government.

I agree with much of what my distinguished colleague has said, even though he and I sometimes have differences of opinion. I am glad that he said the things he did say. Yet, our new President has a right, I believe, to choose people in whom he has confidence for Cabinet positions and for close associations, such as Director of the Office of Management and Budget. I believe that he should be given a chance, rather than voting down someone he does nominate on whom he seeks the advice and consent of the Senate.

Because I believe in the right of the President to choose his principal assistants—he is responsible for them; he is our Chief Executive—I commend to him the reading of the remarks of the distinguished Senator from Wisconsin. I hope that those who assist the Director of the Office of Management and Budget, those who assist other Cabinet officers in making important decisions involving billions of dollars, have the expertise and the knowledge and the background to pass good judgment on such matters.

Mr. SCHMITT. Mr. President, I think this may be one of a few occasions when I will wish to associate myself with the remarks of the distinguished Senator from Wisconsin. However, I do believe that the general thrust of his remarks was correct, that experience is extremely important in the Office of Management and Budget. As a member of the executive branch for a few years, it was all too clear that experience was a fundamental thing in that office.

However, I, too, will vote to confirm the nomination of Mr. Lance, because I think the President should have the opportunity to work with the people, in most cases, with whom he decides he can work.

However, I agree with the Senator from Virginia, that the remarks of Senator PROXMIRE should be read carefully and that the performance by Mr. Lance in the next year should be watched very closely. I commend the Senator for his remarks.

Mr. McCLURE. Mr. President, I say this only half facetiously. I note that a number of people who have associated themselves with the remarks of the distinguished Senator from Wisconsin have done so while noting the fact that perhaps the President who was elected, with absolutely no experience in the office, cannot afford a man in the Office of Management and Budget who likewise has no experience in the job.

Perhaps, had the election gone the other way, we could have afforded that lack of experience in the other job. [Laughter.]

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas B. Lance to be Director of the Office of Management and Budget?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

COUNCIL OF ECONOMIC ADVISERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the nomination.

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs has unanimously approved the nomination of Charles Louis Schultze to be Chairman of the Council of Economic Advisers, and I ask that the Senate confirm that approval.

Dr. Schultze brings to this position a superb background, in terms of academic preparation, experience, and knowledge of the Federal Government, and excellence of performance. He is a professional in the finest sense of the word. He has received his B.A. and M.S. degrees from Georgetown University and his Ph. D. in economics from the University of Maryland. He has served in many Federal agencies, including a period in the early 1950's on the staff of the Council of Economic Advisers, which he will return to head. One of Dr. Schultze's finest contributions in the 1950's was his paper on inflation, prepared for the Joint Economic Committee as part of Senator Paul Douglas' pathbreaking study of employment, growth, and price levels. Then, in the 1960's Dr. Schultze served first as Assistant Director and later as Director of the Bureau of the Budget. In that latter position, he bears some responsibility for the $10 billion understatement of the 1966 costs of the Vietnam war. But I accept his testimony that he advocated a tax increase at the time, long before it was proposed by the Johnson administration. In hindsight, it is clear that the consequent budgetary deficit at a time of high employment was a primary source of inflation. And yet it is likely that economic considerations were overruled without any recognition of the ultimate cost to the Nation.

When Dr. Schultze left Government service in 1968, he returned to academic life as a professor at the University of Maryland, and his research as a senior fellow of the Brookings Institution was focused mainly on issues of national economic policy, including editorship of the Brookings annual review of economic issues entitled "Setting National Priorities." Most recently, he delivered the 1976 Godkin lectures at Harvard University on "The Public Use of Private Incentives."

Dr. Schultze's career demonstrates that he is qualified for the chairmanship of the Council. What stands out, and was demonstrated very clearly at his nomination hearings, is the quality of the man—the vigor and directness of his views and the openness and absence of dogmatism that mark him as an adviser to be trusted.

I have high hopes that Dr. Schultze will give the same distinguished service in his new position as he has given to others in the past.

Mr. BAYH. Mr. President, a few weeks ago there was speculation that Charles L. Schultze would be nominated by President Carter for several different Cabinet positions. In the end, the President decided to name Charlie Schultze as Chairman of the President's Council of Economic Advisers, an excellent decision and a nomination to which I give my unqualified, enthusiastic support.

The fact that Mr. Schultze's name was mentioned for a number of different Cabinet posts is ample testimony to the high regard which he commands from all who know him. I am proud to count Charlie Schultze as a friend, and confess that many times in the 14 years that I have been in the Senate I have turned to him for advice on economic matters.

That advice has always been helpful. In remarkably few words Charlie Schultze can get to the essence of a problem, provide perceptive analysis, and propose alternative solutions with clarity. He is not only an excellent economist, he is a public policy analyst of the highest quality.

Mr. Schultze's prior experience as Director of the Bureau of the Budget, and his extensive work in recent years as a senior fellow at the Brookings Institution, provide conclusive evidence of his skill and abilities. I know he will provide our new President with valuable guidance in the years ahead as we take on the two-headed monster of unemployment and inflation, and I am confident that Charlie Schultze's presence in the White House will increase the chances of success in improving our Nation's economy.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it is not the intention of the leadership to call up the nomination of Mr. Marshall today.

I ask unanimous consent at that time for a time limitation of 2 hours on the nomination, to be equally divided between Mr. WILLIAMS and the Republican leader, Mr. BAKER, and that the Senate proceed to the consideration of the nomination immediately after the two leaders or their designees have been recognized under the standing order on Monday next.

Mr. BAKER. Mr. President, I hope the majority leader will indulge me for a moment.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I had thought that I was fully in a position to recommend that unanimous-consent request. I just have been apprised of the interest of one other Member in this matter. I wonder whether we can postpone that for a moment.

Mr. ROBERT C. BYRD. Yes.

I withdraw my request, Mr. President.

Mr. President, it is not the leadership's intention to call up the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

I ask unanimous consent that there be a time limitation of 2 hours on the nomination of Mr. Califano, to be equally divided between Mr. WILLIAMS and the Republican leader, Mr. BAKER, and that the Senate proceed to the consideration of the nomination immediately following the recognition of the two leaders on Monday next.

Mr. JAVITS. Mr. President, reserving the right to object, at what hour?

Mr. ROBERT C. BYRD. I would say approximately 2 o'clock.

Mr. JAVITS. That is, we will vote about 2 o'clock, or we will proceed at 2 o'clock?

Mr. ALLEN. Mr. President, reserving the right to object, what effect would this unanimous-consent agreement have on the cloture vote that might take place on Monday, if we go over to Monday?

Mr. ROBERT C. BYRD. It would not have any effect on the cloture vote, because under the rule, that vote would occur regardless of this order.

Mr. ALLEN. The Senator from West Virginia said 2 hours immediately after the recognition of the two leaders.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. At what point, then, will the cloture vote be taken?

Mr. ROBERT C. BYRD. One hour after the Senate comes in, following the establishment of a quorum.

Mr. ALLEN. Even though that is in the midst of the 2 hours of agreed time. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I revise my request. The time on this side will be handled by Mr. LONG, I was in error.

The PRESIDING OFFICER. Without objection, the record will be corrected.

Is there objection to the request?

Mr. BAKER. Mr. President, reserving the right to object, we are speaking now of the Califano nomination?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. I think this is a good agreement, and I hope there will be no objection.

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. In regard to the nomination of Mr. Marshall to be Secretary of Labor, the committee report is not yet available. I assume that it will be available in advance of whatever time the majority leader might set for calling it up.

Mr. ROBERT C. BYRD. Mr. President, I do not know whether there is a committee report. I am in no position to know whether there is a report from the committee.

Mr. JAVITS. Mr. President, if the Senator will yield, I think I can help with that.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. There will be a record, and the committee report is simply that, with two dissenting votes, we recommend to the Senate that the nomination be confirmed.

Perhaps Senator BYRD is thinking about the record. The record should be printed. We finished the hearings several days ago.

I will make it my business, I say to the Senator from Virginia—in the absence of Senator WILLIAMS—to see that that record is made available, and I will give the Senator word as to exactly when.

Mr. HARRY F. BYRD, JR. I thank the Senator from New York.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROPOSED UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the nomination of Mr. Joseph Califano, Jr., on Monday, the Senate proceed to the consideration of the nomination of Mr. Ray Marshall, of Texas, to be Secretary of Labor; that there be a time agreement thereon of 4 hours to be equally divided between Mr. WILLIAMS and Mr. JAVITS.

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, I announce that whatever time I have, as I am for Mr. Marshall, I will yield as the opponents of the nomination desire.

Mr. SCOTT. Mr. President, reserving the right to object, I have some definite reservations about this nomination.

It is my understanding from the news media that he favors repeal of section 14(b) of the Taft-Hartley Act and that he favors the common situs picketing. These are matters quite important to my State.

I have even heard the suggestion—and this may not be accurate, but I would like to see the record to verify that—he is in favor of unionizing the military. If that is true, I think his nomination should be rejected.

But I would hope that we could put this over, so I am constrained to object at this time.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF GRIFFIN B. BELL, TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, it is not the intention of the leadership to call up the nomination today of Mr. Griffin B. Bell, of Georgia, to be Attorney General. I ask unanimous consent that there be a time limitation on the nomination of 8 hours, to be equally divided between Mr. EASTLAND and the Republican leader (Mr. BAKER), and that the Senate proceed on Tuesday next immediately after the two leaders or their designees have been recognized to the confirmation of the nomination.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I might say there have been prolonged and extended negotiations between most of the parties in interest, I believe, on this nomination. It is a very long time for debate. It is a very delicate nomination. But I believe this is a good agreement. I commend it to my colleagues on this side of the aisle.

I would inquire of the majority leader what time this 8 hours might begin to run and how we might schedule the day.

Mr. ROBERT C. BYRD. It had been my plan, Mr. President, to come in at 10 o'clock on Tuesday morning next. Immediately after the leaders have been recognized the time would begin running, which means that if all the time were consumed, it would be approximately 6 o'clock p.m. that the vote would occur.

Mr. BAKER. Not later than 6 o'clock?

Mr. ROBERT C. BYRD. I would ask unanimous consent that the vote on the confirmation of the nomination occur not later than 6 p.m. on Tuesday.

Mr. MATHIAS. Reserving the right to object on that 6 p.m., I think it would have to be 8 hours.

Mr. ROBERT C. BYRD. I will say not later than 6:30 p.m.

Mr. MATHIAS. Would the distinguished majority leader add to that? I do not know that anybody will want 8 hours. I am trying to protect the maximum amount of time that could be needed. I do not know that it would be needed. I will not need it.

Mr. ROBERT C. BYRD. The Senator would be protected if we said not later than 6:30 p.m.

Mr. MATHIAS. Other extraneous matters may arise during the course of the day which may consume some time.

Mr. ROBERT C. BYRD. It is not the plan of the leadership to bring other extraneous matters in during that day.

Mr. BAKER. If I may speak to that point for a moment, Mr. President, I fully understand the concern expressed by the senior Senator from Maryland. But the idea of a time certain, I believe, greatly extends the convenience of the debate for Members. I recognize that other extraneous matters might intrude, that dilatory and delaying tactics might take time, or rollcalls would eat into the available time and make it substantially less than 8 hours. But 8 hours is a long time. That makes a long day.

My own personal preference would be to have it not later than 6 p.m. or 6:30 p.m. If there is serious objection to that, I would state that our undertaking originally was just for 8 hours and the 6 or 6:30 time came as an afterthought as a matter of convenience for certain Members.

Mr. MATHIAS. I have no great objection. As I say, I do not expect to spend a great deal of time myself. I am thinking of others who may have an interest. I think the 8 hours will protect them. I think if the majority leader and the minority leader undertake in sight of God and this company to insure us that if there are prolonged rollcalls, if there is some other urgent or extraneous business which intervenes and takes up a substantial amount of time, they will protect us, I would have no objection.

Mr. ROBERT C. BYRD. May I say in answer to the distinguished Senator that under a time agreement any quorum calls have to come out of the time of somebody who controls time. So if no one yields time on a quorum call, a quorum call could not be called until all the time is yielded back on the side. I think the Senator can be assured there will be 8 hours or not to exceed 8 hours on this nomination on Tuesday.

Mr. MATHIAS. With the assurance of the majority leader, I have no objection.

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

Mr. HELMS. Will the distinguished majority leader be willing to assure that in the event of a cloture vote scheduled for Tuesday it would not be displaced or otherwise affected by this time agreement.

I am asking for the same assurance that Senator ALLEN received.

Mr. ROBERT C. BYRD. Let me respond in this fashion: If there is a cloture vote on Tuesday, and at this time I foresee none, that cloture vote occurs 1 hour after the Senate comes in, except otherwise by unanimous consent, less the time for the establishment of a quorum.

That rule is pretty clear.

Mr. HELMS. I just want to be reassured.

Mr. ALLEN. Mr. President, reserving the right to object, that is the tenor, then, of the Senator's request: that the unanimous-consent agreement to the contrary notwithstanding, if a cloture vote is scheduled and if the schedule would require it to be voted on during this period covered by the unanimous-consent agreement, notwithstanding the agreement, the cloture vote would come as scheduled. Is that correct?

Mr. ROBERT C. BYRD. Absolutely. In my judgment, there is no question on the matter. If any question should arise, I would stand with the Senator in taking that position.

Mr. ALLEN. That is part of the unanimous-consent agreement—that a cloture vote would come, even if it came in the middle of or inside the agreed time.

Mr. ROBERT C. BYRD. I do not think we should say it is part of the agreement, because if we do that, then we are laying the predicate for an argument to be made at some point that if there is a unanimous-consent agreement on a matter, rule XXII as it pertains to cloture is vitiated by that unanimous-consent agreement. I do not believe it is. I do not think we should lay that into this agreement.

Mr. ALLEN. The precedent is going to be established, then, that the cloture vote would come even though unanimous consent had been given that debate occur at that time on another subject.

Mr. ROBERT C. BYRD. I am not sure that we do not already have precedent to this effect. I am saying to the Senator that, in my judgment, no unanimous-consent agreement as I have thus propounded it here would vitiate the operation of rule XXII with respect to the vote on cloture. If I were to include in my unanimous-consent agreement that notwithstanding rule XXII, thus and so, that we will proceed with these nominations——

Mr. ALLEN. If that stipulation were not made, then it might vitiate the cloture. That is what the Senator is contending. Is that right?

Mr. ROBERT C. BYRD. I am saying that the agreement that I have propounded does not vitiate the operation of rule XXII with respect to a vote on cloture.

Mr. ALLEN. That is all I want to know on that point.

These agreements would seem to do away with the morning hour, then. Is that correct?

Mr. ROBERT C. BYRD. They would do away with the morning hour, yes.

Mr. ALLEN. And that would prevent a resolution coming over under the rule.

Mr. ROBERT C. BYRD. Yes. In any event, I intend to recess, so we would not have the problem of resolutions coming over under the rule.

Mr. ALLEN. Yes, but I assume the Senator will not recess for the next 30 days.

Mr. ROBERT C. BYRD. I doubt that we will be recessing for that many days.

Mr. ALLEN. I thank the Senator.

Mr. DOLE. Mr. President, reserving the right to object, will we have a copy of the report available on the Bell nomination?

Mr. ROBERT C. BYRD. Mr. President, I do not know that there is any such report from the committee.

Mr. DOLE. Is there any committee report on the Bell matter?

Mr. EASTLAND. It will be filed tomorrow.

Mr. DOLE. So it will be available.

Mr. MATHIAS. Mr. President, reserving the right to object, and I am very reluctant to do it, but in view of the question raised by the Senator from Alabama that there could be a cloture vote, that would be a substantial consumption of time. There could be a substantial amount of time consumed in that event. In that event, I think that a 6:30 time for voting could, in fact, substantially decrease the time that had been agreed upon.

Mr. ROBERT C. BYRD. I understand what the Senator is saying.

Mr. President, I ask unanimous consent that there be a time limit on the confirmation of the nomination of Mr. Bell of not to exceed 8 hours, to be equally divided between Mr. EASTLAND and Mr. BAKER, and that the Senate proceed to the consideration of the nomination on Tuesday next immediately after the two leaders or their designees have been recognized.

Mr. BAKER. Mr. President, reserving the right to object, I think that is the better way to handle it under the circumstances.

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

Mr. HELMS. Rule XXII still stands?

Mr. ROBERT C. BYRD. The Senator need have no concern about rule XXII.

Mr. President, I thank all Senators.

I think I should do this, however: We have no agreement on the nomination of Mr. Marshall, and I am not going to ask for a time agreement. I assured the distinguished Senator from Virginia (Mr. SCOTT) that I will not ask for a time agreement.

NOMINATION OF RAY MARSHALL

However, I ask unanimous consent that on Monday, upon the disposition of the nomination of Mr. Califano, the Senate proceed to the consideration of the nomination of Mr. Ray Marshall of Texas to be Secretary of Labor, without any time limit being agreed upon.

Mr. SCOTT. Mr. President, reserving the right to object, there are a number of matters that I am concerned about, and other Senators have probably expressed similar reservations. I hope that the distinguished majority leader will withhold any request regarding this nomination until Monday.

Mr. ROBERT C. BYRD. Very well. I will be glad to accede to the request of the Senator from Virginia (Mr. SCOTT).

Mr. President, I ask unanimous consent that the nominations of Mr. Califano and Mr. Bell and Mr. Marshall be placed on the calendar.

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

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. BURDICK:

S. 386. A bill to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; to the Committee on Post Office and Civil Service; and

S. 387. A bill to include unpledged deposits in the Bank of North Dakota, maintained by

any financial institution which is a member of a Federal home loan bank, or is an insured institution as defined in section 401(a) of the National Housing Act, as assets for purposes of meeting the liquidity requirements under section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)); to the Committee on Banking, Housing and Urban Affairs.

By Mr. LAXALT (for Mr. BARTLETT):

S. 388. A bill to amend the Internal Revenue Code of 1954 with respect to income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 389. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Finance.

S. 390. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAXALT (for Mr. BARTLETT):

S. 388. A bill to amend the Internal Revenue Code of 1954 with respect to income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

Mr. LAXALT (for Mr. BARTLETT). Mr. President, I am today introducing legislation that will make certain changes in the Tax Reform Act of 1976 with respect to income earned abroad by U.S. citizens living or residing abroad. The bill will restore the treatment of such income to what it was prior to the passage of the 1976 Act.

I ask unanimous consent that the text of the bill as well as the remarks of and materials prepared by the Senator from Oklahoma (Mr. BARTLETT) be printed in the RECORD at this time.

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

S. 388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 911(c) of the Internal Revenue Code of 1954 (relating to limitation on amount of exclusion) is amended to read as follows:

"(1) Limitations on amount of exclusion.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000 in the case of an individual who qualifies under subsection (a), or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.".

(b) The last sentence of subsection (a) of section 911 of such Code (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed, as a deduction from his gross income, any deductions (other than those allowed by section 151, relating to personal exemptions) properly allocable to or chargeable against amounts excluded from gross income under this subsection.".

(c) Section 911 of such Code (relating to earned income from sources without the United States) is amended by striking out subsections (d) and (e) and by redesignating subsection (f) as subsection (d).

(d) Section 36 of such Code (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended by striking out "sections 32" and inserting in lieu thereof "sections 32, 33,".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1975.

STATEMENT BY SENATOR BARTLETT

Today I am introducing legislation that will correct one of the most misguided provisions of the Tax Reform Act of 1976. My bill will substantially return the treatment of individual earned income of Americans abroad to what it was prior to October 4, 1976.

The Tax Reform Act of 1976 amended Section 911(c) of the 1954 Internal Revenue Code so as to reduce the exclusion for income earned abroad by U.S. citizens from 20 thousand dollars to 15 thousand dollars and modified the computation of that exclusion in three ways. First, on individual entitled to the earned income exclusion may no longer credit or deduct foreign income taxes paid on excluded income. Second, income, derived by individuals beyond the income eligible for the earned income exclusion is now subject to U.S. tax at the higher rate brackets which would apply if no exclusion had been allowed. Third, income earned abroad which is received outside the country in which earned in order to avoid tax in that country is ineligible for the earned income exclusion.

My bill returns the exclusion to 20 thousand dollars and, save for the third modification mentioned above, returns the calculation of the tax liability to what it was befor the passage of the Tax Reform Act.

I find it distasteful to have to undo something that should have been done properly the first time, but in reviewing the legislative history of this provision, it is obvious to me that what we ended up with is a minced version of a half-baked idea. Section 1011 of the Tax Reform Act is punitive in its effects on individual Americans abroad and a great disservice to American business overseas generally. Unless corrected, its net effect will be that Americans will lose jobs and that American companies operating abroad will be forced to cut back their activities or increase their product prices.

Quoting from the Senate Finance Committee Report Number 94-938, the ostensible objectives of the Tax Reform Bill of 1976 were:

"1. To improve the equity of the income tax at all income levels without interfering with equally important goals of economic efficiency and growth;

2. To simplify many tax provisions, delete unnecessary language and encourage taxpayers to use the standard deduction;

3. To continue for the next 12 months the economic stimulus provided in the Tax Reduction Act of 1975 and extended through the first half of 1976 by the Revenue Adjustment Act of 1975; and

4. To make improvements in the administration of the tax laws, particularly to strengthen taxpayers' rights.

The effects of Section 1011 will be to undermine each one of these laudable ideals.

American citizens living and working abroad do not have the benefit of many services available at home that are paid for by taxes. When such services are provided by the employer in the form of living allowances, housing allowances, and educational allowances, they are included in the employees' calculation of gross income. The exemption of 20 thousand dollars from earned income was an attempt to partially compensate for this inflated calculation of personal income. Concern for equal treatment of taxpayers' demands that some attempt be made to realistically compensate individuals for cost of living and quality of living differentials.

The Halliburton Services Company of Duncan, Oklahoma, has provided the following information on what they expect the impact of the present law to be. It is obvious that equity for taxpayers overseas is being ignored and must be corrected before the tax collection deadline this year.

The attached computations are based on the following assumptions:

1. The employee in the foreign country will incur additional expenses living in the foreign country equal to the allowances paid to him.

2. Housing furnished the employee is usually inferior to housing in the United States and the rentals paid are greatly in excess of rentals on comparable housing in U.S. Also employee sometimes keeps a house in the U.S., therefore, all rentals paid abroad constitute additional expense to him.

3. Tuition for dependents paid by or on behalf of the employee is an additional expense, since such schooling is offered free in the U.S.

4. Vacation expense is the airfare of an employee and his family usually to a more developed country.

5. Based on the above assumptions, the take home pay of the employee while in the foreign country is equal to his base salary plus the overseas differential. The overseas differential is generally $150 per month increase in pay given an employee to induce him to go abroad.

COMPARISON OF UNITED STATES INCOME TAX EFFECT ON CEMENTER IN DUBAI TO CEMENTER IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Dubai	Increase in tax
Base salary in United States	$11,260	$11,260	.....
Overseas differential	1,800	1,800	.....
Base salary in Dubai	13,060	13,060	.....
Add:			
Living allowance	.....	3,000	.....
Furniture allowance	.....	1,000	.....
Revaluation of currency allowance	.....	1,572	.....
Fair market value of housing	.....	12,000	.....
Tuition paid	.....	3,000	.....
Vacation paid	.....	2,000	.....
Total compensation	13,060	35,632	.....
Less IRC sec. 911 exclusion	0	20,000	.....
Adjusted gross income	13,060	15,632	.....
Less:			
Standard deduction	2,090	2,800	.....
Personal exemptions (4)	3,000	3,000	.....
Taxable income	7,970	9,832	.....
Tax (based on joint return rates):			
Under proposed law	1,374	1,783	$409
Under present law (with $15,000 exclusion and higher rates)	1,374	4,804	3,430

COMPUTATION OF UNITED STATES INCOME TAX EFFECT ON DISTRICT MANAGER IN ABU DHABI AS COMPARED TO DISTRICT MANAGER IN THE UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Abu Dhabi	Increase in tax
Base salary in United States	$21,465	$21,465	
Overseas differential	1,800	1,800	
Base salary in Abu Dhabi	23,265	23,265	
Add:			
Living allowance		3,076	
Furniture allowance		750	
Revaluation of currency allowance		1,572	
Fair market value of housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	23,265	45,663	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	23,265	25,663	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	17,465	19,863	
Tax (based on joint return rates):			
Under proposed law	3,670	4,342	$672
Under present law (with $15,000 exclusion and higher rates)	3,670	9,068	5,398

COMPARISON OF UNITED STATES INCOME TAX ON FIELD SUPERVISOR IN QATAR TO FIELD SUPERVISOR IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Qatar	Increase in tax
Base salary in United States	$17,400	$17,400	
Overseas differential	1,800	1,800	
Base salary in Abu Dhabi	19,200	19,200	
Add:			
Living allowance		2,800	
Furniture allowance		750	
Revaluation of currency allowance		1,350	
Fair market value of housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	19,200	41,100	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	19,200	21,100	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	13,400	15,300	
Tax (based on joint return rates):			
Under proposed law	2,610	3,085	475
Under present law (with $15,000 exclusion and higher rates)	2,610	7,036	4,426

COMPUTATION OF UNITED STATES INCOME TAX ON ASSISTANT DISTRICT MANAGERS IN SAUDI ARABIA AS COMPARED TO ASSISTANT DISTRICT MANAGERS IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Saudi Arabia	Increase in tax
Base salary in United States	$19,370	$19,370	
Overseas differential	1,800	1,800	
Base salary in Saudi Arabia	21,170	21,170	
Add:			
Living allowance		3,000	
Furniture allowance		750	
Revaluation of currency allowance		2,381	
Fair market value in housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	21,170	44,301	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	21,170	24,301	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	15,370	18,501	
Tax (based on joint return rates):			
Under proposed law	3,103	3,960	$857
Under present law (with $15,000 exclusion and higher rates)	3,103	8,455	5,352

The present law concerning taxation of Americans abroad is more complex than it was, is economically constrictive rather than stimulative, and is of doubtful administrative efficiency. In short, this provision of the Tax Reform Act accomplished none of the announced aims of that act, and is positively mischievous in its effects upon individuals and companies alike.

To the extent that the current law forces American companies to forgo planned expansions or to increase their prices, it will hinder international economic recovery. Much of the world is depending upon the United States' economic ability and strength for much of their recovery. The present law will frustrate that expectation as American expertise and experience is drawn back to U.S. territory.

An additional mark against the present law is its retroactive nature, which if allowed to be carried out with this year's tax collections will unfairly and unduly burden thousands of Americans who have not been able to plan for the increased taxes. For all the above reasons I urge the earliest possible consideration and passage of my bill. I ask unanimous consent that the text of my bill and the following materials which include a sampling of the letters I have received from around the world, as well as editorials and statements on this problem, be included in the Congressional Record with my remarks.

FROM THE STATEMENT OF WALKER WINTER, FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES, JULY 9, 1975, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS

EXEMPTION OF EARNED INCOME FROM FOREIGN SOURCES

We reaffirm our position that the exclusion in section 911 of the Internal Revenue Code for earned income of citizens who are residents and/or employed abroad should not be reduced. Under existing tax law, United States citizens, who are bona fide residents of foreign countries for at least one full calendar year or who are physically present in foreign countries for 17 out of 18 consecutive months, may exclude from their federal income tax the first $20,000, or in some cases the first $25,000, of compensation received for services performed outside the United States.

This exclusion has been a part of our tax law since 1926. This issue was fully considered by both House and Senate in 1962, and the present law is a result, with the exception that in 1964 the $35,000 exclusion was reduced to $25,000. The tax benefit has been reduced substantially from an unlimited exclusion to the present $20,000 and $25,000 exclusion. Furthermore, the exclusion is limited sufficiently to prevent its use as a tax avoidance device.

Critics of the exclusion assert that it entices Americans, with technical and professional skills not available in foreign countries to work abroad by offering them tax-free earnings. This assertion completely overlooks that fact that the income of these employees may be subjected to foreign income taxes as well as other foreign taxes. Also, the foreign taxes attributable to income not taxed in the United States are not allowed as a credit or a deduction against United States taxes.

American citizens working abroad do not have the benefit of many services available at home that are paid for by taxes. As for the individual businessman overseas, the tax exclusion of $20,000 and $25,000 helps offset the additional costs of schooling, housing, travel, and other inconveniences. Such Americans overseas do not get the benefits of those things their taxes help pay for in the United States.

The exclusions in section 911 give some relief from this situation and represent a measure of justice for the American citizen abroad. Because of inflationary trends throughout the world, any adjustment in the exclusions should be up rather than down.

United States Government employees abroad remain subject to our income taxes on their earnings, but they are not taxed on fringe benefits such as shelter, cost of living, education, travel and other differential cost payments. On the other hand, cost-of-living allowances are taxable compensation to employees of private business.

Armed forces personnel enjoy facilities on foreign bases which provide an environment comparable to a base in the States. Civilians employed abroad must attempt to create a comparable cultural environment for their families on an individual basis. Reduction of the presently excludable portion of salary earnings would discriminate against non-government employees.

In order to operate on an international basis, American companies must employ some of our citizens to work in foreign subsidiaries and branches. These American employees are necessary because local nationals, in many cases, do not possess the needed skills, experience or familiarity with American business methods.

United States citizens representing American businesses abroad often have many years of experience with the language, law, customs, and techniques of the foreign country in which they live. The are invaluable and are as essential to companies operating abroad as American capital. It is absolutely essential to have American citizens in overseas positions to manage these investments, as well as to train local personnel.

A citizen employed abroad must receive compensation for special costs which do not represent real income. If he is given an allowance for tuition for his children to attend a private English language school, this does not represent any income to the individual, but the United States will tax such a tuition allowance.

As a revenue producing measure, the elimination of the exclusion would be largely ineffective. Corporate employers would be obliged to increase salaries or living allowances of their overseas American employees, thus diminishing corporate tax receipts. The net effect would be to make American business abroad less competitive with other foreign business, since other major industrial nations generally do not tax their overseas businessmen.

Increased costs are already having an adverse effect on employment by forcing a number of international companies to hire foreign executives, not necessarily of the host countries, to replace American executives. It has been estimated a United States company spends an average of $100,000 during the first two years when it sends a $20,000-a-year man abroad.

The long-range effect of any unfavorable change would be to jeopardize our competitive position abroad at a time when inflation and rising operating costs have made it increasingly difficult to compete in foreign markets. Additional costs could cut back on dividends and profits from foreign operations

which assist in solving our balance-of-payments problems.

[From the New York Times, Jan. 9, 1977]

TAX LAW: PUNISHING AMERICANS ABROAD

To the Editor:

The new Congress and the new Administration will have an opportunity to examine the recent changes in U.S. tax law that affect American citizens residing abroad. It is the general consensus of the American community in Brazil that the legislation is either deliberately punitive or utterly thoughtless.

The changes in question, by reducing the income earned abroad which is exempt from U.S. taxation and by greatly raising the effective tax rate on the non exempt income, expose Americans residing abroad to the certainty of real double taxation. This is because foreign countries, not unnaturally, themselves tax income earned by non-citizen residents from economic activity within the foreign country, sometimes (as in Brazil) at very high rates indeed.

Furthermore, Americans living abroad actually receive services—police, fire, sanitation, etc.—from the host nation, whereas they receive few if any from the United States. On top of this, Americans abroad often have to pay exorbitant amounts, none of them deductible, for services such as education which would be provided at government expense in the U.S. This is to be contrasted with the gentle treatment meted out to our diplomatic personnel, who have special allowances for just such items.

The net effect of the new tax law is to make it substantially more expensive for American companies to employ Americans abroad. Many will choose not to do so. The result will be a reduction of American influence abroad and of the beneficial spread of American technology and good will, a worsening of the U.S. balance of payments and of our ability to compete with other industrial nations, and the encouragement of taxpayer despair and prevarication. The increase in tax revenues will be negligible or non-existent. The only other country to tax on the basis of nationality rather than residence is Switzerland, which is hardly comparable.

Had Congress deliberately set out to pass a hopelessly misguided law, it could not have done better. I hope that this does not remain the case.

THOMAS J. SUTCLIFFE.

[From Wall Street Journal, Nov. 1, 1976]

TAXING INCOME EARNED ABROAD

One of the many reasons President Ford should have vetoed the tax bill last month instead of signing it is the provision that increases the tax burden on U.S. citizens working abroad. The taxwriters really goofed, for the net effect can only be that American corporations operating abroad will reduce the number of Americans they employ and either replace them with foreign nationals or shrink the level of U.S. business activity abroad.

Until 1962, the United States didn't tax its citizens on any wage and salary income earned abroad, and we are still one of the very few nations of the world who now do tax such income. Prior to 1962 we accepted the universal rationale, which was and is reasonable, that a worker will be taxed by the country in which he earns his income.

But when the law was changed, it was at least replaced with some relief on this score. Americans employed abroad could exempt the first $20,000 of income earned abroad from U.S. taxes, and after three years abroad could exempt the first $25,000. Now, not only has the figure been dropped to $15,000, but the non-excluded income must be taxed in the same tax brackets as if there were no exclusion.

The change will have enormous damaging impact on the competitiveness of U.S. business abroad as the tax liabilities of their American workers soar. The problem is magnified because a company usually has to pay roughly $20,000 to a worker just to finance his living-cost differential and home-leave expenses, which Internal Revenue counts as personal income to a worker.

Equity is best assessed in examining the after-tax effects. A company that pays $40,000 to a domestic employee gives him, say, $30,000 after tax. For that employee to be sent abroad and receive $30,000 after tax and living allowances, the company will have to expend $80,000, $90,000, or if he's stationed in Japan, $100,000. The company's foreign competitor is able to send in an employee of equal skill at much less total outlay because the employee does not pay domestic tax on foreign earnings. The competitor thus tends to win the contracts and get the business.

So if the taxwriters are counting on Treasury getting more revenue as a result of their "reform," forget it. Treasury will lose revenues on two counts: First, because U.S. foreign earnings will shrink as U.S. companies lose business to foreign competitors. Second, because the executives, engineers and hardhats will no longer be bringing home savings that can subsequently be taxed by Treasury as investment income.

The degree to which this increased tax burden prevents the United States from selling goods and services abroad, of course means that the cost of goods and services we buy from abroad will rise. The effect is the same as an embargo on labor or any other traded commodity. The foreign nation that otherwise would employ the talents and resources of U.S. citizens suffers because the tax differential makes such employment impossible.

What Congress should have done instead is double the exemption, to account for the inflation that has taken place since 1962, thereby expanding U.S. business activity abroad with its resulting beneficial feedback effects on the U.S. economy. As it is, this is one tax change that damages everyone's interest to nobody's benefit.

NOVEMBER 16, 1976.

Subject: Tax Reform Act of 1976; Changes in the Treatment of Foreign Income Affecting Individuals.

Senator DEWEY F. BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: I wish to express my views relating to certain provisions of the Tax Reform Act which was signed into Law by President Ford on October 4, 1976. The specific provisions deal with the changes in the treatment of foreign income affecting individuals.

I am not in favor of these changes because of the increased tax burden on U.S. citizens living and working overseas, as well as the fact, that these changes are retroactive to January 1, 1976.

The changes will be a significant deterent to promoting and maintaining U.S. business interests overseas. American firms cannot successfully compete in foreign markets if they cannot find personnel willing to work overseas. And, because there is notable relationship between Americans overseas, American direct investment overseas and U.S. exports, the U.S. balance of trade deficit can be expected to deteriorate.

As to the effective date of the taxation, I cannot understand how Congress could consciously approve a retroactive change in the tax burden of U.S. citizens! Would your fellow members accept a retroactive change in the election laws that placed them in Congress if such a change adversely affected their present position? I believe the answer would be a resounding No! But yet Congress expects the same logic to be accepted when it is applied in other areas.

I strongly urge you to introduce amendments in the next legislature which will not only rectify these unfair changes, but liberalize the conditions for U.S. citizens working overseas.

Thank you for your assistance, and consideration of my views.

Very truly yours,

DONALD W. PRESTON.

P.O. BOX 1177, HAMILTON 5, BERMUDA,
December 2, 1976.

Hon. DEWEY FOLLETT BARTLETT,
Russell Building
Washington, D.C.

DEAR SIR: The contents of this letter are to register a complaint as to the construction and passing of the latest Income Tax Bill.

I am an individual who works overseas for a foreign company, which does not pay to me any subsidies as in reference to paying an equivalent amount of U.S. taxes. I have to pay my U.S. taxes from my earned salary. With the new tax Bill, which has been passed, it will make it so that I cannot afford to continue in my overseas position. By the action of the new Bill I will be forced to return to the United States, whereby I will be placed into the job market and either I will be unemployed or I will displace someone from a position.

Is the objective of this Bill to create additional unemployment? It certainly appears that this is one of the objectives.

Further, you have made it so that the reduction in the overseas exemption is retroactive to January 1, 1976. This places such a severe burden upon my family that I, at this time, have doubts that I will be able to pay the retroactive taxes. Under the Internal Revenue Service Code, is it 100% legal to have a retroactive tax?

United States citizens who are working outside of the United States as part of the international operating work force are in a very good position to be excellent representatives for the United States. However, when the Congress passes unfair income tax laws I feel reasonably sure that these good representatives of the United States might have other thoughts.

It is my impression in general conversations with large major companies that these companies are going to have their United States citizens working overseas return to the United States. Foreign nationals will then be brought into the vacant positions. The end result is that in many cases the United States Government will lose not only more tax dollars but possibly good business sense from a standpoint of international dealing.

I will certainly appreciate a response from you in regard to the justification for this unfair tax law.

Very truly,

GERALD E. BROOKS.

BUTLER ASSOCIATES, INC.,
Tulsa, Okla., September 15, 1976.

Senator DEWEY F. BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR DEWEY: The recent announcement regarding the change in the income tax position of Americans working abroad will create a very serious problem for companies such as ours. As you know, we are an engineering and construction management firm providing foreign governments, as well as private industries overseas, with technical services. The proposed revision in the tax law will eliminate any competitive position that we might have with the foreign firms, and for all practical purposes we will be out of business insofar as foreign projects are concerned.

The retroactive aspects of the proposed changes are especially unfair both to the corporation and to the individuals. The differential that we must pay our expatriates will rise substantially, and it is too late to renegotiate existing contracts. It might be interesting to you to know that a recent article in the "Wall Street Journal" quoted

Fluor Corporation as having 87 percent of their engineering backlog overseas. This alone should give you an indication of the impact that this change in the law will have on such firms.

If the objective of the law is to increase unemployment, it will succeed admirably. We are certain that this was not the intent and that this section of the proposed revision of the tax bill will be reconsidered. The change has the effect of removing any incentive for American personnel to go overseas. We would appreciate you opposing this change.

Very truly yours,

VINCENT E. BUTLER,
President.

PARKER DRILLING CO.,
Nairobi, Kenya, September 17, 1976.

Re: Tax reform bill.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Attached you will find copies of recent articles from the International Herald Tribune giving notice to U.S. expatriates about the pending tax bill.

As I have written in earlier months, this reduction of tax excludable income will only hurt the U.S. consumer in one of two ways:

1. Expatriate employees will be forced to return to the U.S. because of the higher tax consequences to which they would be subject. This fact would be a negative force on the Country's unemployment percentage.

2. The U.S. firms operating abroad to import products into the U.S. will necessarily have to increase their prices to the consumer. The reason being that of increased wages, which they will have to pay to keep American expertise abroad.

When the Tax Reform Bill goes to a final vote, please consider whether the $1 billion in additional tax revenue will not be felt by the American public in a multiplier effect.

Sincerely yours,

JERRY W. HOLDER,
Assistant Division Manager.

TEHRAN, IRAN,
October 10, 1976.

Hon. DEWEY BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SIR: As an Oklahoman, and an American working and residing abroad, in Europe, Africa and the Middle East, I wish to complement the United States Congress on another unparalleled act of stupidity in the punitive tax legislation for U.S. Expatriates. These actions can only be greeted with joy by Western European and Japanese firms who will happily jump in to fill any void created by American firms being rendered uncompetitive by our own Congress.

The bill will certainly cause many Americans to return to the U.S. because of simple economics. These people will need jobs. The Bill will cause many "marginal" or new foreign operations to fold because of cost considerations. The net effect is that some manufacturers who enjoy a high level of employment due to foreign markets will now find it more difficult to retain this level. This is a potential cause of additional unemployment for workers in the U.S.

Competition from West German, Italian, French, English and Japanese concerns is keen. Any advantage our Congress may provide them will surely be appreciated and utilized to the fullest extent.

I do not understand how the logic in this legislation was derived. In a period where unemployment and "balance of payments" is a problem, this seems to me to be a counter productive action. I can assure you that it goes a long way for me in diminishing the credibility of the U.S. Congress.

Sincerely,

R. S. NICKEL.

FENIX & SCISSON, INC.,
Tulsa, Okla., September 13, 1976.

Hon. DEWEY BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR DEWEY: The September 10, 1976 issue of *The Wall Street Journal* indicates that the tax-revision bill as approved by the House-Senate Conference Committee contains the following provisions:

1. Reduces to $15,000 the amount of income U.S. citizens working abroad may exclude from their U.S. income for tax purposes. This reduction is to be retroactive to January 1, 1976.

2. Does away with the credit U.S. citizens working abroad have been able to take against their U.S. taxes for foreign taxes paid on the excluded income.

3. In the future, an American working abroad earning more than the excluded $15,000 will be subject to U.S. tax at the higher tax bracket that would apply if the $15,000 also were taxable.

Our company, among other things, sells engineering and construction management services in foreign countries. We have projects and/or assignments in England, France, South Africa and the Middle East. We have additional proposals outstanding in the Middle East and Japan. At the present time, we have ten U.S. citizens stationed abroad.

U.S. citizens generally will not accept foreign assignments unless their after tax income and benefits exceed those which they would obtain if they were employed in the USA. The tax exclusion, the credit for foreign taxes and rate applied against their USA taxable income are all factors that are considered in their employment contracts and in the charges that we must make for their services. Our standard employment agreement includes a provision that should the tax treatment change we will give additional compensation to allow them to have the same after tax income as before the change.

We have reviewed the impact of these proposed tax changes on the personnel we now have stationed abroad and find that our additional costs, due to these changes, are such that we must increase any charges to our foreign clients somewhere between $10,000 to $12,000 per year per man. In some cases this additional charge will make us non-competitive with our European (mostly French and German) competitors.

We feel the retroactive clause is particularly unfair as it gives us a substantial unexpected expense (in excess of $100,000) so late in the year that we have no opportunity to either (1) re-negotiate or withdraw from contracts that may no longer be worthwhile, or (2) replace our U.S. citizens with European employees.

I am in accord with the general intent of the tax-revision bill and in most instances agree that the proposed changes are well past due; however, I do not believe its intent is to deter companies such as ours from working abroad or to make us less competitive with foreign companies.

Very truly yours,

S. E. SCISSON,
President.

BELL HELICOPTER INTERNATIONAL,
Isfahan, Iran, September 12, 1976.

DEWEY BARTLETT,
U.S. Senate Office Building,
Washington, D.C.

DEAR SIR: It is my understanding that the Congressional Conferees have voted to reduce the foreign income tax exemption to $15,000.00. Also, all income over the $15,000.00 exemption would be taxed at the higher percentage as if the $15,000.00 was also taxable.

I feel that this proposal is unfair to those working overseas.

Although the base salary, cost of living allowance and etc. is higher than that paid for the same job in the U.S.: it is barely adequate to meet the high cost of living in Iran. For instance, my housing allowance is $325.00 and I pay $350.00. Others, with the same amount of allowance have to pay $600.00 and more; I was fortunate in that I had a friend in Isfahan (an Iranian) that helped me obtain my house.

If this passes into law the incentive for overseas employment will be gone entirely and there will be a mass return of Americans returning to the United States. This will put an extra burden on the employment situation that you now have in the States.

Please, consider the proposed reduction as a detriment to the well being of many Americans engaged in foreign work. I respectfully ask for your "no" vote when this matter comes before you.

Thank you for your consideration of this request.

Respectfully,

DON L. WILSON,
WILMA DEAN WILSON.

By Mr. MATSUNAGA:

S. 389. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, I am introducing today two bills which are directed toward furthering the transportation services to the elderly.

My concern for the transportation needs of the elderly has been greatly reinforced from hearings and studies on this subject, which I conducted as chairman of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging.

Older Americans presently encounter numerous difficulties in traveling to and from their destinations. Their paths are often impeded by income inadequacies—which often discourage frequent use of private or public transportation—by deficiencies in existing transportation programs and services—especially in isolated rural areas—and by the unaccommodative design of certain vehicles used by elderly and handicapped persons.

There are numerous program sources from which funds and services may be drawn for developing and operating transportation for the elderly. However, a number of important constraints have limited the range and level of such transportation services.

The bill I offer today would amend certain tax exemption provisions in order to facilitate easier access by the elderly to schoolbuses during periods in the day when such vehicles are not being used by the schools.

Prior to and since the 1971 White House Conference on Aging, the use of schoolbuses to meet the transportation needs of the elderly has been a constant and reoccurring recommendation. At issue is the fact that older persons are in great need of adequate and responsive transportation services. Schoolbuses continue to remain an important and untapped resource.

During hours of nonuse by students, schoolbuses could and would provide a

useful means of transporting the elderly to nutrition sites or senior centers.

In order to make schoolbuses more accessible for use by older persons, my bill seeks to remove a large obstacle blocking contractors' use of schoolbuses for nonschool purposes. Presently, schoolbuses owned by contractors are exempt from Federal excise tax—that is, 10 percent of the vehicle—if the contractor signs an affidavit at the time of the purchase that the vehicle will be used solely for trips to and from school. This exemption provides great savings to the contractor, particularly when there are large numbers of buses involved. Many contractors, however, are unwilling to jeopardize these savings in order to provide nonschool transportation.

As revealed in the House Aging Committee transportation study, an "informal interpretation" by an official of the Internal Revenue Service indicated that "if subsequent circumstances arise which would dictate that a bus purchased tax free can no longer be exclusively used for exempt purposes, then its diversion to other uses will not negate the exemption for that bus." Most bus contractors, however, tend to interpret the law more narrowly.

In light of the great uncertainty on the part of schoolbus contractors as to their tax exemption if schoolbuses are used to transport persons other than pupils, my bill would amend the Internal Revenue code to allow the transport of the elderly and other disadvantaged persons through publicly-supported programs without the loss of the exemption presently permitted in Sec. 4221(e)(1).

I believe this amendment to the law would remove schoolbus contractors' fears of any loss of exemption coverage in providing for the transportation of individuals during nonuse of schoolbuses by pupils. I believe this amendment would promote greater access to transportation resources for our Nation's immobilized elderly. It is my hope that this legislation will see early enactment.

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

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

S. 389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (5) of section 4221(e) of the Internal Revenue Code of 1954 (relating to exemption for school buses) is amended to read as follows:

"(5) CERTAIN BUSES.—Under regulations prescribed by the Secretary or his delegate, the tax imposed by section 4061(a) shall not apply to a bus—

"(A) which is sold to any person for use exclusively in providing transportation for a State or local government or a nonprofit organization described in section 501(c) which is exempt from tax under section 501(a); or

"(B) which is sold to such a nonprofit organization for use by it or by any other such organization exclusively for purposes described in section 501(c)(3)."

(b) The amendment made by subsection (a) shall apply to articles sold after the date of the enactment of this Act.

By Mr. MATSUNAGA:

S. 390. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, the second bill I am introducing today is another attempt to further transportation services for the elderly by extending tax deductions for expenses incurred by volunteers driving to and from charitable-service functions.

Our older Americans are important human resources. Many of the Nation's senior population have the desire to prolong their years of productivity and services. However, all too often, their contributions made as volunteers in local or State services, are stymied by the burdens of rising expenses in driving or being driven to their charitable activities.

Numerous programs and projects throughout the country rely upon the services of volunteer drivers. But frequently many volunteer drivers are forced to curtail their voluntary driving because of the imbalance between increasing costs in operating a vehicle and the limited, fixed income of the senior volunteer.

Volunteerism is usually effective when there is a potential to alleviate burdening costs to the volunteer, and when the out-of-pocket expenses of the volunteer is at a minimal. Consideration of incentives is an important aspect of promoting greater participation by volunteers and in strengthening the operation of senior projects.

One of the roadblocks deterring transportation services provided by volunteer drivers lies in our Federal tax law. One provision of our current Federal tax law permits individuals who itemize their deductions to include the mileage driven in bona fide volunteer activities at the rate of 7 cents a mile. A figure much more aligned to the real costs of operation is the business mileage deduction of 15 cents a mile. As indicated in the House transportation report by the Select Committee on Aging, "for even a middle-income elderly person, whose marginal tax rate is as high as 20 percent, the charitable mileage deduction amounts to less than a cent a half per mile."

By proposing to amend the tax law as it relates to tax deduction for charitable or volunteer mileage and equate such deductions with those for nonreimbursed business mileage deductions, my bill would trigger the transportation potential embodied in the use of volunteer drivers. The bill provides an incentive to volunteerism and should be enacted.

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

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

S. 390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170 of the Internal Revenue Code of 1954 (relating to charitable deductions) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) AMOUNT OF DEDUCTION FOR EXPENSES OF OPERATING A MOTOR VEHICLE.—The amount allowable as a deduction under this section with respect to expenses incurred by the taxpayer for the operation of a highway vehicle—

"(1) shall include that portion of the costs of operating and maintaining such vehicle (including a reasonable allowance for depreciation) which is allocable to such operation; and

"(2) shall be determined in the same manner as if such operation were in connection with a trade or business of the taxpayer.".

(b) The amendment made by subsection (a) shall apply with respect to the operation of a motor vehicle occurring after the date of the enactment of this Act in taxable years ending after such date.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. JOHNSTON, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 15, the Federal Election Campaign Act Amendments of 1977.

S. 69

At the request of Mr. STEVENSON, the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 69, to extend the Export Administration Act.

ADDITIONAL STATEMENTS

AN EXTRAORDINARY FEAT IN ANTARCTICA

Mr. SPARKMAN. Mr. President, I wish to call the attention of the Senate to a most remarkable achievement of a small band of extraordinarily skillful and dedicated men. This is the completion of the recovery of three ski-equipped C–130 Hercules aircraft which were wrecked in 1975 in a series of bizarre accidents at Dome Charlie in Antarctica.

Dome Charlie is about 625 miles from the main U.S. Antarctic base at McMurdo Sound. Its altitude is 11,000 feet and its average summer temperature is 22° below zero. It was recently described in a report to the Foreign Relations Committee by one of the committee's widely traveled staff members as "quite possibly the worst place I have ever been." Describing the work at Dome Charlie, this staff member reported,

The men live in canvas-covered huts and work 12-hour shifts in sub-zero temperatures made worse by high winds and an altitude of 11,000 feet. It has to be one of the most difficult aircraft repair jobs ever accomplished.

This salvage operation has spanned three austral summers. At a cost of $2.5 million it repaired three aircraft which would have cost $27 million to replace. The first aircraft was damaged while on a mission to pick up a five-person international Antarctic glaciological project

team doing research on Dome Charlie, which is one of three ice domes that rise out of the Antarctic Plateau and that are of particular interest to glaciologists because they contain some of the world's thickest known ice.

A second aircraft sent to pick up the glaciological team and the crew of the first aircraft also was damaged in attempting to take off from Dome Charlie. The team and crews were finally removed, and it was decided to try to salvage the two wrecked aircraft. In the austral summer of 1975–76, a third C–130 was damaged in the course of establishing the repair base.

Thus, there were three aircraft stranded at Dome Charlie. The third of these has now been repaired and flown back to the United States.

This is, indeed, an epic accomplishment, and I wish to pay tribute to all of the 40-odd men involved in the work which was carried out under most adverse conditions. In particular, I wish to recognize the following personnel who played a major role in this entire operation:

From the Naval Support Force, Antarctica:

Capt. C. H. "Lefty" Nordhill, U.S. Navy, commander.

Comdr. David D. Beyl, U.S. Navy, operations officer, project officer for the LC–130F recovery.

Lt. Robert L. Bellafronto, U.S. Navy, CES, officer in charge, Dome Charlie.

From Antarctic Development Squadron 6 (VXE–6):

Comdr. David Desko, U.S. Navy, commanding officer.

Lt. Comdr. Charles W. Miller, U.S. Navy, pilot.

Lt. (jg.) George N. Brinkley, U.S. Navy, pilot.

From Naval Air Rework Facility, Cherry Point:

Mr. John B. Allen, work supervisor at Dome Charlie.

Mr. George Wooten, work supervisor at Dome Charlie.

From Lockheed:

Mr. Larry T. Gonzales, project engineer at Dome Charlie.

To all of these men, I say well done and congratulations.

BELL PLEDGE ON U.S. ATTORNEY MERIT RETENTION AND SELECTION

Mr. SCHWEIKER. Mr. President, merit retention and selection of U.S. Attorneys is one of the most valuable reforms Judge Bell is publicly pledged to support as Attorney General. Too often in the past, effective and outstanding U.S. attorneys have been automatically replaced by incoming administrations simply because of their political registration. This practice is an unfortunate and unacceptable hold over from the pre-Watergate era. It should be ended.

The Justice Department has in some instances succeeded in moving appointment of U.S. attorneys from the realm of raw political patronage to a high level of professionalism. The growing number of outstanding U.S. attorney's offices around the nation is proof that this policy is sound.

I have been encouraged by Attorney General-designate Bell's public statements on the issue of merit retention. Respected columnist Neal Peirce wrote recently that the decision on this issue will be an "acid test" of whether or not President Carter intends to make good on his pledge to move the Federal Government to a higher ground of openness and morality. I emphatically agree!

During his confirmation hearings before the Senate Judiciary Committee, Judge Bell was asked specifically about the issue of merit retention. Judge Bell said:

> I happen to understand, with Governor Carter, that, if I am to be the Attorney General, we want to professionalize the Department of Justice. We want to depoliticize it to the extent possible. Otherwise, I would not care to be the Attorney General; he would not care for me to be the Attorney General, either. His ideas and mine are the same on that.
>
> If there is a United States Attorney who warrants retention on the merit system, as others who would be up for consideration, we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system.

Mr. President, I am heartened by Judge Bell's pledge to remove the office of U.S. attorney from the political spoils system. There is widespread support for such a move on both sides of the aisle, as evidenced by the statements of the junior Senator from New York (Mr. MOYNIHAN) this week. And the Senate, in considering the Bell nomination, does well to go on record in support of this timely reform.

Mr. President, I ask unanimous consent that the following material be printed in the RECORD: Excerpts from the hearing transcript on Judge Bell's remarks on merit retention, a copy of the National Association of Citizens Crime Commissions' letter to President-elect Carter endorsing merit retention, and the text of the aforementioned column by Neal Peirce.

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

NOMINATION OF GRIFFIN BELL TO BE ATTORNEY GENERAL OF THE UNITED STATES

Senator THURMOND. The article further says, "The sampling showed a number of cases, such as one involving the Voting Rights Act, in which Bell voted to grant the claim of the civil rights advocates."

I just wanted to point those things out for the benefit of the record here.

I have just a few questions here I would like to ask you.

There have been press reports that the Carter administration will seek to institute some sort of merit selection process for United States judges and possible for U.S. Attorneys.

Judges, as you know, have lifetime tenure, whereas the U.S. Attorneys are appointed to a four-year term and confirmed by the Senate. Would you mind telling us your plans with regard to those U.S. Attorneys currently serving who you find have been doing an outstanding job and whose terms have not expired? Would you retain them until expiration of their terms, or would you seek to remove them from office prior to the expiration of their term regardless of the caliber of their service?

Judge BELL. With respect to United States Attorneys, we have not worked out a plan to have a selection commission. We expect to work with the senators in the states on a merit selection basis.

I have asked Judge Tyler, who is now the Deputy Attorney General, to send a message to all the U.S. Attorneys and the Assistant U.S. Attorneys that they should indicate, if they want to be retained on the merit system. That does not mean they will be retained, but they will have an opportunity to be considered for retention on the merit system.

I happen to understand, with Governor Carter, that, if I am to be the Attorney General, we want to professionalize the Department of Justice. We want to de-politicize it to the extent possible. Otherwise, I would not care to be the Attorney General; he would not care for me to be the Attorney General, either. His ideas and mine are the same on that.

If there is a United States Attorney who warrants retention on the merit system, as others who would be up for consideration, we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system.

Senator THURMOND. In other words, as I understand your position, if a U.S. Attorney has made a competent and meritorious record as U.S. Attorney, and if he desires to be retained, then you would give most careful consideration to him?

Judge BELL. That is exactly right.

Senator THURMOND. And you intend to establish a merit system, and this would be in line with such a merit system?

Judge BELL. Right.

I think if we are really serious about doing something about crime in this country, then we must go into some career service in the prosecutorial forces; just like we have a career service in the investigative area. I do not believe that we can make any progress until we do this.

This is just one phase of being serious about doing something about crime and about having a Federal criminal justice system and policy. That would be part of it.

Did you want to know about the district judges?

Senator THURMOND. How is that?

Judge BELL. I do not believe you asked me about district judges; excuse me.

Senator THURMOND. Go ahead and express yourself.

Judge BELL. I was going to say, on merit selection of judges—somebody is probably interested in this, so I might as well answer this now. We hope to have at an early date a system worked out where there will be a merit selection commission or committee in each circuit which will receive applications from all who want to be considered for vacancies on the circuit courts of appeals.

The present plan is that they would come up with five names, five nominees for the President; and the President will take one of those. That was the system we used in Georgia when Governor Carter was governor there; it worked very well. He would name the members of those circuit commissions.

This would enable us to have a merit system. Of course, the senators would retain their prerogative of saying that they did not like the nominee or did not like any of the nominees. There would be no disturbance of the present relationships under the constitution, where the Senate advises and consents.

With district judges, we are going to leave the selection just as it is, with the senators. But we are hoping, if the senators themselves would want to go to a merit selection commission; which would mean that if you had one in a state, then all who wanted to be considered would be considered.

In that regard, I have gotten a word now from several senators who want to go into

that system. I plan, when I can finish these confirmation hearings, to start working with the senators who are interested, and try to put that into effect.

Some senators will not want to do it; some will. Eventually, this is a way the whole judicial selection will go in this country, on a state basis and on a Federal basis. It is something we are working into, and we are making some progress.

NATIONAL ASSOCIATION
OF CITIZENS CRIME COMMISSIONS,
Philadelphia, Pa., November 29, 1976.

Hon. JIMMY CARTER,
President-elect of the United States, c/o Democratic National Headquarters, Washington, D.C.

DEAR PRESIDENT-ELECT CARTER: On behalf of the 25 independent, non-partisan Citizens Crime Commissions throughout the country, I respectfully urge that serious consideration be given to the retention of United States Attorneys on the basis of merit and, conversely, that replacements not be undertaken on the basis of political expediency.

While the turnover of federal offices by a new, incoming administration is justifiable in many respects, in the area of law enforcement the retention of competent, dedicated and courageous prosecutors must overshadow political considerations if the quality of our criminal justice system is to remain high.

Certainly, your personnel search team can determine which United States Attorneys, on the record, are doing the job for which they were appointed. Our citizens crime commissions are cognizant of federal prosecutors around the country who have developed very effective crime fighting programs and are aggressively investigating, indicting and prosecuting those linked to organized crime, white collar crime and political corruption.

To remove these high-minded crime fighters solely on the basis of political expediency would do a great disservice to our nation's law enforcement resources.

In the greater Philadelphia jurisdictions, most familiar since the Citizens Crime Commission with which I am affiliated serves this area, the two United States Attorneys responsible for New Jersey and Eastern Pennsylvania have been doing a commendable even laudatory, job. To remove these men because they are registered Republicans would only serve to deprive the jurisdictions of two viable, aggressive, able and experienced prosecutors.

We and other citizens have been heartened by your pledge to improve the federal criminal justice system. You can go far toward redeeming that pledge by retaining United States Attorneys of proven merit.

Sincerely,

IAN H. LENNOX,
President.

[From the Philadelphia Inquirer, Jan. 9, 1977]

THE U.S. ATTORNEYS: A TEST FOR CARTER

(By Neal R. Peirce)

WASHINGTON.—The level of integrity in the nation's state and local governments will be deeply influenced by decisions soon to be made by President-elect Carter and his choice for attorney general, Griffin Bell.

The question is: what kind of men and women will be selected to serve as the 94 U.S. attorneys—each a sort of mini-attorney general in his own judicial district—across the nation?

If there was one area in which the outgoing Republican administration indisputably served the public interest, it was in appointing U.S. attorneys who ferreted out official corruption in state and local governments, including some of the nation's most deeply entrenched Democratic machines.

Fired with prosecutive zeal, some went further and toppled leading Republicans—including a sitting Vice President, Spiro Agnew. Richard L. Thornburgh, chief of the Justice Department's Criminal Division, notes that without the prosecution by U.S. Attorney George Beall in Maryland, "you might well have had a President of the United States who was prone to accepting payoffs."

Never before in U.S. history have there been so many prosecutions of present and former local officials. And that wave of prosecution, according to Gov-elect James R. Thompson (R., Ill.) himself a former master prosecutor as U.S. attorney in northern Illinois, "can be traced—irony or ironics—to the Nixon-(John) Mitchell Justice Department. No administration ever did more to upgrade, professionalize and staff the U.S. attorney's office in the field, and then leave them unfettered in their choices of prosecution."

Literally hundreds including two former governors, state judges and cabinet members, legislators, mayors, county executives, councilmen, policemen and political leaders—were brought to the bar of justice and successfully prosecuted.

Now that checkrein—a Republican-controlled Justice Department keeping tabs on local Democratic machines and officeholders—will disappear.

All we have to go now is Carter's promise that he would appoint U.S. attorneys as well as judges "strictly on the basis of merit, not as chief political payoffs."

Traditionally, most of the men appointed U.S. attorneys—no woman has been appointed to that position since Congress created the post in 1789—turn in their resignations when a new President takes office.

But under law, U.S. attorneys serve four-year terms. Some top past U.S. attorneys—including Robert Morgenthau of New York in 1969, and Elliot Richardson in Massachusetts in 1961—tried to stay on but were eventually forced out.

Now two of the most outstanding U.S. attorneys, Samuel K. Skinner, Thompson's successor in Illinois, and David Marston in Eastern Pennsylvania—have said they will not resign, despite Carter's accession to the Presidency. Skinner has been a thorn in the flesh of the machine of the late Mayor Richard J. Daley; Marston has been pursuing allies of Philadelphia's Mayor Frank Rizzo, who claims major credit for carrying Pennsylvania for Carter.

Carter will be under tremendous pressure to replace Marston and Skinner with less aggressive political appointees. His decision will be an acid test of what he really means by "merit."

In addition, The New York Times has urged Carter to retain Robert Fiske in Manhattan, David Trager in Brooklyn and Jonathan Goldstein in New Jersey. There's also strong local support for retaining Terry Knoepp in San Diego.

Beyond these publicized cases, how will Carter, and Bell select most U.S. attorneys across the nation? In past years, both Republican and Democratic Presidents have accepted recommendations of each state's senior politicians of the President's party.

The Carter Administration could send out word that it will accept only recommendations of outstanding lawyers. It could—at the risk of offended sensibilities—junk the political referral system altogether.

If Carter goes in the other direction and appoints U.S. attorneys favored by local Democratic political bosses, his "clean" image could be irrevocably tarnished.

Such a strategy would, in fact, probably backfire. Any attempt to return to selective partisan prosecution and "put the kibosh on following the evidence where it leads," as Thornburgh puts it, would set off a storm of protest by the public and press. It might also trigger wholesale insurrection among assistant U.S. attorneys, now a professional group protected from indiscriminate firing by a recent court decision.

Even if Carter does nominate top-caliber U.S. attorneys, there's the remaining problem of the states' growing dependence on the federal government to expose and prosecute official corruption. Unfortunately, state attorneys general and district attorneys, American University Law Professor Anthony Morella notes, "more often than not are running mates and political allies of the office holders they should be investigating.

Even courageous and well-intentioned state and local prosecutors, Thornburgh says, "simply lack the tools that have made the federal operation a first-class one"—full-time staffs, adequate investigators, immunity and wiretap statutes, access to federal income tax returns, the services of the FBI and Postal Service inspectors.

With adequate resolve, the states' own powers—strong financial disclosure and conflict of interest laws, common law protections against abuse of office, special prosecutors—could be used to root out corruption. Federal law, constitutionally limited and designed for other purposes, is a blunt instrument by comparison.

But by "imagination, wit and daring," as Thornburgh puts it, federal anti-extortion, mail fraud and use immunity laws have been applied to state and local cases. "We aren't stretching the Constitution," he says, "but we certainly are stretching the law."

Some legal observers fear this will lead to a national police force, national set of courts and national criminal code, with possible Watergate-like abuses in a single, all-powerful U.S. Justice Department.

But without strong federal prosecution, there would be little to check ingrained corruption that has infected entire political systems, as in Maryland, Illinois, New Jersey, New York, Pennsylvania, Florida and West Virginia.

WORLD OIL AND FINANCE

Mr. STEVENSON. Mr. President, a short time ago the Banking Committee held hearings on OPEC oil pricing and the management of world debt. Those hearings made it clear that political stability and economic and financial well-being throughout the world are seriously jeopardized by continually increasing oil prices and the inflation, recession, and debt which they produce. The hearings also made it clear that the world is on a treadmill. Increased prices for oil add to OPEC surpluses. The OPEC surplus drains purchasing power from the rest of the world and, like a tax, dampens worldwide economic activity. A handful of the strongest countries and private banks assume the risks of channeling the surplus to the weakest, but the debtor countries' ability to repay is undermined by the oil-induced recession. Yet success in reviving economic activity inevitably strengthens OPEC's hand further. The cycle is thus perpetuated with each new cycle resting upon the unresolved problems of the last.

Walter Levy, a well-known oil economist, describes the problem well in a recent article in the New Yrok Times. I ask unanimous consent that the article be printed in the RECORD for the benefit of my colleagues.

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

WORLD OIL AND FINANCE

(By Walter J. Levy)

Some three years after the Organization of

Petroleum Exporting Countries' dramatic quadrupling of oil prices, uncertainties and dangers are still threatening the prosperity and stability of both oil-importing countries and OPEC alike.

With November 1976 production of around 33 million barrels per day, OPEC decided in December to raise oil prices: Saudi Arabia and the United Arab Emirates—accounting for about one-third of OPEC exports—by some 5 per cent as of Jan. 1, and the remaining 11 OPEC members by around 10 per cent now, plus 5 per cent more as of July 1.

The Saudis have also announced that they will raise their production as required, which in practical terms means that their output could increase in stages from some 9.3 million barrels per day to perhaps 11 to 12 million barrels per day by the end of 1977. (The Emirates' potential for increased production is comparatively small.) If the Saudis could, in fact, market these quantities, the production of the 11 in 1977 would decline by some three million barrels per day, to a level of about 17 to 18 million barrels per day.

But is this really likely to occur? The 11 are not going to watch passively any large-scale decline of their oil sales and revenues, on which a number of them have become desperately dependent. The Saudis, too, are bound to be concerned, as they would increasingly exchange oil reserves underground for surplus financial revenues, subject to erosion through inflation.

There is a danger that the tug of a supply-and-price war between the Saudi group and the 11 would be considered by either as a test of strength, with their prestige and credibility on the line. To avoid the danger of chaos, the most likely outcome would be some compromise.

But even if this split-pricing interlude should be resolved, there remain numerous other major problems. Within 10 to 15 years, in the absence of massive new oil discoveries, hydrocarbon production is bound to decline. As of now, nothing is in sight that would fill the energy gap of nearly every importing country in the world.

In the meantime, however, OPEC-cartel control, in the light of increasing oil demand and declining availabilities, is unlikely to collapse. Moreover, OPEC's pricing will openly or tacitly be supported by the governments of every non-OPEC country with substantial domestic energy production that applies OPEC pricing to its own production—such as the Britain, Norway, Canada, and probably, in due course, the United States. Also, any successful development of replacement energy would, barring a near miracle, be very exclusive.

This prospect for future oil and replacement-energy costs implies that for the foreseeable future the world faces foreboding financial problems, with the cost of oil imports from OPEC, in current dollars, possibly reaching $300 billion by 1985.

There are only very few importing countries that could benefit directly either from the financial deposits by OPEC countries, their investments, or their purchases of goods and services. Most of them will depend for their foreign-exchange revenues on the general improvement of their exports and the financial support from those few countries that will remain financially strong. These more-prosperous nations must thus "recycle" part of their revenues as grants or ever more dubious loans to the less-fortunate.

Much has ben said about the past success of recycling, implying that this is a phenomenon that would fade away in due course, like the Cheshire cat in "Alice in Wonderland." However, this sweeps aside the staggering increase in international indebtedness—especially of the less-developed countries—from about $90 billion in 1973 to some $170 to $180 billion as of now, involving, perhaps, close to 40 percent of private financing. Accordingly, each passing year, during which we have somehow managed to cope, makes the next one more difficult.

In the absence of an unprecedented expansion of world production and trade, we must thus establish the institutional and financial framework that could—if none of the existing institutions, such as the World Bank, International Development Association or the International Monetary Fund can appropriately undertake this task—handle the refinancing and new credit requirements of a large number of countries.

This presupposes that the financially strong members of the Organization for Economic Cooperation and Development and OPEC would be willing to support the most affected through their participation in international financial arrangements that would bridge the financial gap during an uncertain future. This must be done before large-scale defaults threaten a breakdown of confidence, with its nearly inevitable domino effect.

Governments are still watching a continuous erosion of the world's oil supply and financial systems, which, if nothing is done, could be comparable in its potential for economic and political disaster to the Great Depression. The time is late; the need for action, overwhelming.

DENVER HONORS MARTIN LUTHER KING

Mr. HASKELL. Mr. President, this week I received a copy of the first resolution adopted in 1977 by the Council of the City and County of Denver. The resolution designates January 15 as "Dr. Martin Luther King, Jr. Day" within the city and county of Denver and petitions the Congress of the United States to declare the same day an annual national holiday in honor of this great and good man.

I am proud that since 1971, Denver has set aside January 15 in memory of Dr. King. As a cosponsor of efforts to designate his birthday a national holiday, I hope the Congress will act quickly on this significant measure.

As we begin a new time in our national life—a time of healing and national renewal—it would be especially appropriate to honor this great American who, in the midst of strife and bitterness, preached love and brotherhood.

CONGRESS AND THE COURTS

Mr. STEVENSON. Mr. President, one of the Nation's most respected jurists, Justice Carl McGowan of the U.S. Court of Appeals for the District of Columbia, has written an article which warrants the attention of all the Members. He passes upon the long-range deterioration in the caliber of the Federal judiciary which results from a parsimonious congressional attitude toward salaries. And quite rightly he attaches larger importance to disabilities placed upon the Federal judiciary by a Congress which insistently delegates to the judiciary its own authority for which the judiciary is ill-suited and increasingly weighted down. It is an altogether thoughtful, dispassionate but provocative article about the relationship between the judiciary and the legislative branch. We would all profit from reading it and, therefore, Mr. President, I ask unanimous consent that it be printed in the RECORD.

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

[From the American Bar Association Journal, December 1976]

CONGRESS AND THE COURTS

(By Carl McGowan)

The prevailing passion of Congress for judicial review is the central fact of life at the moment for federal judges at all levels of the system. It inevitably induces sober reflection by them about the current relationship between the Congress and the federal judiciary. On one aspect of that relationship, it is perhaps enough to note that, unlike other purchasers of services, Congress is in the uniquely happy position of being able to freeze the price. But, although many judges, including those so circumstanced as not to be under severe financial stress, are genuinely alarmed about both the immediate and the longer range deterioration in the calibre of the federal judiciary flowing from that policy, their abiding concern is with the more substantive question of the allocation of tasks by the Congress to the federal courts—their extent, their nature, and what they portend for the future.

The business of the federal courts, with the exception of the limited original jurisdiction reposed in the Supreme Court by the Constitution, depends on the affirmative action of Congress. The lower federal courts exist only by virtue of congressional action, as does the appellate jurisdiction of the Supreme Court. The business they do is restricted to what Congress authorizes and directs. What they in fact have been given to do has varied greatly since the first Judiciary Act of 1789, but the trend has been unmistakably, and now overwhelmingly, towards enlargement.

That trend is now vastly accelerating, as I myself can readily see when I compare the way I spent my working day on my entry into the system thirteen years ago with what I am doing now. My own court increasingly has become one preoccupied with civil litigation involving the federal government. During fiscal 1976 appeals of this nature constituted nearly three fourths of our business. They will soon become, I believe, more than 90 per cent of the total.

Paralleling the growth in the numbers of these appeals is an observable change in their nature—and in their novelty, complexity, and difficulty. And in their interest as well, perhaps I should add, at least for anyone with a fascination for the strange and wondrous workings of the far-flung federal establishment in both its executive and legislative embodiments.

This has been caused by a number of things. One is chargeable to the courts themselves. Progressive relaxation of judicially created requirements of standing has enabled almost any person to get into court to complain about almost any act or omission to act in the whole spectrum of federal activities. But the capacity of the courts to reverse that relaxation is now being impaired by a spectacularly increasing tendency on the part of the Congress to provide explicitly for federal court remedies and judicial review in every new federal statute.

This trend was impressively described and documented by Henry Friendly in his Carpentier lectures at Columbia in 1972. If you think Congress has heeded that or similar warnings, I can supply a long list of statutes enacted since then indicating that the current congressional love affair with federal jurisdiction is heating up rather than cooling.

There recently became effective the Social Services Amendments of 1974, which provide for civil actions in the federal district courts

to enforce state child support orders on certification by the secretary of health, education, and welfare. A few weeks earlier the president signed the Safe Drinking Water Act of 1974, which, after taking a deep breath, provides for (1) civil actions by the administrator to require compliance, (2) civil penalties, fines, and injunctive relief for failure to obtain permits, (3) exclusive review in my court of regulations promulgated under certain sections of the act and in other specified courts of appeals of regulations under other sections, (4) district court review of actions concerning variances or exemptions, and (5) civil actions by citizens in the district court without limitation as to the amount in controversy. The Endangered Species Act of 1973 also provides for citizens' suits in the district court without regard to jurisdictional amount, and the Older Americans Comprehensive Services Amendments of 1973 puts in the federal courts of appeals mandatory jurisdiction of appeals by states from the commissioner's actions.

These are but a handful of the newer jurisdictional grants, many of which deal with infinitely more complex, if indeed not more important, subjects.

CONGRESS APPLIES FEDERAL POWER

The pattern taking shape appears to be that of a Congress intent on bringing federal power to bear in an ever-widening range of human affairs but having no better answer for the monitoring, supervision, and enforcement of the exercise of that power than the employment of the federal courts. That is conceivably one way to govern the country, and perhaps we of the federal courts should be flattered by this seeming mark of confidence in our capacities. It may be, however, that it was not in this way or by heavy involvement in tasks of this nature that the federal courts achieved the prestige and popular acceptance they appear now to enjoy.

That prestige can only suffer if the federal courts are made to carry too active a role in what is surely in large part simply day-to-day public administration. A widely known statement of Charles Evans Hughes is, "We are under a Constitution, but the Constitution is what the judges say it is. . . ." What is less widely known is that those words were spoken by Governor Hughes in a speech to the Chamber of Commerce of Elmira, New York, in 1907. He attacked the railroads' effort to emasculate his bill to create a strong public utilities commission by hemming it in with sweeping provisions for judicial review. Those famous words were immediately followed by these:

". . . and the judiciary is the safeguard of our liberty and our property under the Constitution. I do not want to see any direct assault upon the courts, nor do I want to see any indirect assault upon the courts. And I tell you, ladies and gentlemen, no more insidious assault could be made upon the independence and esteem of the judiciary than to burden it with these questions of administration. . . .

"Let us keep the courts for the questions they were intended to consider. . . ."

We can believe that Hughes remembered these words when many years later as chief justice he faced and was instrumental in overcoming what was probably the most serious indirect assault ever made on the Supreme Court. Today, despite the fact that the prestige of the courts has never been higher, they are faced with a variety of widely differing "indirect" assaults. Some are of their own making. Those from without, happily, are mainly devoid of hostile purpose and often are the consequences of either indifference or exaggerated respect for judicial capabilities.

WHO IS MAKING THE LAWS?

The current congressional involvement of the federal courts in public affairs does not stop with their immersion in administration. It extends to the legislative process itself. A recurring phenomenon is for the legislative branch, in addressing itself to major areas of public concern, to finesse hard choices of policy that are likely to tie up elected legislators representing differing interests in knots of controversy and resulting inaction. Instead, it makes broad delegation of authority to department heads or newly created commissions to make those choices in the form of implementing regulations. In order to assure that the regulations are carefully scrutinized for conformity to the often dimly ascertainable congressional intentions, judicial review is provided by reference to variously articulated standards—arbitrariness, rational basis, or substantial evidentiary support in the record.

When that record is one made in informal rule making, it is indistinguishable in its content from the proceedings before a legislative committee hearing on a proposed bill—letters, telegrams, and written statements from proponents and opponents, including occasional oral testimony not subjected to adversary cross-examination. It is on that kind of record that members of Congress decide which way to vote on a bill, if they are among those who try conscientiously to inform themselves of anything other than the relative political weight of the lobbies at work. The resulting policy choices, when reflected in the statutes themselves, are virtually immune to judicial scrutiny except as constitutional barriers are transgressed. As Justice Brandeis said long ago, speaking for the Supreme Court, when dealing with statutes directly, courts presume that facts exist supportive of them.

The point is, thus, obvious. When by congressional delegation tantamount to abdication the policy choices are largely committed to agency rule making, the record before the reviewing court is essentially the same. No matter how the standard of review is articulated, there is wide latitude for judges to vote their policy views in the same manner as does the legislator. No matter how sensitive judges are of the necessity for restraint by a lifetime judge not accountable to the electorate, the opportunities and the consequent temptations are great to come down on the side of the judge's personal conceptions of policy. Even the humblest judges—and the most alert to the dangers of result-oriented adjudication—may slip, sometimes subconsciously, if their predilections are sufficiently engaged and thereby risk nullification of the principle that democracies are to be run in accordance with the majority will.

WHEN JUDICIAL REVIEW IS TRICKY

It is one thing for a federal judge to sit in judgment on an order of the National Labor Relations Board or of the Interstate Commerce Commission made in an adjudicated case on a record compiled in adversary proceedings under statutes concretely formulating legislative policy choices. It is quite another when the court is called on to review regulations made in rule making by an agency to which Congress has made a sweepingly broad delegation of power to put flesh on the bare bones of precatory prescriptions that there shall be cleaner air and unpolluted waters, or greater product safety, or working conditions less hazardous to health or safety, or greater conservation of energy.

This is a new kind of regulatory control that, as Prof. Murray Weidenbaum of Washington University has pointed out, departs widely from the older and more familiar model. The supervisory agency has no responsibility for the particular industry as a whole in its impact on the public. The focus is rather on a single aspect of its activities to the exclusion of everything else. Necessary as the new model may be thought to be in a physical environment staggering under the demands on it by a culture whose first law seems to be that the consumer must have what he wants, the problems inherent in it are not lessened by the second guessing of judges ill equipped by training or experience to make the judgments appropriate only for the elected representatives of the people, yet obliged to do so because of demand of the new model.

If federal judges hold a great potential of power to impose their views on many aspects of the modern economy, it is surely the Congress that has made them so by its penchant for combining broad delegation of law-making authority with sweeping, albeit sometimes inexpertly conceived, provisions for judicial review. In any event, my immediate concern is less with the implications of that approach for the philosophical underpinnings of our democracy than with its effect in adding new grist for the mills of an already overtaxed federal court system.

ALWAYS ADD, NEVER SUBTRACT

The prospect faced by the federal courts is that of a Congress always adding to their jurisdiction but never taking anything away. This is accomplished by a seeming indifference, as Chief Justice Burger has so justly complained, to the necessity of providing increased resources to enable the courts to cope with the rising tide. An example of this blithe approach is the Regional Rail Reorganization Act of 1973, the statute passed on an emergency basis to try to keep the bankrupt eastern railroads running while they could be reorganized on a unified basis. That act created a special three-judge district court to serve in effect as the reorganization court for seven railroads, including the Penn Central, with a very tight statutory timetable in which to get its work done. But no provision was made for additional judicial manpower or kindred resources. The system was somehow, presumably, supposed to absorb this additional task within its present capabilities, as it indeed has had to do.

At the same time, Congress seems unable to move on the pending suggestions to reduce the jurisdiction of the federal courts and to rationalize the means by which it is exercised. The American Law Institute's modest proposals for a more rational allocation of jurisdiction between the state and federal courts principally involve not a complete abolition of diversity jurisdiction, as should be done, but only closing the federal courts to resident plaintiffs. They have not been able in six years to reach the stage of final congressional committee consideration. In this instance the inertia of Congress is almost entirely attributable to a conspiracy of silence by the practicing bar. The politically sensitive legislators correctly interpret that silence as opposition, albeit one that must be largely covert because it cannot counter logically the reasonableness of the change.

The facts of life are that, with the average voter's understandable indifference to the intricacies of federal jurisdiction, the federal courts, with no lobby going for them, are vulnerable to any single special interest possessing some capacity, however slight, to punish at the polls.

What Congress was able to pass recently with no difficulty at all was a statute on judicial conflicts of interest—a subject that has about as low a priority as one can imagine in view of the comprehensive Code of Judicial Conduct proposed by the American Bar Association and embraced by the Judicial Conference of the United States as controlling on federal judges. Apparently members of Congress simply could not resist getting into that act. It did not cost anything, and it made it appear that they were alert to assure the better functioning of the federal courts.

Their other legislative achievement was to impose on the already struggling federal courts a rigid schedule for the disposition of federal criminal cases, and that at a time when the federal courts have been moving mightily and with visible success to bring this problem under control despite the dra-

matic increase in federal criminal prosecutions. No thought, of course, was taken as to how the courts could meet the new requirements without a substantial increase in judicial resources. Nor has any action been taken on the sweeping revision of the federal criminal code, including the elimination of a lot of offenses that do not require the exertion of federal power, proposed by a presidential commission a few years ago.

CONGRESS IN THE LITIGATION ACT

Meanwhile, there are to be seen in the burgeoning ranks of our litigants some new faces—those of members of Congress themselves. With the decline of standing requirements and the expansion of judicial remedies and review, a growing number of legislators have awakened to the political advantages of going to court to challenge executive, agency, and even legislative action. This attracts publicity and is likely to be popular with the constituents. It has few, if any, drawbacks, especially if there are *pro bono publico* groups or private law firms available, as there appear to be, to provide the legal representation.

I do not say that this is an undesirable development, but there may be implications of it not yet thought through with sufficient care. It might, for example, be unhealthy if the federal courts come to be regarded as a higher chamber where a legislator, who has failed to persuade his colleagues of the demerits of a particular bill, can always renew the battle before a tribunal that does not have to worry about re-election. And some might conceivably think that in certain contexts free legal services, if such there be, are perhaps indistinguishable in substance and effect from political contributions. In any event, this is one area in which the legislators are direct consumers of our product, and consumers peculiarly situated to do something about it if they are not satisfied.

The federal courts in Washington, because they are where they are, are undoubtedly more caught up in what may be called, for want of a better word, public interest or public affairs litigation. But we are not alone among the circuits in this respect. If what I see happening in our court is any guide, then it may be that private civil litigation is in for some hard times. For one thing, in the new regulatory statutes Congress is prone to provide that judicial review is to be forthcoming on an expedited basis and is to take precedence over other pending litigation. Already it is at least arguable that one who sues another to enforce a contract or to assert a tort or fraud liability is getting lost in the shuffle. He may be regarded at worst as a positive nuisance, or at best as a minor distraction of the court from the pressing public business at hand.

It has long been an article of faith, as Prof. Harry Jones of Columbia Law School reminded us in his excellent initiation of the John Dewey lectures on legal philosophy, that one of the great ends served by law and the courts is "the authoritative settlement of disputes beween individuals and between individual citizens and the state." In my own observation, it is that latter aspect that is pre-empting the time of the federal courts and very possibly to the subordination of the former.

Perhaps this was inevitable from the day we rejected the parliamentary system, electing to live under a written Constitution in which power is dispersed between three separate branches of government, and with one of those branches having, thanks to John Marshall, the authority to examine the actions of the other two by reference to that Constitution. Our revolutionary origins may explain why, in enacting a federal system, we tacitly accorded a primacy and priority to the individual's right to complain about his government over his grievance against his neighbor. Our colonial forebears may have felt that they usually could handle their neighbors by themselves but that standing up to George III called for something more than self-help.

However this may be, the preoccupation of federal jurisdiction with that primacy is large and growing, with inescapably adverse impact on the handling by federal courts of purely private litigation. This is something which, if I am right, the practicing bar must take into account in its own interest. Perhaps it may even decide that it has nothing to lose by speaking up on the subject of diversity jurisdiction.

DON'T DIM THE FLAME

The judiciary—at both state and federal levels—is an institution widely believed to be of critical importance to our national well-being. As the ultimate expositor and guardian of the Constitution, the federal judicial power has served for two hundred years as the torch that illumines the values embodied in that charter. Surely it is not the concern of lawyers alone that its flame be not dimmed by either congressional neglect or a too expansive concept by court or legislature of how far its light can reach.

THE FUTURE OF COMMON SITUS PICKETING

Mr. LAXALT. Mr. President, nearly 2 years ago an all-out attempt was started in the 94th Congress to enact a bill legalizing common situs picketing in the construction industry. That proposal, H.R. 5900, was ramrodded through the House of Representatives almost before anyone there could alert that body to the defects in that measure.

H.R. 5900 was a bad bill and it met the fate all bad bills should meet—it was stopped before it could become law. But stopping it required extended debate, two cloture votes in this Senate, and a Presidential veto.

I was opposed to passage of H.R. 5900, and I am proud to have been among the leaders in killing it. Evidence that our course was the proper course has accumulated in recent months. One of the best and most recent arguments against common situs picketing was published in the January 1977 issue of the Labor Law Journal.

Inasmuch as organized labor and many Democratic Party leaders are in favor of legalizing common situs picketing and secondary boycotts, I think it is safe to predict we will have another H.R. 5900 confronting us in the next few months. Lest anyone forgets how bad that legislation is, I ask unanimous consent to print the Labor Law Journal article in the RECORD.

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

[From the Labor Law Journal, December 1976]

THE FUTURE OF COMMON SITUS PICKETING

(By Stephen J. Cabot and Robert J. Simmons)

The Situs Picketing & Construction Industry Collective Bargaining Bill (H.R. 5900), vetoed by President Ford in a controversial decision last December, is a prize the building and construction unions have been seeking for the past 25 years. Under heavy pressure from many segments of the political, legal, and business communities, President Ford was backed into a politically explosive corner. Ford had given Secretary of Labor John Dunlop both public and private assurances that he would sign the bill. The political pressure of the President's strenuous campaign fight with Ronald Reagan for the Republican party's nomination and considerable reaction from the business community apparently had much to do with his decision to veto the bill. But that veto cost Ford the resignations of Dunlop and the eight union members of his Collective Bargaining Committee in Construction.

In his capacity as Secretary of Labor, John Dunlop vigorously promoted the proposed legislation. Dunlop based his support of the bill on the provisions which established the Construction Industry Collective Bargaining Act. The Act would have created a national commission to oversee wage settlements, modeled on the Construction Industry Stabilization Committee, an element of the Economic Stabilization Act of the early 1970's. It was Dunlop's position that this would stabilize wage rates in the industry and prevent "leap-frogging." To Dunlop, common situs picketing was the *quid pro quo* necessary to persuade labor to accept this commission.

The fallacy in his position lies in the fact that there is no logical or practical relationship between these two sections of the proposed law. They are not dependent upon one another or even complementary. The arrangement was purely political, designed to generate labor support for industry-wide collective bargaining by giving labor a juicy plum it has been trying to pick for 25 years.

Evidence of congressional support was strong enough, when the bill was recently passed by both Houses of Congress, to put opponents of the bill on notice that when Congress reconvenes after the presidential election, regardless of who the victor may be, the Common Situs Picketing Bill will surely resurface at an early date.

The common situs picketing legislation has been designed to overrule a long line of Supreme Court and National Labor Relations Board (NLRB) decisions. The bill would permit a union which has a dispute with a general contractor or a single subcontractor at a construction site (the "primary employer") to close down the entire project by picketing to prevent the employees of other subcontractors ("neutral" or "secondary employers") from working at that location. Present court rulings limit a union's lawful picketing of a construction job to the primary employer.

Legislation proposed at various times in the past would have permitted wide-open picketing of all employers at a construction project. The most recent bill included two relatively minor restrictions on picketing: ten days' notice to the parties involved and approval by the union's national office. These provisions were "designed to enhance the possibility of settling the dispute without a work stoppage."[1] Clearly, these provisions would have presented only minor inconveniences to the union.

The building trades unions view common situs legislation not only as a means for solving legitimate economic disputes, but primarily as a means to organize the construction industry. As a spokeseman for AFL-CIO President George Meany explained in the House hearings, the purpose of common situs is "to see every job in America a union job." Senate Committee Member Paul Laxalt (R. Nev.) correctly predicts that an extensive organization campaign in an industry 40% open shop by gross volume is likely to cause a "substantial escalation of strike activity."[2] Increased strike activity presents a serious threat to the already shaky economy of the construction industry.

LEGAL BACKGROUND

The proposed common situs picketing legislation addresses the law of secondary boycotts. A brief survey of the evolution of this

Footnotes at end of article.

body of law will place the proposed legislation in clearer perspective.

Secondary boycotts were first regulated under the federal system through the anti-trust laws. In *Duplex Printing Press Co. v. Deering*,[3] the Supreme Court held that the exclusion of labor union activities from the prohibition of the anti-trust laws effected by Section 20 of the Clayton Act was restricted to an immediate employer-employee relationship. Under that view, economic action by a union against an employer whose employees it did not represent, or whose wages and working conditions were not the subject of the dispute, was regarded as an unprivileged restraint of trade and, therefore, a violation of the Sherman Act.

Duplex was one in a series of opinions which led to a strong public reaction against the class bias of the federal courts in labor disputes. This finally culminated in the enactment of the Norris-LaGuardia Act in 1932. In *U.S. v. Hutcheson*,[4] the Supreme Court held that the rule of the Duplex case could not survive enactment of the Norris-LaGuardia Act. Similarly, the Court held that secondary boycotts were not regulated by the anti-trust laws.

THE TAFT-HARTLEY ACT

In response to the labor unrest at the end of World War II, which was evidenced by an increase in the number of secondary boycotts, Congress sought to limit the use of that economic weapon, not by re-introducing the anti-trust laws, but by adding § 8(b)(4)(A) (now § 8(b)(4)(B)) and § 303a to the federal labor law. The purpose of these sections, as enunciated by the late Senator Taft, is to protect a third person "who is wholly unconcerned in the disagreement between an employer and his employees." [5]

The particular aspect of secondary boycott law which has caused the repeated cry for common situs picketing legislation resulted from the Supreme Court's interpretation of § 8(b)(4) in *Labor Board v. Denver Building Trades Council*.[6] In that case, the general contractor on a construction project subcontracted certain electrical work to a non-union subcontractor who paid its workers less than union scale. When the non-union electricians reported to work, the Denver Building Trades Council picketed the entire job site. The union workers employed by the general contractor honored the picket line by refusing to enter the project. The Denver Building Trades Council wished to force the non-union subcontractor off the job, and the general contractor did, in fact, terminate his contract with the electrical subcontractor.

The Supreme Court affirmed a ruling of the NLRB which had held that because the general contractor and subcontractor on a building site were separate business entities, they were to be treated as neutrals with respect to each other's labor controversies. Thus, a union having a dispute with one subcontractor could not picket the other contractors and subcontractors at the job site without engaging in a secondary boycott under § 8(b)(4).

THE LANDRUM-GRIFFIN ACT

In 1959, Congress amended the Taft-Hartley Act to eliminate certain "loopholes" in the 1947 prohibition against secondary boycotts. These amendments enlarged the means and objects prohibited under § 8(b)(4) and added a new § 8(e) prohibiting agreements which were thought to facilitate secondary boycotts. In addition, violations of § 8(b)(4), as amended, but not of § 8(e), were made subject to suits for actual damages under § 303.

Section 8(e) makes it an unfair labor practice for any labor organization and any employer to enter into any contract or agreement whereby the employer agrees to cease doing business with any other person. This is called a "hot cargo" clause. A proviso to this section states that "nothing in this subsection (e) shall apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting or repair of a building structure or other work." Thus, construction unions were given a special exemption from the so-called "hot cargo" provisions of the Act.

A second decision which provides the framework for the continuing cry which resulted in the proposed legislation is *Electrical Workers v. Labor Board*,[7] (General Electric). The case arose out of a strike by General Electric employees at the General Electric Appliance Park in Louisville, Kentucky. The company utilized independent contractors for construction work on new buildings at its facility, and for work such as the installation and repair of ventilation and heating equipment, the retooling and rearranging of operations necessary to the manufacture of new models, and the "general maintenance work" at the plant.

To insulate GE employees from frequent labor disputes involving outside contractors, the company had set aside a separate gate for employees of such contractors. The union representing the manufacturing plant employees called a strike against the company and picketed all gates, including the separate gate. As a result of the picketing, a majority of the employees of the independent contractors refused to enter the company's premises. The Board found that the union's object in picketing the separate gate was to enmesh "employees of the neutral employer in its dispute with the company."

The Board held that this was a violation of § 8(b)(4)(A). The Court of Appeals for the District of Columbia Circuit granted enforcement of the Board's order. Review was then granted in the Supreme Court, which remanded the case to the NLRB with directions that the Board's original order be sustained unless the separate gate was used to a substantial extent by employees who performed work necessary to the normal operations of the manufacturer.

The Court recognized that the nature of the common situs problem called for the development of new concepts to protect the interests of both the neutral employers and the picketing union at the primary situs. The Court stressed the importance of the type of work being performed by those who use the separate gate and held that picketing a separate gate is primary strike activity when the work of the secondary employer relates to that of the primary employer. The Court also considered the implications arising from the mingled use of the gate by several independent contractors, some of whom perform related work. It was indicated that if there were a mingled use of the reserved gate, the picketing would be primary activity and permissible unless the work was so insubstantial as to be de minimis.

In *Building Trades Council (Markwell & Hartz)*,[8] the Board was presented with the opportunity to assess the applicability of the *General Electric* related-work concept to a primary employer in the construction industry. The Board held that *Denver Building Trades* prohibited the application of the related-work concept to the construction industry. The Court of Appeals affirmed, holding that General Electric did not deal with the construction industry and that the related-work rule was not one of general application. Had it been held that the related-work concept of General Electric applied to the construction industry, the Board would have been forced to reach one of two conclusions: either it would have had to ignore the realities of the construction picketing situation and hold that such work is unrelated and, therefore, that separate gate picketing is secondary; or it would have had to hold all such work to be related and, therefore, that all picketing at a separate gate is primary.

Proponents of various proposed common situs legislation which has been introduced over the years have felt that the distinctions between construction and manufacturing sites enunciated in the decisions of the NLRB and Supreme Court are without merit. They maintain that under the present law an independent subcontractor at a manufacturing site is not immunized from the labor dispute between the manufacturer and his employees if the work performed by the subcontractor is integrated into the normal operations of the manufacturer, while an identical subcontractor in the construction industry is so immunized. It is submitted that this analysis ignores the practical and economic differences between manufacturing and construction sites.

ECONOMICS

In its introductory comments on common situs picketing, the Senate Committee on Labor & Public Welfare noted that "[T]he present law ignores the economic reality of the integral relationship between contractors and subcontractors in construction, and imposes greater restrictions on the union right of concerted action in the construction industry than in other areas of employment." [9]

The "economic realities" to which the Senate Committee refers require careful examination. It is submitted that in reality the present state of the law does not ignore economic realities but, in fact, clearly reflects the unique problems and characteristics of the construction industry. It is further submitted that the union right of concerted action in the construction industry is not only less restricted than in other industries but also provides the construction worker with economic advantages not possessed by non-construction workers.

Proponents of common situs picketing argue that this measure is necessary to give construction workers equality with manufacturing workers in their ability to bargain with employers. One of the clearest indications of a union's bargaining power is the wages paid to its members. Even considering the seasonal nature of construction work, in strict monetary terms a construction worker makes far more money than non-construction workers and has enjoyed greater wage increases than his industrial counterparts. Average hourly construction wages increased from $3.70 an hour in 1965 to $7.17 an hour in 1975; the average increase for manufacturing wages was from $2.61 an hour in 1965 to $4.76 and hour in 1975. Other industries fare less well when compared with construction: the 1975 average hourly wage in mining was $5.20; in transportation $5.40; in finance, $3.81; in services, $3.74; and in the wholesale and retail trade, $3.47.[10] The wage settlements negotiated during the first half of 1976 illustrate that this trend has continued. A survey shows that, during the first half of 1976, 27% of manufacturing contracts included gains of 50¢ an hour; 37% of non-manufacturing contracts (excluding construction) included gains of 50¢ an hour; while 51% of construction contracts provided median gains of more than 50¢ an hour.[11]

In addition to enjoying higher hourly wages than other industries, construction unions enjoy special rights not available to other unions. Construction contracts are treated differently under the National Labor Relations Contract-bar rules. Construction unions have the right to pre-hire agreements, exclusive hiring hall agreements, and are exempt from the ban on "hot cargo" agreements.

Proponents of common situs picketing also advance the proposition that the relationship between contractors and subcontractors at a construction site is similar, if not identical,

Footnotes at end of article.

to the relationship among employers at a manufacturing site. In support of this reasoning, it is argued that contractors and subcontractors at a construction site are "joint venturers," rather than neutral employers.

An analysis of the relationship between contractors and subcontractors at a construction site reveals that this joint venture relationship does not, in fact, exist. The key to any joint venture relationship is control, more specifically the control that one joint venturer can exercise over the labor relations of one of the other joint venturers. Contractors and subcontractors negotiate and maintain independent labor policies. Therefore, one contractor cannot exert any effective measure of control over the labor relations of the other. The general contractor, although he usually must employ the services of one or more subcontractors and coordinate their work, has no direct contractual relationship with any of the employees of these subcontractors.

In light of their independent activities and lack of contractual relationship with, or effective control over, the employees of other contractors, the contractor and subcontractors at a construction site are not "joint venturers." The reasoning which the proponents of common situs picketing offer would make the employees of one contractor the employees of all the contractors at a construction site and, thereby, eliminate the status of each employer as an independent contractor.

IMPACT ON THE INDUSTRY

If common situs picketing legislation similar to the 1975 bill is passed by the next Congress, it will certainly have a disastrous effect on the construction industry, as well as on the nation's economic recovery. Common situs picketing legislation will not only cause an increase in the total number of strikes in the industry, but will also increase the extent of damage caused by each strike due to the conferral of secondary boycott power on the unions.

According to Federal Mediation & Conciliation Service Director James F. Scearce, as of June 1976 the incidence of strikes in the construction industry has been about half of what it was in 1975 due largely to the industry's slow recovery from the recession.[12] With the increased bargaining power of the construction unions made possible by common situs picketing legislation and the proposed use of common situs picketing as an organizational tool, it is clear that more frequent, more lengthy and more costly strikes are likely to occur.

Department of Labor statistics [13] graphically illustrate that the construction industry has been especially hard hit by the recent economic recession. Employment in all contract construction has dropped from 4,058,000 in May, 1974, to 3,465,000 in May, 1975. Unemployment in the industry was 21.8% in June, 1975, as opposed to 10.4% in June, 1974. During 1976, unemployment has remained at 18%, although this indicates a slight improvement in the industry's economy. If the projected increase in number and length of strikes due to common situs picketing occurs, it is likely that these figures will worsen and hinder the industry's economic recovery.

Perhaps the most alarming result of the enactment of common situs picketing legislation will be the increase in cost of each individual strike, and the resulting increased costs of construction as a whole. In the past, there have always been work stoppages which contractors have been able to plan around. There are various steps on the construction ladder which may be skipped and returned to as the need arises. Construction projects which previously could have continued to operate during strikes involving a few workers would be shut down completely. Contractors who in the past were able to calculate completion dates and costs based upon work stoppages due to contract expiration may now have to calculate for additional work stoppages for contracts which would have expired after the proposed completion date but which now will expire during construction due to extended delays caused by complete shut-down of the construction site.

Contractors' costs will rise according to the difficulties they encounter in completing their projects. Additional financing may become imperative. In industrial or commercial construction projects these increased costs will be reflected in increased rentals or costs of production. In turn, these increased rental and production costs will necessarily be reflected in the price of retail goods and services.

Figures supplied by the General Building Contractors Association, Inc. for construction during 1973–1975 [14] in the metropolitan Philadelphia area are illustrative. Metropolitan Philadelphia, consisting of the city and its four surrounding suburban counties, provides an excellent survey of the mixture of light and heavy construction projects found in a typical urban area. Within the city limits, an average of 88.3% of all projects over $50,000 were union jobs, compared to 43.3% non-union in the four-county area where light construction is paramount. However, based on dollar amounts, unions controlled virtually 99% of the work in Philadelphia and 72% of the work in the counties. In 1975 alone, union contracts accounted for over 550% more, in dollar amounts, than non-union projects in the metropolitan area.[15]

Translating these figures into forecasts, the urban areas, which traditionally experience a higher cost of living with a lower per capita income level, will suffer most from increased construction costs. Consumers in these areas will experience higher housing costs and higher costs of goods and services due to the increased cost of construction.

An area of particular concern is the light construction industry. The majority of non-union workers are concentrated in this area. If the organizational campaigns envisoned by the AFL–CIO occur as a result of the enactment of common situs legislation, this area of the industry would most likely bear the brunt of work stoppages. This would unsettle production just when the industry can least afford it.

Construction is the largest industry in the nation [16] and, as such, must play an important role in promoting over all economic recovery. The enactment of common situs picking legislation would cause costly disputes in this industry, thus delaying general economic recovery.

CONCLUSION

The fortuitous timing of the presidential election campaign is perhaps the only thing which prevented union success in this session of Congress. There is no question that the battle will begin with renewed vigor in the next session.

In this coming session, Congress can ill afford to ignore the nation's sagging economy; certainly it will seek to enact legislation that will promote economic growth. One of the key elements in the nation's economic growth is a healthy construction industry.

Common situs picketing legislation is not the answer to the problems that plague the construction industry, but will tend to exacerbate them. It is further submitted that, with the increased leverage that common situs picketing would give to the building trades unions, the construction industry's economic recovery would suffer a tremendous setback. Congress should not place the building trades unions' interest in strengthening their power before that of economic recovery of the construction industry and the nation.

FOOTNOTES

[1] Report with Supplemental & Minority Views (to accompany S. 1479), *Equal Treatment of Craft & Ind. Workers*, Committee on Labor & Public Welfare, Oct. 29, 1975, p. 43.

[2] *Ibid.*, p. 10.

[3] 254 US 443 (1921).

[4] 312 US 219 (1941).

[5] 93 Cong. Rec. 4198.

[6] 341 US 675 (1951) 19 LC ¶ 66,347.

[7] 366 US 667 (1961).

[8] 155 NLRB 319 (1965), enforced, 387 F. 2d 79 (CA–6 1967) 56 LC ¶ 12,322.

[9] Report with Supplemental & Minority Views (to accompany S. 1479), *Equal Treatment of Craft & Industrial Workers*, Committee on Labor & Public Welfare, Oct. 29, 1975, p. 10.

[10] "Monthly Labor Review," Bureau of Labor Statistics, August 1975.

[11] Median Negotiated Wage Gain, First Half 1976, Survey by the Bureau of National Affairs, Inc., 92 LRR 281.

[12] 92 LRR 120, June 7, 1976.

[13] "Monthly Labor Review," Bureau of Labor Statistics, August 1975.

[14] Commercial, industrial and institutional jobs only.

[15] Union contracts: $684,827,703; non-union: $80,703,585.

[16] At $135 billion-a-year total output, it accounts for approximately 10% of the GNP, according to the Dept. of Commerce. It employs about one out of every seven employed Americans.

SENATE VETERANS' AFFAIRS COMMITTEE

Mr. TALMADGE. Mr. President, the Georgia House of Representatives, now in session in Atlanta, has adopted two resolutions which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that they be printed in the RECORD.

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

A RESOLUTION

Urging the United States Senate to retain the Senate Veterans Affairs Committee as a standing Senate committee; and for other purposes.

Whereas, members of Congress rely heavily upon their professional committee staffs to assist them in making decisions concerning legislation; and

Whereas, the members of both the Veterans Affairs Committees in Congress have capable, efficient and intelligent staff assistants to advise them; and

Whereas, if the Senate Veterans Affairs Committee is abolished and its function merged with other programs, the expertise of the present staff will be lost or mingled with other duties; and

Whereas, abolishment of the Veterans Affairs Committee in the Senate will seriously impede the ability of Congress to deal effectively with veterans' affairs, and such action by the Senate will constitute a major step backwards in our Nation's continuing efforts to provide quality care and service for our country's twenty-nine million (29,000,000) veterans.

Now, therefore, be it resolved by the House of Representatives that this Body does hereby urge the United States Senate to vote in favor of retaining the Senate Veterans Affairs Committee as a standing Senate committee and against all efforts to abolish or dilute the functions of the Senate Veterans Affairs Committee.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to our two United States Senators from Georgia, the Honorable Herman E. Talmadge and the Honorable Sam A. Nunn, Jr.

A RESOLUTION

Urging the designation of the North DeKalb Human Service Center as a priority project to be funded with federal public works funds; and for other purposes.

Whereas, DeKalb County has applied for public works funds from the federal government; and

Whereas, DeKalb County received no funds despite considerable staff time and expenditures for plans; and

Whereas, it is the intention of DeKalb County to use these funds to construct the North DeKalb Human Service Center, a training center which is desperately needed for the profoundly retarded; and

Whereas, the present facility does not meet fire or health codes; and

Whereas, the property for the North DeKalb Human Service Center has been donated to DeKalb County by the federal government; and

Whereas, DeKalb County has expended public funds for demolition of the structure which was previously located on this property; and

Whereas, the Department of Health, Education and Welfare has notified DeKalb County of plans to reclaim said property unless a facility is built and is in operation by November 1, 1977; and

Whereas, a new public works bill is anticipated as a priority in the forthcoming Congress.

Now, therefore, be it resolved by the House of Representatives that the members of this body hereby urge the President-elect of the United States, the Honorable James E. Carter, Jr.; the Department of Commerce-Economic Development Administration; the Honorable Herman Talmadge; the Honorable Sam Nunn; the Honorable Elliott Levitas; and other members of the Congress of the United States to take all actions necessary to insure that the North DeKalb Human Service Center project be considered as a priority project to be funded with the next public works funds which become available and to insure that, in view of DeKalb County's expenditures, an extension be granted for the construction of the North DeKalb Human Service Center.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this resolution to the Honorable James E. Carter, Jr., President-elect of the United States; the Department of Commerce-Economic Development Administration; the Honorable Herman Talmadge; the Honorable Sam Nunn; and the Honorable Elliott Levitas.

GENOCIDE AND THE BROTHERHOOD OF MAN

Mr. PROXMIRE. Mr. President, the Bible says "thou shalt not kill." Yet man goes on slaughtering his fellow companions. We are all brothers and sisters, regardless of race, color, creed, or nationality. Unlike Cain, we are our brother's keeper. Americans, as a nation, must show this in their actions concerning the Genocide Convention.

To overlook a crime is as bad as committing the crime yourself. We are overlooking the abhorrent crime of genocide. Americans, as a rule, have always been concerned with the little man—the oppressed peoples of the world. Yet for the past three decades, neglect has seeped into the Senate Chamber. In not ratifying the Genocide Convention, America has taken an "I don't care" attitude.

The Genocide Convention basically condemns genocide, and sets up structural guidelines for the trial and punishment of guilty offenders. It may not stop genocide, but it will lessen its occurrence. It is like the Geneva Convention, which lessened, but did not stop, POW abuse.

The Genocide Treaty is in the best interests of the United States. Signing the treaty would improve our international relations. Prospects of world peace stand to gain by an American signature. Mr. President, the eyes of the world, and more importantly, the eyes of God, are upon us. I urge the Senate to ratify the Genocide Convention.

VIETNAM U.N. MEMBERSHIP

Mr. STEVENSON. Mr. President, I believed it a mistake for the departing administration to deny U.N. membership to Vietnam last fall and said so at the time. It was an act which was seen by our allies as well as our adversaries as mean-spirited and petty. It was unworthy of a great nation with the responsibilities of world leadership. I am glad to see that William Colby, writing for the Washington Post, shares the view that Vietnam should not be barred from the U.N. Colby, with more experience and more of a personal stake in the Vietnam war than any of us in this Chamber, urges "a turn away from the past, from recriminations over broken promises and antagonistic policies, toward a future of mutual respect and repair of the damages of the war."

"The first step in such a process," he writes, "must be mutual recognition of the true future interests of each side, including the reality that neither should seek the humiliation of the other. Thus the new Vietnam properly asks recognition of its victory and identity in international circles such as the United nations. And the United States can properly ask that its recognition be received simply as such, and not cast in terms of American penance."

I hope that the new administration will find an early opportunity to indicate to the Vietnamese Government that opposition to its membership in the United Nations has been dropped. By this and other displays of concern for the future of a people whose blood we have shed along with that of our own we can mend some of the broken places in Southeast Asia as well as here at home. I am confident that a final accounting for the missing-in-action, still an unresolved agony for many American families, will follow, if we will show the new Vietnamese nation that we are prepared to, as Colby writes, "formulate a policy and program that will reflect the real interests of America—and of the Vietnamese people whose tenacity has carried their national integrity through more than 2,000 years of history."

Mr. President, I ask unanimous consent that William Colby's article be printed in the RECORD.

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

VIETNAM: A WARRIOR'S PRESCRIPTION FOR PEACE

(By William E. Colby)

American MIAs, draft evaders and deserters dominate our policy discussions of how to close the book on our difficult Vietnam experience. Hundreds of returned POWs, thousands of relatives mourning the sacrifice of their loved ones, hundreds of thousands of Vietnam veterans all can for equal consideration as we attempt to put Vietnam in its proper historical perspective. But these are all Americans, and the Vietnamese also affected by the war are hardly part of our debates.

This American dimension to Vietnam long warped American policy. Our disdain for President Ngo Dinh Diem's Mandarin character led to his overthrow—and death. Our "smart bombs" destroyed trucks and trains but not bicycle porters. Our conception that modern war is fought by soldiers delayed for years our support for a "people's war" in South Vietnam.

Eventually, we turned to "Vietnamization." Five hundred thousand weapons were distributed to South Vietnamese villagers to use against those they viewed as enemies. Five hundred thousand American troops were removed from Vietnam. But even then we left American guns and tactics, useless when American ammunition and American-scale logistics were cut off.

As we formulate our policy for the future, will we make the same mistake? Will we concentrate on the American dimension and view Vietnam only as it affects America? Or can we formulate a policy and program that will reflect the real interests of America—and of the Vietnamese people whose tenacity has carried their national integrity through more than 2,000 years of history?

Yes, let us bind up our nation's wounds over Vietnam. Let us put behind us the division between those who believed they bore the "torch of freedom" in Vietnam and those who believed they lifted it in the anti-war protests. Let us honor those who answered the call to duty, and let us welcome back to the national family those who followed their consciences into disobedience or exile.

But let us not believe the task will be ended when its American dimension is complete. The burdens borne by Americans were small compared to those of Vietnamese. Families are still shattered, wounds unhealed, lives disrupted—on a scale that would have crushed a less stout people. These must receive equal attention when, as Lincoln said, we "care for him who shall have borne the battle, and his widow, and his orphan," and seek "a just, and a lasting peace, among ourselves, and with all nations."

The 130,000 refugees who fled Vietnam in April 1975 have been well received in America. Already, many are becoming productive members of the American community, as only that latest of the many waves of refugees, exiles and afflicted who contributed their talents to build this nation. But many did not escape in those last days. Some still put to sea in small boats hoping to be picked up by passing merchantmen or to circumvent Vietnamese and Cambodian patrols to reach sanctuary in Thailand or Malaysia. Some of these are coldly by-passed at sea, some reach the "sanctuary" to find that their presence is unwelcome either there or in farther ref-

uges, some die from the rigors of the sea or hostile patrols.

Many remain in Vietnam, if not being "re-educated" in camps, still held without communication or possibility of joining their families who were lucky enough to escape in April 1975. Many others are in Laos and Cambodia, where they too once looked to U.S. support of their struggle, if not with the pervasive American presence that characterized Vietnam. Some idea of the possible numbers of those who identified their cause with America can be judged from the 900,000 who chose to leave North Vietnam in 1954, when a three-month period of grace to do so was a provision of the accords that recognized that North Vietnamese victory.

And many others in all three Indochinese nations were affected by U.S. power: the bombed bridges and depot centers of North Vietnam, the wounded and maimed throughout the peninsula, the widows and orphans of our erstwhile enemies and allies. Debate about whether these injuries were caused by America's "best and brightest," North Vietnamese determination to dominate Indochina or anti-colonial revolutionary nationalism, can be left to the historians. The real challenge is whether the nation that rebuilt and repaired its allies and enemies of World War II can heal the wounds of its allies and enemies in Indochina, to achieve an equivalent relationship of respect and friendship with them. Can we apply another phrase from our Declaration of Independence so admired by Ho Chi Minh, that we hold Vietnam, "as we hold all Mankind, Enemies in War, in Peace Friends"?

The situation in Indochina is, of course, not the same as that after World War II. America faces a victorious rather than a defeated enemy. And the North Vietnamese David does not stand over a prostrate Goliath, but faces one with great remaining power and responsibility in the world. Neither can work his will over the other, and both can be prickly with pride in their future contacts. The way out, therefore, requires a turn away from the past, from recriminations over broken promises and antagonistic policies, toward a future of mutual respect and repair of the damages of the war.

The first step in such a process must be mutual recognition of the true future interests of each side, including the reality that neither should seek the humiliation of the other. Thus the new Vietnam properly asks recognition of its victory and identity in international circles such as the United Nations. And the United States can properly ask that its recognition be received simply as such, and not cast in terms of American penance. Intermediaries such as the World Bank and the Asian Development Bank are already acting to reduce the political frictions that direct dealings might bring, but nonetheless start the process of healing. And a group of American anti-war activists helped the process in their recent protest against violations of human rights by the victorious Vietnamese regime. They demonstrated that their opposition to earlier American policy was based on their view of principles, not blind support of the Vietnamese cause, then or in the future.

Each side in such a new relationship can ask actions by the other beyond mere recognition. Vietnam can ask assistance, direct or indirect, from the United States to rebuild. It can also ask assurance against efforts, overt or covert, against its new sovereignty, either by Americans or those benefitting from its protection.

On the other side, America has asked for an accounting of its MIAs. It also can ask for humanitarian treatment of its former allies and associates still within Vietnam, that silence from them does not mask retribution. In return for its assistance, it can ask that the family members of those who escaped in 1975 be permitted to leave and join their families. It could also request that those who served the United States during the war, or those closely associated with it in the South Vietnamese government, should also be allowed the 1954 option of exile from the new Vietnam. If the new masters of Vietnam truly wish to build a new society, they should release those who fought against it and will resist becoming a part of it.

As an aspect of the look ahead rather than backward, both sides could also agree to consign the misdeeds of the past to the mists of history, either air bombing or rockets, either grenades in marketplaces or "search and destroy." They could accept the impossibility of apportioning blame for the wrongs of more than a decade of war.

Within its own jurisdiction, each side can, of course, act on its own to repair the damage of the war. Vietnam's pride in its sacrifice and victory will become a chapter in the several millenia of Vietnamese history. "Re-education" as a genuine process and not a euphemism for imprisonment can lead many Vietnamese voluntarily to accept the new Vietnam, and with less cost than the brutal Cambodian tactic of class-elimination. America can give honor to those who responded to its call to duty to serve in Vietnam and to those whose consciences led them to protest or to refuse the call.

But America has an obligation not only to its own citizens and opponents with respect to Vietnam. To fulfill its commitments there, it must also rehabilitate those who fought beside us and looked, and still look, to a different future than the war's outcome has brought. Some may be rehabilitated elsewhere, but for many their only hope is to come to our shores, whether they are today in Thai refugee camps or looking out from the new Vietnam of which they will never be a part. When they, too, are part of the American community from which they had assurances of support in battle, then we can assert that we fulfilled our obligation to them in peace.

COMMENDATION OF BILL PARKER

Mr. PROXMIRE. Mr. President, in early 1971, the Cost Accounting Standards Board, which was established under Public Law 91-379, set about the task of promulgating cost accounting standards for national defense contractors and subcontractors. In the relatively brief period of time that has followed, the Board has promulgated a number of standards which I believe will profoundly affect the Government contracting business.

One of the charter members of the Board's small staff was William Parker who has been one of four project directors. Mr. Parker, in addition to the qualifications of a CPA, brought to the Board a broad base of experience and knowledge derived from important work that he had previously performed as a member of the staff of the Senate Committee on Aeronautical and Space Sciences and as a member of the General Accounting Office.

It is with substantial regret that I note the retirement of Mr. Parker. Throughout his years of service, he has epitomized the finest standards of public service. At the Cost Accounting Standards Board, he has been a key figure in the work of the Board in developing standards in a variety of important accounting areas. Each standard bears the hallmark of this highly skilled craftsman and his wide range of experience. While I have every confidence that the Cost Accounting Standards Board will continue to be the architect of standards of recognized quality, the task before them will be made more difficult by the loss of this valued staff member.

To a degree, not often applicable to people completing their careers, it can genuinely be said that William Parker has earned his retirement. Along with the many friends that he has made over the years, I want to add my congratulations and to wish him well in his future endeavors.

ORDER FOR RECESS UNTIL 2 P.M. ON MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, now that we have reached agreements on time for debate on the nominations of Mr. Griffin Bell and Mr. Joseph A. Califano, Jr., I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday next.

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

ORDER FOR THE INTRODUCTION OF BILLS, RESOLUTIONS, AND PETITIONS WITHOUT A PERIOD FOR THE TRANSACTION OF MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday Senators may present statements in the RECORD, as in legislative session, introduce bills, resolutions, petitions and memorials without there being a period for the transaction of routine morning business.

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

ORDER FOR THE INTRODUCTION OF BILLS, RESOLUTIONS, AND PETITIONS WITHOUT A PERIOD FOR THE TRANSACTION OF MORNING BUSINESS ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday Senators may present statements in the RECORD as in legislative session, introduce bills, resolutions, petitions and memorials without there being a period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, do I understand the request to be that there be authority for Members to introduce bills, memorials, petitions, and resolutions as if in morning business but there be no morning hour or morning business contemplated?

Mr. ROBERT C. BYRD. The Senator is correct, that there be no period for such but that Senators be permitted to include such in the RECORD as in legislative session.

Mr. BAKER. What about statements?

Mr. ROBERT C. BYRD. The same thing.

Mr. BAKER. They would be included?

Mr. ROBERT C. BYRD. They would be included in the RECORD.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate will stand in recess until Monday next at 2 p.m. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Mr. President, I have a unanimous-consent request, I believe, from the distinguished Senator from New Mexico, and, in the meantime, while he is reaching the floor, may I take 1 minute to report on a matter of importance I am sure to all of our colleagues?

Mr. ROBERT C. BYRD. Yes.

SENATOR BARTLETT

Mr. BAKER. Mr. President, it has come to my attention, and I wish to apprise our colleagues of the fact that the junior Senator from Oklahoma (Mr. BARTLETT) was today operated on at Sloan-Kettering Institute in New York City for a lung tumor. He was in surgery for a period of 6 hours and 20 minutes. They removed the top right third of the upper lobe of his lung. The operation was successful. Senator BARTLETT is in good shape, and it is anticipated that he will make a full recovery. He will be in the hospital there for a period of about 10 days and it will be about another 10 days or 2 weeks of recovery before returning to us for the transaction of business.

I am sure that all of us would like to convey our good wishes and ask God's blessing on him for speedy recovery.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the remarks of the distinguished Republican leader.

We regret the fact that Mr. BARTLETT had to undergo such an operation. We are delighted to hear that his full recovery is expected, and we extend our good wishes on this side of the aisle for that early recovery and that complete recovery, we hope that these good wishes will be extended to him by the Republican leader.

Mr. BAKER. I thank the majority leader, and I assure him that they will be.

LIMITED RESERVATIONS—NOMINATIONS OF SECRETARIES BLUMENTHAL, KREPS, AND ANDRUS

Mr. SCHMITT. Mr. President, just very briefly, as a part of the RECORD, having to do with the nominations that were considered today and on which I voted positively in every case, I request unanimous consent that printed in that RECORD be some limited reservations that I have about several of the nominations, specifically that of Michael Blumenthal, of Juanita Kreps, of Cecil Andrus, and of BROCK ADAMS.

These are very limited reservations. I just think it is important that they be in the RECORD so that future evaluation can be correct and adequate.

Mr. President, I have voted in favor of confirmation of Juanita M. Kreps to be Secretary of Commerce; Cyrus Vance to be Secretary of State; BROCK ADAMS to be Secretary of Transportation; Thomas Lance to be Director of the Office of Management and Budget; W. Michael Blumenthal to be Secretary of the Treasury; Charles L. Schultz to be a member of the Council of Economic Advisers; Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare; Cecil A. Andrus to be Secretary of the Interior; Dr. Harold Brown to be Secretary of Defense; and BOB BERGLAND to be Secretary of Agriculture.

As a member of the Senate Commerce and Finance Committees under temporary assignment, I had an opportunity to question Dr. Kreps, Congressman ADAMS, Mr. Blumenthal, and Mr. Califano during the confirmation hearings. During those hearings I urged each of them to develop efficient management systems within their respective departments and agencies and to eliminate overregulation of the lives and businesses of the American people whom they shall serve. I also urged them to use education, science and technology, whenever possible, to solve basic national problems, rather than merely to treat the symptoms of those problems with new regulations and spending programs.

Mr. President, in general the talent and experience that the nominees bring to the new administration is very great. I believe they are all qualified and satisfy the criteria for their jobs within the new Cabinet. I certainly believe that the President is entitled to have men and women working with him in whom he has complete confidence. However, I do have certain limited reservations concerning several of President Carter's choices which I believe should be entered into the RECORD.

Mr. President, I ask unanimous consent that the complete text of my statements concerning these nominees be printed in the RECORD at this point.

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

SECRETARY OF THE TREASURY—MICHAEL BLUMENTHAL

"My reservations are only that his concern about the effect of a large Federal deficit in Fiscal Year '77 as a consequence of President Carter's economic package seems to be inconsistent with his statements concerning inflation and the need for increased job creation within the private sector.

"Mr. Blumenthal testified that the Carter economic package would add possibly $15 Billion to the Federal deficit for FY77 which would be on top of an already projected deficit of approximately $60 Billion. A total debt of $75 Billion would seem to be a major pressure for increased inflation, and for a reduction in long-term job creation expenditures for new plant and production by the private sector.

"I hope that Mr. Blumenthal and the Carter Administration will move with great caution and restraint in attempting to stimulate an economy that appears to be recovering steadily. Too drastic a stimulus may throw us into another major cycle of increased unemployment that could far outweigh the short-term benefits."

SECRETARY OF COMMERCE—JUANITA M. KREPS

"In the case of Dr. Kreps, I do vote to confirm with some reservations. In particular, I am concerned that there is little in her background that provides experience in dealing with the overall duties and responsibilities of the Department of Commerce; even though that background is extremely impressive with respect to experience in management in corporate policy and in education. I hope that Dr. Kreps finds through the proper use of her subordinates a means to rapidly increase her capabilities with respect to the specific problems that will concern the Department of Commerce during her tenure as Secretary. I particularly hope that her knowledge will expand so that as she said at her confirmation hearing, she will be capable of 'asking the right questions.' She will find that the Congressional Committees dealing with Commerce will also be attempting to 'ask the right questions' as those Committees exercise their oversight responsibilities."

SECRETARY OF THE INTERIOR—CECIL B. ANDRUS

"New Mexico has learned to use coal responsibly without significant deterioration of the environment or land. I hope that Mr. Andrus will not advocate unnecessary restrictions on our ability to use the nation's energy resources in ways that are responsive to the needs of all regions and the security of the entire country."

SECRETARY OF TRANSPORTATION—BROCK ADAMS

"My vote to confirm Mr. Adams is cast with some major reservations about how he will actually perform as Secretary of Transportation. His abilities as a Congressman and his knowledge of the problems of transportation are without question. However, in one major area I will be looking very closely at his actual performance. This is the area of the application of the present technologies and future extensions of those technologies to solving fundamental problems in the field of transportation and in other fields related to the duties and responsibilities of the Department of Transportation.

"There has been a tendency in the past to attempt to solve major problems of transportation utilizing past or present technologies only. We often proceed without attempting to remove the roots of the basic problems through the long-term application of research and development, either within the Department itself or with the assistance of other agencies with expertise in the particular areas. For example: there has been a very strong attempt to regulate the efficiencies of the internal combustion engine, which is now the dominant means of moving individuals from place to place in this country, rather than attempting to assist the private sector in the development of new and more efficient propulsion systems. Such systems also can operate with much less environmental degradation than is possible with that engine.

"Mr. Adams seems to fit very well into the mold of the past. I would hope that through experience in his high office and through the recognition that there are new ways of doing things in this country of ours, ways which were not available just a few decades ago, that he will attempt to take the second step.

A step beyond the stabilization of a problem. A step that actually solves the problem.

"In transportation, as well as in many other fields of endeavor that are presently of great concern to this country, it is our fundamental technological base that will provide many of the solutions for which we seek. This technological base is our fundamental strength and has been for many, many decades. We must learn to use that base for the benefit of ourselves and mankind simultaneously. We must understand which technology can be used, not only to avoid environmental degradation, but to actually improve upon the environment for which we currently have such great concern. I commend to Mr. Adams a close examination, not only of what is possible in the present, but what could be possible in the future as he approaches the duties and responsibilities of the Secretary of Transportation."

Mr. SCHMITT. I thank the Chair.

Mr. BAKER. Mr. President, I might apprise the majority leader that there are no other requests for time or no other transactions for business on this side of the aisle.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene on Monday at 2 p.m., following a recess.

After the two leaders or their designees have been recognized under the standing order—and the Senate will be in executive session—the Senate will proceed immediately to the consideration of the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of HEW, under a time agreement which is limited to 2 hours.

In any event, Mr. President, 1 hour after the Senate convenes—to wit, at 3 p.m.—the Chair will direct the clerk to call the roll to establish a quorum. Upon the establishment of a quorum, the Senate will proceed to vote on the motion which has been duly entered to invoke cloture on Mr. ALLEN's resolution, Senate Resolution 18.

If the cloture vote fails, the Senate will continue its consideration of the nomination of Mr. Califano, if it has not been disposed of prior to that moment. If it has been disposed of prior to that moment, it will be the intention of the leadership at that time to proceed to the consideration of the nomination of Mr. Marshall.

If the cloture motion is agreed to, then the Senate must proceed to the consideration of Senate Resolution 18 until action on that resolution is completed. That means that until the action on that resolution is completed, to the exclusion of all other business, the Senate could not return to the consideration of the nomination of Mr. Califano.

There will be at least one rollcall vote on Monday next, that being on the motion to invoke cloture. I anticipate that there will be a rollcall vote on the nomination of Mr. Califano.

Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the confirmation of the nomination of Mr. Califano.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the confirmation of the nomination of Mr. Ray Marshall, of Texas, to be Secretary of Labor.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the nomination of Mr. Marshall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the nomination of Mr. Griffin B. Bell to be Attorney General.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the confirmation of the nomination of Mr. Bell.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, we know that there will be at least one rollcall vote on Monday next. That will occur about 3:15 p.m. It is possible that a rollcall vote could occur on the nomination of Mr. Califano during the first hour after the Senate convenes; but if all time is used on that, under the time agreement, that rollcall vote would not come prior to the cloture vote. So there will be at least one rollcall vote, perhaps others, on Monday.

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

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. I am a little concerned about the statement of the distinguished majority leader that after the action is taken on the Califano nomination, he would contemplate bringing up the nomination of Dr. Marshall. We are coming in at 2 o'clock on Monday, as I understand.

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. We have agreed that on Tuesday we will spend 8 hours on the nomination of Judge Bell. I do not see where the time is coming from on the Marshall nomination, if the distinguished leader did bring that up. I just mention that as a concern.

It may be that there will be little discussion, but I believe there will be extended discussion. I am not talking about a filibuster. I believe that a number of Senators will want to speak on this matter. I know that we have no agreement as to that.

Mr. ROBERT C. BYRD. The Senator is not prejudiced by this statement of the program whatsoever. I have not asked unanimous consent that we proceed to the consideration of the nomination of Mr. Marshall on Tuesday following the disposition of the Califano nomination. I have asked for no time agreement.

I merely stated that it would be the intention of the leadership to attempt to get that nomination up on Tuesday if possible, and if it were to come up and were not to be disposed of on Monday, on Tuesday we have to take Mr. Bell and set aside Mr. Califano.

Mr. SCOTT. I appreciate the courtesy of the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank my friend.

RECESS UNTIL 2 P.M. MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 2 p.m. on Monday next.

The motion was agreed to; and at 6:41 p.m., the Senate recessed until Monday, January 24, 1977, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate January 20, 1977:

THE CABINET

The following-named persons to the positions indicated:

Cyrus Vance, of New York, to be Secretary of State.

W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Harold Brown, of California, to be Secretary of Defense.

Griffin B. Bell, of Georgia, to be Attorney General.

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Ray Marshall, of Texas, to be Secretary of Labor.

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Brockman Adams, of Washington, to be Secretary of Transportation.

OFFICE OF MANAGEMENT AND BUDGET

Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

U.S. REPRESENTATIVE TO THE UNITED NATIONS

Andrew J. Young, of Georgia, to be the Representative of the United States of America to the United Nations with the rank

and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 20, 1977:

DEPARTMENT OF STATE

Cyrus Vance, of New York, to be Secretary of State.

DEPARTMENT OF THE TREASURY

W. Michael Blumenthal, of Michigan, to be be Secretary of the Treasury.

DEPARTMENT OF DEFENSE

Harold Brown, of California, to be Secretary of Defense.

DEPARTMENT OF THE INTERIOR

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

DEPARTMENT OF AGRICULTURE

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

DEPARTMENT OF COMMERCE

Juanita M. Kreps, of North Carolina, to be Secertary of Commerce.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

DEPARTMENT OF TRANSPORTATION

Brockman Adams, of Washington, to be Secretary of Transportation.

OFFICE OF MANAGEMENT AND BUDGET

Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

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.

EXTENSIONS OF REMARKS

OCEANIC OIL POLLUTION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHITEHURST. Mr. Speaker, I have the privilege of serving as a member of the board of directors of the Oceanic Educational Foundation, an organization which has as its goal the establishment of world ocean education, covering the many aspects of the study of the sea, at all levels in the American school system, in order to bring the seas into educational balance with the land to sustain the future prosperity, safety, and security of citizens through knowledge of the world's oceans.

In that connection I recently received a copy of Oceans: Our Continuing Frontier, the courses by Newspaper Reader which is a project of the University of California, San Diego, university extension program. At this point in the RECORD, I would like to share with my colleagues one of the articles from that excellent book. It was written by Roger Revelle, Edward Wenk, Bostwick Ketchum, and Edward Corino, and it deals with the subject of oceanic oil pollution. It is well worth reading, as is the rest of the material in this book, and it points up the need for a concerted, international effort to prevent further damage to the oceans of this world.

I have previously mentioned my bills toward this end, H.R. 711 and 712, and House Joint Resolution 134, and I earnestly hope that legislation of this kind will receive favorable consideration in this session. Criteria for tanker safety must be established, and international treaties need to be brought up to date and promptly ratified. We have very little time left.

OCEANIC OIL POLLUTION

(By Roger Revelle, Edward Wenk, Bostwick Ketchum, and Edward Corino)

(Oil pollution is not confined to coastal areas; it poses an eventual threat to the ecosystems of the oceans of the world. Furthermore, as consumption of oil increases in our ever-expanding technological society, the problem of oil pollution is also likely to increase. In the following selection, Roger Revelle and three other experts analyze the extent and character of oil pollution—in which tanker accidents and offshore leaks play a relatively small part—and they suggest possible courses of action to control the problem. Revelle is director of the Harvard Center for Population Studies and former director of Scripps Institution of Oceanography; Wenk, a specialist in ocean engineering and public affairs, is a professor at the University of Washington; Ketchum is associate director of Woods Hole Oceanographic Institution; and Corino is with the Esso Research and Engineering Company.)

At the present time, the most conspicuously detrimental effects of oil pollution of the ocean are localized in extent and are caused by accidental spills in near-shore areas. These loci of concern, however, potentially include the coastal zones of every continent and every inhabited island so that the problem of accidental spills is of worldwide significance. Projections of future growth in ocean transport and offshore production of petroleum indicate that both the frequency and the damaging effects of local accidents are likely to increase.

Although accidental oil spills cause the most evident damage to ocean resources, they make up a small percentage of the total amount of oil entering the marine environment. At least 90 percent of this amount originates in the normal operations of oil-carrying tankers, other ships, refineries, petrochemical plants, and submarine oil wells; from disposal of spent lubricants and other industrial and automotive oils; and by fallout of airborne hydrocarbons emitted by motor vehicles and industry. The extent and character of the damage to the living resources of the sea from this "base load" of oil pollution is little known or understood. In the long run it could be more serious, because more widespread, than the localized damage from accidental spills.

The magnitude of oceanic oil pollution is likely to increase with the worldwide growth of petroleum production, transportation, and consumption. World crude oil production reached 2 billion tons per year in 1969, and production of 3 billion and 4.4 billion tons per year is predicted for 1975 and 1980, respectively.

SOURCES OF PETROLEUM HYDROCARBONS IN THE SEA

Petroleum hydrocarbons enter the sea:

1. Directly

a. in accidental spills from ships, shore facilities, offshore oil wells, and underwater pipe lines;

b. from tankers flushing oil tanks at sea;

c. from dry cargo ships cleaning fuel tanks and bilges;

d. from leakage during normal operation of offshore oil wells;

e. from operation of refineries and petrochemical plants;

f. in rivers and sewage outfalls carrying industrial and automotive wastes; and

2. As "fallout" from the atmosphere, probably as particles or in rain.

We shall consider all these sources except accidental spills as constituting the base load of oil polution in the sea.

ACCIDENTAL OIL SPILLS

At present, the average annual influx to the ocean from accidental oil spills throughout the world is probably about 200,000 tons. Most of these spills are relatively small. Out of 714 recorded accidental spills in U.S. waters in 1968, approximately half were from ships and barges, most of which were docked at the time of the accident. About 300 spills occurred from shore facilities of various types, and a few resulted from ships dragging anchor across submarine pipelines in bays.

Even under carefully controlled conditions accidental oil spills in port are negligible. Milford Haven, a relatively new British oil port, is adjacent to a national park, and great efforts have been made to control and prevent oil pollution. In 1966 the annual turnover at Milford Haven was 30 million tons with losses amounting to 2,900 tons or 0.01 percent of the total amount handled.

Accidental oil spills resulting from stranding or collision of large tankers and from accidents to offshore drilling or producing wells deservedly attract much public attention because of the extensive damage done to beaches, recreational areas, and harbors. The wreck of the *Torrey Canyon*, which discharged 118,000 tons of crude oil into the sea, is the best known example although somewhat smaller tanker wrecks have occurred elsewhere, such as off Nova Scotia and Puerto Rico. All large accidental spills to date have occurred fairly near shore, and the spreading sheet of oil has drifted or has been blown by winds onto beaches and into shallow water areas. Present efforts to contain and to dispose of the oil before it does extensive damage have been singularly ineffective. Agents such as talc, clay, and carbonized sand have been used to sink the oil. Various dispersing agents have been developed which break up the oil into minute droplets that are subsequently dispersed throughout the water. Earlier versions of these chemical dispersants were more toxic than the oil, but a number of essentially nontoxic dispersants are now available. Even with a nontoxic dispersant, dispersed oil is more toxic to marine life than an oil slick on the surface, primarily because of its increased availability to the organisms. With all our vast inventory of chemical agents, the best and safest means of disposal is apparently still absorption on chopped straw, if conditions permit.

The danger of large-scale accidents is increasing with the increasing size of tankers. Four 327,000-ton ships are already in operation; vessels of 500,000 dead weight tons will soon be constructed, and 800,000-ton vessels have been projected within the next few years. These monster ships have so much